



GEORGETOWN LAW

Institute of International and Economic Law

ORAL HISTORY PROJECT OF THE WORLD TRADING SYSTEM

Interview of Andrew L. Stoler

conducted by Rosine Plank-Brumback

on July 16, 2010

Keywords: Andrew L. Stoler, Rosine Plank-Brumback, Deputy Director-General, WTO Secretariat, U.S. Deputy Chief of Mission to WTO, international trading system evolution, Tokyo Round, Uruguay Round, Samurai Group, FOGS Group, Trade Policy Review (TPR) Mandate, Agriculture Conference, Dunkel Text, World Trade Organization, WTO, Clinton Administration, Doha Round, trade negotiations

1 **Rosine Plank-Brumback:** This is an interview of Andrew L. Stoler for an oral history of the
2 world trading system being compiled by the Institute of International Economic Law of
3 Georgetown University Law Center. The date is Friday, July 16, 2010. We are taking advantage
4 of Mr. Stoler being in the Washington, DC area, away from his duties as Executive Director of
5 the Institute for International Trade at the University of Adelaide in Australia. I am Rosine
6 Plank-Brumback, who has the pleasure of conducting this interview. Thank you so much, Andy,
7 for participating in this project and moreover giving us your valuable vacation time.

8 **Andrew L. Stoler:** My pleasure.

9 **Plank-Brumback:** Your insights from serving in various capacities at the US Department of
10 Commerce, the US Trade Representative Office [USTR] in Washington and in Geneva, as well

11 as serving as Deputy Director-General of the World Trade Organization [WTO] from 1999 to
12 2002 are of enormous value to scholars and researchers tracing the evolution of the international
13 trading system and also to government officials and diplomats formulating future policy. I must
14 note, of course, that you are a Hoya as well.

15 **Stoler:** That's right.

16 **Plank-Brumback:** Let's begin the interview then with some information about your personal
17 background and career history, and then we'll move to your recollections about the Tokyo,
18 Uruguay, and Doha Rounds and other trade issues during your tenures at USTR and WTO.

19 **Stoler:** All right.

20 **Plank-Brumback:** I'm not sure where you were born, but I know you received a Bachelor of
21 Science in Foreign Service in international economic affairs at Georgetown University and also a
22 Master's of Business Administration at George Washington University. What was it that made
23 you want to study international economic affairs, and later business, and how did being raised
24 wherever you were raised and these studies prepare you for your career in trade negotiations?

25 **Stoler:** Well, when I was growing up, I always had a strong interest in international affairs and
26 that's why I picked Georgetown University's School of Foreign Service as my target. In fact, it
27 ended up being the only university I applied to because I was accepted on an early admission
28 basis. In those days once you had that acceptance there was no need to apply anywhere else. I
29 had a great time at Georgetown. I spent my junior year abroad in Fribourg, Switzerland as part of
30 the school's overseas program, which probably increased my appetite further for international
31 activities. After I graduated, I started looking for a job, which wasn't very easy because at the

time, I had not been in Vietnam. I had a college deferment and in 1973, the returning veterans all had a preference for working in the US government. So I had to sort of take the back door into government work, starting with nine months as a park ranger at the Lincoln Memorial and Washington Monument, followed by six months in the General Services Administration, before I got a job with the Department of Commerce, the international part of the Department of Commerce, in what was called a Presidential Management Intern Program, where you spend several months during a year working in different parts of the office and then at the end, you basically got to choose where you wanted to work.

To make a long story short, at that time the Tokyo Round negotiations were underway or getting underway. I decided that was an area I wanted to work in, so I went to work in the Office of Trade Negotiations during the last few years of the Tokyo Round, and I had three areas of work specialty at that time. One was, I was somewhat of an expert on tariff negotiations with Canada, which were quite different then, because we didn't have the Harmonized System. Neither the US nor Canada was on a comparable tariff nomenclature system, so we had to do a lot of complicated concordance work. I was also part of the interagency team negotiating the Tokyo Round codes on anti-dumping, and subsidies, and countervailing measures, together with people from USTR and Treasury and others. The third area I was involved in was a very unusual area. It was called the NDWM, which is an acronym. It's "non-tariff measures not dealt with multilaterally." So we had a number of non-tariff measures that were negotiated during the Tokyo Round that didn't fit into any of the codes, and had to be negotiated on a sort of a request offer basis between the parties to the negotiations. An example of an NDWM was the United States used to have a system for taxing alcoholic beverages that was called the wine-gallon/proof-gallon system, where foreign beverages were taxed at a different stage of

55 production than the American beverages were taxed, having the effect of substantially over-
56 taxing European Scotches, for example, compared to American Bourbons. The Europeans
57 wanted to negotiate away that tax discrimination as part of the Tokyo Round, which we did. So
58 that's an example of an NDWM. Kind of interesting.

59 **Plank-Brumback:** Especially when you see the career of those types of taxes and the GATT
60 [General Agreement on Tariffs and Trade] and WTO dispute settlement.

61 **Stoler:** That's right, and it just goes to show you that even excise taxes and internal matters like
62 that can be negotiated successfully in the WTO, if you have enough interest in doing it.

63 **Plank-Brumback:** Indeed. Then you made the switch from Commerce to USTR in 1980.

64 **Stoler:** That's right. I was brought over when the USTR expanded, particularly when they
65 introduced the idea of country desks. Again, I had a certain expertise in working on US-
66 Canadian relations during my time at the Commerce Department in the Tokyo Round.

67 **Plank-Brumback:** Had you just fallen into that at Commerce? US-Canada relations?

68 **Stoler:** I can't remember exactly how I got into the US-Canada part of things. Maybe because it
69 was seen as being one of the easier areas to work on at the time, compared to working on
70 European things and I was quite junior. But when I went over to USTR, they said, "We want you
71 to come over to work on Canada." My boss-to-be was a guy named John Ray, who had been a
72 Treasury Department official, and was also going over to USTR.¹ I said, "Well, I'll be happy to

¹ John E. Ray began his career in 1956 at the US Department of Agriculture, holding positions in the Foreign Agricultural Service in Washington, DC, and at the US Embassies in Mexico City and Paris. He transferred to the US Foreign Service, eventually becoming Officer in Charge for European Regional Functional Affairs at the Department of State in 1967. In 1973, Ray was detailed to the (then) Special Trade Representative's Office as Senior Advisor and became Acting Chief of the US Delegation to Multilateral Trade Negotiations in Geneva. Ray left the

73 go over to work on Canada, John, but to tell you the truth, I'm sick and tired of just going to
74 Canada all the time, so if you throw in Australia and New Zealand and make it a job responsible
75 for Canada, Australia, New Zealand, I'll take the job." And they did. The USTR at that stage was
76 very much organized around personalities as opposed to things that made sense, which was
77 probably no more clearly seen than the way in which the world was split up at that time. We had
78 two Assistant USTRs for geographic regions. One was John Ray and John had all of the
79 developed world, all of the communist world,, minus Japan, and Steve Lande had all of the
80 developing countries, plus Japan.² So there was no common sense explanation other than
81 personalities wanting to do things a certain way. So I went over to USTR at that point, yes.

82 **Plank-Brumback:** And you expanded your toolkit to other English-speaking countries.

83 **Stoler:** That's right, yeah.

84 **Plank-Brumback:** So what kind of issues? I assume it was primarily subsidies and
85 countervailing disputes you were dealing with Australia and New Zealand.

86 **Stoler:** Well, we had an early problem. Soon after I moved over to USTR we had an early
87 problem, because you probably recall that the United States implemented the Tokyo Round
88 Subsidies Code on a conditional MFN (most favored nation) basis. Prior to the Subsidies Code,
89 the United States didn't have an injury test for countervailing duty actions on dutiable products.

STR and the Foreign Service in 1974 and moved to the Treasury Department as Director of the Office of International Trade. He returned to USTR in 1979 as Assistant USTR for Developed Country Affairs. In 1982 he became the Assistant USTR for East-West Trade & Non-Market Economy Affairs. Ray left the government in 1985 to head the Division of Financing and Other Export Questions in the Trade Directorate of the Organization for Economic Cooperation and Development in Paris.

² Stephen Lande began his career in 1966 at the US Department of State in the Economic Bureau. He served at the US Embassy in Athens, the Office of Textiles, and the US Embassy in Luxembourg. Lande was Assistant USTR for Bilateral Affairs from 1973 to 1979, Asst. USTR for Developing Countries from 1979 to 1981, and Asst. USTR for the Americas from 1981 to 1983. Since then, Lande has been President of Manchester Trade Limited, Inc.

90 We had a law specified that we had to have an injury test for duty-free products, but dutiable
91 products were not covered by that law. When we joined the subsidies agreement, we said we
92 would only give the injury test for dutiable products to other countries that were members of the
93 Subsidies Code on the basis that we agreed to. New Zealand and Australia, because they were
94 piqued about the Tokyo Round outcome on agriculture, decided not to join the Subsidies Code.
95 In about 1979 and 1980, the National Wool Growers Association in the United States brought a
96 countervailing duty action against lamb and wool products from New Zealand and Australia and
97 they weren't going to get the injury test. So I had the job of negotiating. The administration had
98 no sympathy for the wool growers on this thing. That we knew it was just a protectionist action.

99 **Plank-Brumback:** They weren't having the wool pulled over their eyes.

100 **Stoler:** No, they weren't. I'll tell you a funny story about that. We had the job of trying to
101 negotiate the basis on which these countries would participate in the agreement so that we can
102 apply the injury test to them. This involved making two round trips to New Zealand and
103 Australia in two weeks, at a time when Ronald Reagan had just fired all the air traffic
104 controllers,³ so you couldn't cross the United States in one trip. You had to hop and skip your
105 way across the US before you got to the Pacific. To make a long story short, we were able to
106 negotiate an agreement, a reciprocal agreement with these two countries that allowed them to
107 join the Subsidies Code and allowed us to apply the injury test. But the funny anecdote here is on
108 the first trip to New Zealand, Mike Smith,⁴ who had been our ambassador at the time in Geneva,

³ In 1981, President Reagan ended the Professional Air Traffic Controllers Organization's strike by firing 11,345 members and banning them from federal employment.

⁴ From 1979 until his retirement on October 31, 1988, Michael B. Smith was Deputy USTR, serving in Geneva and in Washington under USTRs Robert Strauss and Reuben Askew in the Carter administration, and under USTRs William Brock and Clayton Yeutter in the Reagan administration. Smith also served as Acting USTR from November 1980 to January 1981. He was the first US Ambassador to the GATT. Prior he was Chief Textile Negotiator at USTR with the rank of ambassador in the Ford administration from 1975 to 1979. Smith began his

109 flew out from Geneva to join up with the delegation that was doing the negotiation. He was
110 asked by the US Ambassador in New Zealand at the time, I think his name was Browne,⁵ his
111 family name, to give him a little briefing on what this was all about. Mike Smith went on to
112 explain how this was all the way of dealing with the very protectionist action that had been
113 launched in the United States by the National Wool Growers Association, who quite frankly, we
114 thought were a bunch of protectionists, who didn't deserve the support of the administration. To
115 which Ambassador Browne said, "Well, thank you very much, Ambassador Smith. I'd just like
116 you to know that I've been a member of the National Wool Growers Association for the past
117 three decades." Mike Smith nearly had a heart attack, because this guy was a friend of the
118 President and he went on to say, "And I couldn't agree with you more." So we were vindicated.

119 **Plank-Brumback:** Was it evident early on in the Tokyo Round that the code approach would be
120 the one adopted certainly by the United States and certainly in areas as sensitive as
121 countervailing subsidies?

122 **Stoler:** The code approach as opposed to what?

123 **Plank-Brumback:** A single undertaking.

124 **Stoler:** Well, I don't recall anybody ever really talking about a single undertaking approach in
125 the Tokyo Round. Those agreements were negotiated among a very small subset of the members.

126 **Plank-Brumback:** It was a different time, too.

career as a US Foreign Service officer in 1958 with postings in Iran, Chad, and France. From 1971 to 1973, he was Chief of Presidential Correspondence in the Nixon White House. He then served as chief of the Textiles and Fibers Division of the State Department from 1973 to 1975.

⁵ H. Monroe Browne, Republican, was US Ambassador to New Zealand under President Ronald Reagan from August 11, 1981 to November 1, 1985. He died on June 13, 2006.

127 **Stoler:** It was a different time and the members also assumed that at the end of the negotiations,
128 there wouldn't be any problem introducing these agreements into the GATT system, and they got
129 quite a surprise when the developing countries said, "Hold on."

130 **Plank-Brumback:** And started asking questions.

131 **Stoler:** "We're not going to allow you to bring these agreements in whether we're part of them
132 or not," and basically, that resulted in the sort of blackmail that led to the Enabling Clause⁶ and a
133 few other things as a payoff for getting the codes in and agreements. But I don't think there was
134 ever any consideration in the Tokyo Round for making these more widespread in terms of their
135 coverage.

136 **Plank-Brumback:** So then you're first posted to the Geneva office of USTR in 1982, and you
137 stayed until the end of 1987 and you were in charge of non-tariff measure agreements.

138 **Stoler:** That's right. All of the Tokyo Round codes were my responsibility.

139 **Plank-Brumback:** I think you are one of the few negotiators I've interviewed that actually gets
140 involved in the administration of something that he or she has negotiated. What disputes were
141 you involved in under the codes? I think there were so many: anti-dumping, subsidies,
142 countervailing, technical barriers to trade, government procurement, and customs valuation.
143 Were you involved in all of those?

144 **Stoler:** I was involved in all those and in most of them we had disputes of one sort or another
145 that I was involved in. I can remember for example, in the TBT [Technical Barriers to Trade]

⁶ Differential and More Favourable Treatment, Reciprocity, and Fuller Participation of Developing Countries, L/4903, adopted by the GATT Contracting Parties on Nov. 28, 1979, BISD 26S/203.

146 Agreement, we had the first round of dispute over hormone-treated beef during those days.⁷ We
147 also had a really famous case with the Japanese on aluminum baseball bats, which was that the
148 Japanese wouldn't allow American aluminum baseball bats into Japan because they had to make
149 a certain sound when you hit the ball, and for the Japanese that was the excuse. But the case was
150 interesting because in the end the Japanese lost the case and it required them to modify about
151 thirty-five different laws, not just on baseball bats, but on a whole range of products where they
152 weren't implementing the agreement consistent with the agreement's provisions.⁸ So that was
153 quite an interesting case.

154 We had a couple of other interesting TBT cases at the time involving things like the water
155 solubility level for triple super phosphate fertilizer⁹ and how long it took for a lawn mower's
156 blade to stop spinning after you turned off the ignition¹⁰—things like that. In the subsidies
157 countervail area, we had the wheat flour dispute,¹¹ the pasta dispute,¹² and the beginnings of the

⁷ GATT Committee on Technical Barriers to Trade, Request for a Committee Investigation Pursuant to Article 14:4 of the Agreement – Communication from the United States: EC Animal Hormone Directive (85/649/EEC) Background on the United States Case Under the Agreement, TBT/Spec/18 March 9, 1987; Committee Investigation Pursuant to Article 14:4 of the Agreement – Communication from the United States: EC Animal Hormone Directive (85/649/EEC) Points for Consideration in the Committee's Investigation Under Article 14:4 of the Agreement, GATT doc. TBT/Spec/19, June 15, 1987; Request for the Establishment of a Technical Expert Group – Communication from the United States: EC Animal Hormone Directive (85/649/EEC) United States Request for the Establishment of a Technical Expert Group Pursuant to Article 14.9 of the Agreement, TBT/Spec/20, July 15, 1987; Communication from the European Economic Community: Non-Applicability of the Code to Processes and Production Methods and Application of Article 14.25, TBT/Spec/21, July 27, 1987.

⁸ GATT Committee on Technical Barriers to Trade, Request for Initiation of Dispute Settlement; Procedures Under Article 14.4 of The Agreement: Communication from the United States with Respect to the Government of Japan's Treatment of US Manufactured Metal Softball Bats, TBT/Spec/7 Sept. 20, 1982 and TBT/Spec/8, March 24, 1983; Information on Implementation and Administration of the Agreement, TBT/I/Add.32, June 9, 1983.

⁹ The EU imposed a 93 percent water solubility standard for the fertilizer product triple superphosphate (TSP) to be marketed as “EC-Type Fertilizer.” TSP having a lower percentage water solubility could be sold in the EC, but without the “EC-Type” label.

¹⁰ GATT doc. TBT/Notif.81.230, Sept. 24, 1981.

¹¹ GATT Committee on Subsidies and Countervailing Measures, European Economic Community – Subsidies on Export of Wheat Flour: Report of the Panel, SCM/42, March 21, 1983, unadopted.

¹² GATT Committee on Subsidies and Countervailing Measures, European Economic Community – Subsidies on Export of Pasta Products: Report of the Panel, SCM/43, May 19, 1983, unadopted.

158 oilseeds dispute¹³ at the time. So I was involved in those frustrating attempts at using a faulty
159 dispute settlement system to enforce the agreements. Mind you, the provisions in the agreement
160 weren't all that great, either. We still had to deal with those really vague concepts like the "more
161 than equitable share of world trade" in agriculture and products¹⁴ and things like that, even
162 though anybody who looks at the wheat flour case from the 1980s today and looks at the
163 expansion of the Europeans, the coverage would have to say by any reasonable standard that's
164 more than equitable, but it still didn't work. I was there when the seeds were sown for the
165 renegotiation of many of these provisions in the Uruguay Round.

166 **Plank-Brumback:** Well, in the first dispute that you mentioned on baseball bats and so on, were
167 those conducted in the committees?

168 **Stoler:** Yes.

169 **Plank-Brumback:** Maybe you could shed some light on how those were handled. Was it more a
170 conciliation? Would parties argue with a number of bystanders? How were things resolved?

171 **Stoler:** Well, I'm a little bit hazy on what we actually used as procedures then. I know we used
172 the consultation mechanisms of the agreements, but one of the—

173 **Plank-Brumback:** Bilateral.

¹³ "EEC Oilseeds (I)" GATT Panel Report, European Economic Community – Payments and Subsidies Paid to Processors and Producers of Oilseeds and Related Animal-Feed Proteins, L/6627, adopted Jan. 25, 1990, BISD 37S/86.

¹⁴ "Accordingly, contracting parties should seek to avoid the use of subsidies on the export of primary products. If, however, a contracting party grants directly or indirectly any form of subsidy which operates to increase the export of any primary product from its territory, such subsidy shall not be applied in a manner which results in that contracting party having more than an equitable share of world export trade in that product, account being taken of the shares of the contracting parties in such trade in the product during a previous representative period, and any special factors which may have affected or may be affecting such trade in the product." GATT Art. XVI:3.

174 **Stoler:** Yeah, bilateral consultation mechanism. We would go into the committee and talk about
175 the dispute and try to get others on our side. But those Tokyo Round codes had a lot of
176 shortcomings on the procedural end of them. They didn't tell you how to do things. I'll never
177 forget a negotiator, an old guy who had been around way back in the Havana negotiations, came
178 to see me one time and he said, "How did you ever manage to reach agreement on these codes
179 without providing for a decision-making mechanism? None of them have a decision-making
180 mechanism." I said, "Well, actually we sort of just cleared out of Dodge." At the end of the
181 Tokyo Round, when the US and EC [European Commission] said, "We've got thirty days to
182 finish this up and if it's sloppy, it's sloppy." And the dispute settlement was a bit sloppy too.

183 **Plank-Brumback:** Ultimately you went back to Article XXII or Article XXIII as far as they
184 went and practices that had emerged.

185 **Stoler:** That's right.

186 **Plank-Brumback:** Was there much legal help from the Secretariat in those days?

187 **Stoler:** I don't recall getting a lot of Secretariat involvement on the baseball bats case. The
188 Secretariat was involved on the subsidies cases: wheat flour, pasta, and oilseeds of course as you
189 know. But I don't really recall whether they were involved much at all in the TBT side of things.

190 **Plank-Brumback:** And there were controversies, too, about the composition and minority and
191 majority opinions.

192 **Stoler:** That's right.

193 **Plank-Brumback:** All sorts of practices that, as you say, would have to be dealt with at some
194 point and are under the Dispute Settlement Understanding [DSU]. What are your recollections of
195 the 1982 contracting parties' meeting at Ministerial level? Do you have anything to say on that?

196 **Stoler:** Well, that was a riot. That was really a very interesting and strange experience to be
197 involved in the ministerial. My job at the time in the US delegation was to take care of—I was a
198 relatively junior member of the delegation—but I was in charge of logistics. Making sure that the
199 right people got to the right places at the right time.

200 **Plank-Brumback:** Because there were different venues.

201 **Stoler:** There were different venues, and they were spread all over the place, and a lot of it took
202 place at informal dinners. Bill Brock¹⁵ would have dinner one night with the German minister
203 and another night with the French minister. The member states were much, much more involved
204 in 1982 than they were ever after. In fact, I think Brock probably spent more time meeting with
205 member state ministers from the Community than he did with anybody else, including the EC
206 Commissioner at the time, but I was a guy who had to call—

207 **Plank-Brumback:** There were nine member states at the time.

208 **Stoler:** That's right, and I was a guy who had to call Brock's driver, make sure that Brock knew
209 what was on schedule, to know that the German minister is looking for him or that he had to be
210 somewhere else, back and forth. I'll never forget there was a woman in our offices at the time

¹⁵ William Emerson "Bill" Brock III, Republican, served as US Trade Representative from January 23, 1981 to April 27, 1985 and as US Secretary of Labor from April 29, 1985 to October 31, 1981 under President Ronald Reagan. Previously he chaired the Republican National Committee from Jan. 14, 1977 to Jan. 20, 1981. He was the US Senator from Tennessee from January 13, 1971 to January 3, 1977. He represented Tennessee's 3rd Congressional District in the US House of Representatives from January 3, 1963 to January 3, 1971. He died on March 25, 2021.

211 named Mimi Saltzman, who was sort of the Admin Officer for the USTR in Geneva. I was pretty
212 fluent in French then, and she was very fluent in French, and we spent about half our time talking
213 to people in French. It got to the point where when Mimi and I started to talk with each other, we
214 did it in French, too, and then suddenly we said, “Why are we speaking French to each other?” It
215 was a pretty wild and wooly thing.

216 I could remember being up all night for several nights in a row and then I remember how the
217 whole thing sort of fell apart at the end, how the Australians sort of stomped out of the room and
218 said they weren’t going to have anything to do with this lousy system for a while. When you
219 look back on it now, the work program that came out of the 1982 meeting was really quite a
220 good work program in terms of setting the stage for what came later on the Uruguay Round.¹⁶

221 **Plank-Brumback:** Was as much as could be done at the time.

222 **Stoler:** Yeah, I think we really were pushing it in ’82. It was really too close to the end of the
223 Tokyo Round.

224 **Plank-Brumback:** We’re talking about the 1982 work program. The US delegation was on the
225 whole very disappointed though, wasn’t it?

226 **Stoler:** Yeah, we were very disappointed because Bill Brock wanted to launch a new round of
227 negotiations and it was clear that that would have to be put off some years, at least after the ’82
228 meeting.

229 **Plank-Brumback:** At what discussions did he realize that that was not going to happen?

¹⁶ Ministerial Declaration, L/5424, adopted on Nov. 29, 1982, BISD 29S/9. The GATT contracting parties undertook a 2-year work program according to the priorities fixed by the ministers for the 1980s.

230 **Stoler:** I think he realized it by the beginning of the last day because the delegation was already
231 sort of in the mood of, “Well, what can we make out of this, given that we’re not going to get
232 what we want? How can we sort of set the stage for the future?” and I think that was when the
233 fallback plan really came into play.

234 **Plank-Brumback:** Was it ever an issue that maybe the US delegation would walk out? You
235 were accompanied by a Congressional delegation?

236 **Stoler:** Oh yeah, we always had Congressional delegations in these meetings in those days. In
237 fact, I remember we had quite a large Congressional delegation. I can remember spending time,
238 quite a bit of time, with Senator Grassley,¹⁷ who I’m pretty sure was there. There was another
239 senator who was quite outspoken on trade issues and wasn’t necessarily friendly to the
240 administration, but both of them were extremely supportive of the US delegation during the ’82
241 ministerial meeting in terms of trying to help us get what we were after, even if back in
242 Washington they wouldn’t have been.

243 **Plank-Brumback:** Interesting. So we launched this two-year work program in 1982, and then
244 we keep chipping away at the issues of services and so on. What can you tell us about the
245 negotiations leading to ultimately the launch of the Uruguay Round in Punta del Este in 1986?

¹⁷ Charles (“Chuck”) Ernest Grassley, Republican, has served as US Senator from Iowa since January 3, 1981. He was President pro tempore as of January 3, 2019, and then became President pro tempore emeritus on January 20, 2021. Grassley chaired the Senate Finance Committee from January 3, 2019 to February 3, 2021, from January 3, 2003 to January 3, 2007 and from January 20, 2001 to June 6, 2001. Prior he represented Iowa’s 3rd Congressional District in the US House of Representatives from January 3, 1975 until January 3, 1981.

246 **Stoler:** The strongest memory that I have of that period was just how obstructionist the leading
247 developing countries were in terms of throwing up every roadblock they could possibly imagine
248 to getting these negotiations off the ground. I remember that there was a particular period—

249 **Plank-Brumback:** This was particularly Brazil?

250 **Stoler:** Yeah, Brazil, India, Yugoslavia, Egypt, I think those were the four. There was one other
251 one that slips my mind right now. I think there were five altogether that were really the worst
252 ones. At any rate, at one point in the process they required verbatim transcripts to be made of
253 every single meeting that had to do with the launch of a possible round and they required that
254 you couldn't have the next meeting until you had the verbatim transcripts of the previous
255 meeting available for everybody. Of course, nobody read these things. It was just an
256 obstructionist tactic to keep the thing from moving forward. We also had a period when
257 everybody was supposed to be called on, when the proponents were all called on to justify why
258 they wanted to have a certain type of negotiation. We had to write a paper, for example, on why
259 the US wanted to have services negotiations and what sort of areas would be liberalized and all
260 that.¹⁸ I've always remembered that that was one of those documents that I wished that I kept
261 hoping later on years down the road, people would never find. It's somewhere in the records of
262 the meetings leading to the start of the Uruguay Round, but I remember there was one paper that
263 went on at length about how important the US sort of was to liberalize trade in maritime services.
264 Of course, later on we ended up being the ones who blocked—for other reasons I would have to

¹⁸ Exchange of Information Pursuant to the Ministerial Decision on Services: Communication from the United States, L/5476, April 13, 1983; Trade in Services: Communication from the United States, L/5838, July 9, 1985 (“Sectors such as banking, insurance, telecommunications, and data processing, shipping, aviation and construction and engineering are among the most important examples of services that are traded commercially on a large scale, and these are the types of services sectors we would expect to see covered by a framework of trade principles.”).

265 say—blocked for other reasons the progress in the maritime services to negotiations in the late
266 '80s.

267 **Plank-Brumback:** Why do you suppose that particular issue was so difficult?

268 **Stoler:** Maritime services? Well, if you believe the US line, and I did, our line was that actually
269 contrary to public belief—we're not talking about Jones Act coastal shipping here, we're talking
270 about blue water ocean shipping—our line was that we were actually more liberal than most
271 other countries. We were not party to things like liner codes and other things that shared trade
272 between countries on national flag carriers. If we were to start on the basis that more or less froze
273 the existing situation and then liberalized from there, the US would be entering into a very non-
274 reciprocal agreement. We'd be giving other countries much more than they were giving us.

275 **Plank-Brumback:** These things never do go away. I believe it was not so long ago as last week,
276 China is now indicating in the services negotiation two areas of particular interest: maritime
277 services and also Mode 4.

278 **Stoler:** What can I say? Not a surprise.

279 **Plank-Brumback:** At play and in the launch of the round was especially these new trade issues
280 like services and intellectual property. What was at play on the issues for which you were
281 responsible in particular?

282 **Stoler:** Oh, I think the biggest single issue that was at play was how to put some real discipline
283 and real teeth in the subsidies disciplines of the WTO, in terms of the areas I was responsible for.
284 We didn't have many objectives in the other code areas like TBT or even anti-dumping. In anti-
285 dumping, already by the start of the Uruguay Round, I think we were already in a defensive

286 position in the United States. That was motivated throughout the negotiations all the way up to
287 the end as sort of ‘protect what we got, don’t let it be eroded by the others.’ But on the subsidies
288 front, we were definitely pushing for toughening the rules considerably, and at the same time,
289 doing something in the parallel sort of dispute settlement negotiations to make sure that the rules
290 could actually be effectively enforced.

291 **Plank-Brumback:** Could you describe your activities as a member of the Samurai Group and
292 what that group was trying to accomplish?

293 **Stoler:** I’m surprised anybody remembers the Samurai Group. The Samurai Group was made up
294 of people like myself, a senior member of the Japanese delegation whose name is—

295 **Plank-Brumback:** He was the chair, which was why it was called the Samurai Group.¹⁹

296 **Stoler:** I’m trying to think of his name now. My Indian friend Hardeep Puri was a member of the
297 Samurai Group.²⁰ I think Patrick Robertson from the Australian delegation would have been in
298 there.²¹ Alejandro Jara from the Chilean delegation was also a member of the Samurai Group.²²
299 It was quite a thing.

¹⁹ M. Ikeda, Deputy Permanent Representative of Japan to the GATT was the Chairman of the GATT Committee on Subsidies and Countervailing Measures at the time.

²⁰ Hardeep Singh Puri was then First Secretary at the Permanent Mission of India to the United Nations Office in Geneva. From 1998 to 1991, he was the coordinator of the UNDP/UNCTAD Multilateral Trade Negotiations Project. Puri served as a joint secretary in the Ministry of External Affairs from 1994 to 1997 and from 1999 to 2002. He was also a joint secretary in the Ministry of Defence from 1997 to 1999. He subsequently became secretary (economic relations) in Ministry of External Affairs from 2009 to 2013. Puri served as the Permanent Representative of India to the United Nations from May 4, 2009 to February 27, 2013. He joined the Bharatiya Janata Party in January 2014. He was elected a member of Parliament for Uttar Pradesh and assumed office on January 9, 2018. In May 2019, he became Minister of State (Independent Charge) for Housing and Urban Affairs, Civil Aviation, and Commerce and Industry. Puri has served as Minister of Petroleum and Gas since 2021.

²¹ Patrick Charles Robertson, Commercial Counsellor at the Permanent Mission of Australia to the United Nations Office in Geneva would become Director, Multilateral Trade Division in the Australian Department of Foreign Affairs and Trade. He was then posted at the Australian Embassy to the USA.

²² Alejandro Jara was at the time Counsellor at the Permanent Mission of Chile to the United Nations Office and Other International Organizations in Geneva from 1979 to 1984. He later served as Director for Bilateral Economic

300 **Plank-Brumback:** An ad hoc group of people that liked being with one another and did
301 subsidies on the side.

302 **Stoler:** It was a bit like that, but I think we did some very useful things. I think we had some
303 very useful discussions in that group about how it would make sense to change the rules going
304 forward. I don't think we ever surfaced as an above-the-radar group. It was all very informal and
305 a way of exchanging ideas, but intellectually, quite interesting at the time.

306 **Plank-Brumback:** I think it may be important for this history to sort of convey how important
307 these ties were and these ad hoc groupings and informal brainstormings in the development that
308 always sort of eventually helped to lead to real agreements subscribed to—

309 **Stoler:** I agree with that, and I think one of the things I used to say to people about the difference
310 between success and failure in Geneva is that if you're going to be a successful operator in
311 Geneva you have to be able to divorce a certain stage of time, your official position from your
312 personal view on how things ought to work, and be able to work informally with coalitions from
313 lots of different groups. Because it really is true. I think it was Winston Churchill or somebody
314 who said, you don't have any permanent friends or enemies, but you've got permanent
315 interests.²³ There are different ways of advancing these with different groups. That's one of the
316 things that I think Geneva is quite famous for over the years, having variable-geometry groups

Affairs (1993–1994) and Director for Multilateral Economic Affairs (1994–1999) at the Chilean Ministry of External Affairs. In January 1999, he was appointed Ambassador and Director General for International Economic Relations (DIRECON), where he served until March 2000 when he became Permanent Representative of Chile to the WTO. Jara then was WTO Deputy Director-General from Sept. 2005 to Sept. 2013 serving under WTO Director-General Pascal Lamy. From Oct. 2013 to Oct. 2016, Jara was senior counsel at the law firm of King and Spalding in Geneva. As of July 31, 2020, he was one of ten standing arbitrators under the WTO Multi-Party Interim Appeal Arbitration Arrangement.

²³ “We have no eternal allies, and we have no perpetual enemies. Our interests are eternal and perpetual, and those interests it is our duty to follow.” Henry John Temple, 3rd Viscount Palmerston, House of Commons, March 1, 1848.

317 that would take up issues based on national interests and the Samurai Group being a good
318 example.

319 **Plank-Brumback:** And of course your interests vary by issue, offensive or defensive.

320 **Stoler:** We could be on the same side of an issue with the Indians on one subject and completely
321 opposite on another one.

322 **Plank-Brumback:** Were you at Punta del Este?

323 **Stoler:** No, that's the only ministerial meeting I missed. I missed it because Christine was about
324 two days away from giving birth to Angela, and I figured it would be an inopportune time to be
325 out of the country in Uruguay.

326 **Plank-Brumback:** Quite so. Is there anything else you wanted to point out in this period leading
327 to the launch of the Uruguay Round?

328 **Stoler:** I should say there is one other thing that again, I like people to forget about. But you
329 might remember that the formal process of getting the Uruguay Round underway actually started
330 when Warren Lavorel²⁴ demanded a vote by the contracting parties on having a special session,
331 which was what led into the more formal preparations. I remember that in August of that

²⁴ Warren Arnold Lavorel began his professional career as an economist with the US Central Intelligence Agency in the early 1960s and then joined the State Department, serving as an economic and commercial officer in Manila, Paris, Luxembourg, Brussels, and in the department's Trade Agreements Division. From 1975 to 1978 he was a member of the US delegation resident in Geneva during the Tokyo Round. Lavorel was Deputy Chief of Mission, Office of the United States Trade Representative in Geneva from 1981 to 1987. Back at USTR in Washington, DC, Lavorel served as the US coordinator and chief negotiator for the Uruguay Round of Multilateral Trade Negotiations, with ambassadorial rank, from October 1987 to June 1993. He became a GATT Deputy Director-General in July 1993 under GATT Director-General Peter Sutherland and then one of the original four WTO Deputy Directors-General under WTO Director-General Renato Ruggiero from 1995 until 1999. He died on Feb. 27, 2011. USTR dedicated a conference room in his honor in the USTR offices in the Winder Building, 600 17th Street, NW in Washington, DC.

332 particular year, I was the only one left in the delegation counting the votes as they came in from
333 the posts around the world.

334 **Plank-Brumback:** It being August.

335 **Stoler:** The Burmese have said that they're going to go along with this thing. They're not sure
336 what it is, but they will support it. So again, given the fact that I was involved in many things
337 later on where the US delegation insisted that consensus was the only way to take decisions,
338 having been party to asking for a vote at that time was something we tried to sweep under the rug
339 in subsequent years.

340 **Plank-Brumback:** What led to that?

341 **Stoler:** It was just boiled-over frustration on the part of the US, and Warren finally asked for
342 authority to ask for a vote on this. Washington said, "Go ahead—got nothing to lose."

343 **Plank-Brumback:** That was quite a step in the annals of the GATT.

344 **Stoler:** But we like to forget about that now. Anyway, so I went back to Washington at the end
345 of 1987 and briefly back into the bilateral mode mainly.

346 **Plank-Brumback:** You became Deputy Assistant USTR for Europe and the Mediterranean.

347 **Stoler:** That's right, but I also had an ongoing Uruguay Round responsibility that was as the
348 chief negotiator for functioning in the GATT system.

349 **Plank-Brumback:** The famous FOGS Group.

350 **Stoler:** The FOGS [functioning of the GATT system] Group, which had those three elements:
351 the trade policy review mechanism; the coherence between the [World] Bank, [International
352 Monetary] Fund, and WTO; and greater ministerial involvement. During that particular point of
353 the FOGS negotiations, most of the focus was on the TPRM [trade policy review mechanism],
354 especially since we were aiming to have an early harvest on the trade policy review mechanism
355 in Montreal in 1988.²⁵

356 **Plank-Brumback:** Can you talk about the evolution of that mandate?

357 **Stoler:** The TPRM mandate? Well, there were a lot of calls for greater transparency in members'
358 trade policy, especially since a number of transparency obligations weren't really being adhered
359 to. For example, subsidies notifications—most countries weren't really making a notification
360 they were supposed to. It was hard to find out what others were doing in terms of their other
361 obligations. Although the TPR was never seen as a dispute settlement-related exercise, it was felt
362 that there wasn't enough surveillance in the system. It was an exercise that I don't recall there
363 being a huge amount of opposition to. Most delegations thought it might be a sensible thing to
364 do. As we got close to Montreal, we had a really serious disagreement, which I always cite as a
365 very good story of WTO negotiations. We had a serious disagreement between the United States
366 and Brazil over whether or not the trade policy review mechanism should explicitly provide for a
367 visit by the GATT Secretariat to the capital of the country under review. The US said, "We have
368 to have this visit because otherwise you can't have a sensible negotiation, and we can't have a
369 sensible report prepared." The Brazilian said, "Absolutely not. Every time an IMF delegation

²⁵ The Trade Negotiations Committee (Mid-Term) Meeting at Ministerial Level, chaired by TNC Chair Ricardo Zerbino of Uruguay, was held on Dec. 5–9, 1988 in Montreal, Canada. See <https://docs.wto.org/gattdocs/q/GG/GATTFOCUS/59.pdf>

370 comes to town, we have riots in the streets. We don't want to have another riot in the street when
371 the GATT delegation comes to town." So it all boiled down to this last remaining dispute. One
372 morning, about three o'clock in the morning, I briefed Clayton Yeutter.²⁶ The Brazilians briefed
373 their Minister. We walk into the Green Room at three o'clock in Montreal. Dunkel²⁷ and Zerbino
374 are hiding behind this haze of smoke. They asked us to describe the issue. Yeutter lays out our
375 case. The Brazilians lay out their case and Dunkel says, "Clayton, you are wasting our time on
376 this. This is the dumbest issue anybody has ever brought to the Green Room. Of course, you
377 don't need to have this written into the agreement. No country is ever going to say no when I say
378 to him, 'sending a delegation to do the TPR.' Stop wasting our time. Get out of the room."

379 Well, I was incandescent with anger, having gotten a little too close to this issue during the
380 negotiation. I stomped out of the room swearing, cursing. I think I even left Montreal early. I was
381 so angry about the whole thing, but Dunkel was absolutely right and I was absolutely wrong to
382 get too tied up in this whole thing that way. We have never had any problem with the delegation
383 going to a country as part of the TPR process. Things evolved and there was not a problem.

²⁶ Clayton Keith Yeutter, Republican, served as United States Trade Representative from July 1, 1985 to Jan. 20, 1989 under President Ronald Reagan. He also served as US Secretary of Agriculture from Feb. 16, 1989 to March 1, 1991 and then as Counsellor to the President from Jan. 25, 1991 to Feb. 1, 1992 under President George H.W. Bush. Yeutter chaired the Republican National Committee from Jan. 25, 1991 to Feb. 1, 1992. Prior he was President and CEO of the Chicago Mercantile Exchange from July 1978 to June 1985. He served as Deputy USTR from June 1975 to Jan. 20, 1977 under President Gerald Ford. Yeutter was also Assistant Secretary of Agriculture for International Affairs and Commodity Programs from March 1974 to June 1975 and Assistant Secretary of Agriculture for Marketing and Consumer Services from Jan. 1973 to March 1974 within the US Department of Agriculture during the Ford and Nixon administrations. Yeutter worked later as a senior advisor at Hogan Lovells from 1993 to 2015. He died on March 4, 2017.

²⁷ Arthur Dunkel, (Portuguese-born) Swiss, was GATT Director-General from Oct. 1, 1980 to July 1, 1993. After holding various positions in the Federal Office for Foreign Economic Affairs of the Department of Public Economy, he was appointed Permanent Representative of Switzerland to the GATT in 1973. He headed the Swiss delegation to the Tokyo Round and chaired the GATT Committee on Balance of Payments from 1972 to 1975. Dunkel was promoted in 1976 as Delegate of the Swiss Federal Council for Trade Agreements with the rank of Ambassador Plenipotentiary. He chaired the United Nations Conference on a new Wheat Agreement in 1978. Dunkel died on June 8, 2005. See https://www.wto.org/english/thewto_e/dg_e/ad_e.htm.

384 **Plank-Brumback:** Sometimes you always have to step back.

385 **Stoler:** Well, I think that there's in most negotiations after a while, the lead negotiator will get
386 too tied up in something and fail to see the forest for the trees. So somebody usually has to step
387 in and yank their chain and say, that's enough.

388 **Plank-Brumback:** Interesting, the evolution of all this. I have memories as a junior officer in
389 the GATT. We had to tediously review news clippings and come up with little reports about
390 measures and things, and now we have a full-blown trade policy review mechanism.

391 **Stoler:** If you're a researcher anywhere in the world that needs to have information on the trade
392 policies or investment policies or economic background, by now every WTO member has
393 probably had at least one TPR done on them. The TPRs are an invaluable source of information
394 and they're easy to use; they're well organized. It's a terrific resource for anybody to have.

395 **Plank-Brumback:** Never underestimate the value of transparency.

396 **Stoler:** That's right.

397 **Plank-Brumback:** So you're also chairing at the time back in Washington a US government
398 task force on the EC internal market?

399 **Stoler:** That's right.

400 **Plank-Brumback:** What were the issues that concerned the task force the most and what were
401 you doing about it?

402 **Stoler:** First of all, we wanted to sensitize the US business community to the fact there was
403 something very important going on in the European community. When they finally got rid of the

404 remaining internal barriers, as part of this internal market project, there were going to be a lot of
405 new opportunities for American firms to take advantage of, but there was also the risk of certain
406 of these directives operating in a way which would have discriminated against US interests. I
407 remember that there was one involving banking in particular that could have had a very negative
408 consequence on US banks. So this interagency task force that I pulled together and chaired was
409 quite interesting because we had about, we probably had twelve to fifteen different US
410 government agencies involved, everything from the pharmaceutical regulators and the FTC
411 [Federal Trade Commission] to the Treasury people to the normal agencies. We tried to take a
412 very organized approach. We eventually put together a report that was designed to be circulated
413 in the business community and make them aware of what the issues were. We organized
414 conferences and speaking events. It was quite a good thing. I think that by managing to get some
415 high-level attention both in the administration and in the business community, we probably kept
416 the Community honest on a lot of the stuff that they were thinking about doing. We weren't
417 thinking about bananas. In fact back then, somebody did point out that this was going to create a
418 problem in the bananas trade, but everybody thought, well, you know, who's going to be
419 bothered by that? Funny that we didn't realize it was going to be such a big issue later on.

420 **Plank-Brumback:** This was in the transition from some of the member state individual quota
421 systems and preferences for their old colonies.

422 **Stoler:** That's right.

423 **Plank-Brumback:** And the rest is history. You were also involved in some disputes with Spain
424 and Israel at the time.

425 **Stoler:** Yeah, the Israeli ones. I'll tell you, I was always amazed at the fact—imagine this,
426 imagine the Israelis not accepting food products from the United States that were certified as
427 kosher by American Jewish authorities because they considered that only products certified by
428 rabbis in Israel could pass this kosher test. I just thought that was outrageous. We are doing these
429 people a favor with this FTA [free trade agreement]. Talk about a lopsided FTA that was done
430 for political reasons. Then you find out it's Jew against Jew. It was a really ridiculous thing. So
431 we had a lot of problems with the implementation of that agreement.

432 But we also had a problem with the Spanish. This was after Spain joined the Community. The
433 Spanish had a number of discriminatory quotas that in fact discriminated in favor of the United
434 States, which they were talking about having to sort of close down as a result of their entry into
435 the Community. We had a couple of rounds of negotiations with them where we came to an
436 accommodation that I think was one that the Spanish never told the EC about or at least not for a
437 couple of years anyway, to sort of keep the trade going. It was a very funny sort of negotiation.
438 They didn't want the Community to know. They also didn't want us to blow the whistle on what
439 they had been doing over the years. So it was kind of a nontransparent activity.

440 **Plank-Brumback:** Don't ask, don't tell.

441 **Stoler:** That's right, but it produced a commercially interesting result for the people who were
442 affected.

443 **Plank-Brumback:** What was the trade?

444 **Stoler:** There were some agricultural products that were affected and there were a couple of
445 industrial products. I seem to remember—believe it or not—that carpets were affected by these
446 trade restrictions.

447 **Plank-Brumback:** These were discussions under GATT Article XXIV:6?

448 **Stoler:** Yes, that was the headline that we gave them because it was related to what they were
449 going to do as a result of their entry into the Common Market.

450 **Plank-Brumback:** Any other good stories?

451 **Stoler:** From that particular period? Let's see, besides the internal market task force and the
452 Spanish and Israeli questions, not too much comes to mind. I think that's probably it.

453 **Plank-Brumback:** Okay, were you involved in this issue with the EC at the time on exports of
454 copper scrap?

455 **Stoler:** No.

456 **Plank-Brumback:** We already mentioned Montreal and how you were very upset that they did
457 not follow the script, your script, on trade policy review. We know that that meeting ends with
458 frameworks on eleven of the fifteen negotiating areas of the Uruguay Round, except for the easy
459 issues of agriculture, intellectual property, textiles, and safeguards. Any other recollections on
460 Montreal or were you just really focused on TPR?

461 **Stoler:** If my memory serves me right, the other thing that came out of Montreal was sort of an
462 interim progress on dispute settlement.

463 **Plank-Brumback:** Right. You thought that was a good agreement?

464 **Stoler:** Everybody knew that it wasn't a final agreement, but it was a step in the right direction
465 toward the eventual—

466 **Plank-Brumback:** Codifying certain practices. It went a little further than the 1979
467 Understanding.

468 **Stoler:** And my memory is that that wasn't actually agreed at Montreal, but it was agreed in like
469 the first three months after the Montreal meeting as a sort of a follow-up. There was sort of
470 agreement in Montreal that we'll do this in the next three months.²⁸ I remember going to a
471 meeting at USTR when they announced the results.

472 **Plank-Brumback:** We have then the Geneva Ministerial in April of 1989.

473 **Stoler:** That's where it happened.

474 **Plank-Brumback:** Dunkel is asked to work out texts on those issues pending: agriculture, IP,
475 textiles, and safeguards.

476 **Stoler:** I think that was the timing of the outcome on dispute settlement.

477 **Plank-Brumback:** So the ministers finally agreed that the endpoint would be a long-term reform
478 beginning in 1991. Then they have a sort of standstill agreement as well to hold down 1989–
479 1990 domestic and export supported protection to existing levels, if not below. You're right, the
480 official title is "Improvements to the GATT Dispute Settlement Rules and Procedures" that were
481 adopted at the time.

²⁸ Improvements to the GATT Dispute Settlement Rules and Procedures, L/6489, adopted by the Contracting Parties on April 12, 1989 in Geneva. This followed the meeting of the Trade Negotiations Committee at Ministerial Level in December 1988 in Montreal.

482 **Stoler:** Right.

483 **Plank-Brumback:** You attended the Geneva Ministerial.

484 **Stoler:** Yes.

485 **Plank-Brumback:** This was Carla Hills's first GATT ministerial.

486 **Stoler:** Yes, it was Carla Hills.

487 **Plank-Brumback:** Any other recollections of the kind of backroom negotiations? How difficult
488 was it to come up with finally framework agreements across all fifteen areas?

489 **Stoler:** I wasn't personally involved in those framework negotiations. I mean, my involvement
490 in Montreal in that period was really limited to the FOGS stuff.

491 **Plank-Brumback:** Then you do return to Geneva as Deputy Chief of Mission to the GATT in
492 mid-1989.

493 **Stoler:** That's right.

494 **Plank-Brumback:** And that's a position you will hold for more than ten years.

495 **Stoler:** Pretty good if you can get away with it.

496 **Plank-Brumback:** What was the key to your success?

497 **Stoler:** The main key to my success was that nobody else wanted the job. Quite seriously, I
498 mean that. One of the reasons why less people spend a very long period of time in the Geneva
499 office is that these days, when you're married and you have a working spouse, it's very difficult

500 for somebody to interrupt a career and say, “I’m going to go to Geneva for some period of time.”
501 So it’s only people who really like the Geneva experience and who can fit into it in a family way
502 that ends up taking those jobs.

503 **Plank-Brumback:** Because it takes so long to understand its arcane charm.

504 **Stoler:** Well, we argued early on that you don’t run the risk in the Geneva office that you do in a
505 foreign embassy in Paris or someplace like that, of developing so-called clientitis, where you
506 start to think more like the client than you do like your home officials. Who’s the client in
507 Geneva? The WTO or the GATT, and there’s nothing wrong with getting clientitis about the
508 system. Everybody knows that your alliances change over time. We argued also that we could
509 run circles around people who only spent two or three years there by building up networks and
510 knowledge that was superior to what the other delegations had. I think it’s proven to be the case
511 as well.

512 **Plank-Brumback:** Indeed. So we have what’s supposed to be the final ministerial in Brussels in
513 December 1990.²⁹ We know the Cairns Group ends up walking out of the conference because of
514 agriculture. *L’agriculture, toujours l’agriculture*. Do you think it was a good thing to even hold
515 that meeting?

516 **Stoler:** Well, that was a meeting that nobody expected to be the final meeting of the Uruguay
517 Round. We all went to that meeting with an expectation that it was going to fail and were kind of
518 surprised, I think, that when we got to Brussels, a number of areas started to move. For example,

²⁹ The Brussels Meeting of the Trade Negotiations Committee at Ministerial Level, chaired by Uruguayan Foreign Minister Héctor Gros Espiell, was held in Brussels, Belgium starting on Dec. 3, 1990 with the aim of concluding the Uruguay Round. The meeting adjourned in impasse on Dec. 7, 1990 over the failure to reach agreement on reductions on farm subsidies.

519 at the time of the Brussels meeting, I was still responsible for FOGS, but there wasn't a lot of
520 action on FOGS there. I was put together with the people who were renegotiating the aspects of
521 the technical barriers to trade agreement, the rules of origin agreement, and the preshipment
522 inspection [PSI] agreement. We went there and I thought, "Okay, we'll organize our meetings.
523 We'll try to get things going and see if we can't make some progress here. But if the whole thing
524 falls apart, we are not to get too excited about it." Then it looked as though things were getting
525 quite serious on other fronts, including even on agriculture and on services. So we all started
526 working pretty hard and in fact, we managed to finish the two out of the three areas I was
527 working on at Brussels and put them on the shelf for the next couple of years. Both the rules of
528 origin agreement and the preshipment inspection agreement were finished there.

529 **Plank-Brumback:** Not much more needed to be amended there?

530 **Stoler:** They were basically wrapped up in Brussels. There was an ongoing issue in TBT that
531 took a couple of years to sort out. I can't remember exactly what it was now, but I do remember
532 that Rufus Yerxa³⁰ and the people who were negotiating the services agreement were
533 increasingly terrified that if the meeting wasn't going to fall apart, because they had come to the
534 conclusion that we were all taking the wrong approach to liberalizing trade in services. If it
535 hadn't been for agriculture and the Europeans and Argentines blowing that up, there was a risk

³⁰ Rufus Hawkins Yerxa, American lawyer, was at the time US Ambassador to the GATT and Deputy USTR from May 1989 to Feb. 1995 in the President George H.W. Bush administration under USTR Carla Hills, Yerxa would go on to be resident partner in the Brussels office of Akin Gump Strauss Hauer & Feld LLP from Feb. 1995 to Feb. 1998 and then European General Counsel for Monsanto. He then served as WTO Deputy Director-General from Oct. 2002 to Oct. 2013 under WTO Directors General Supachai Panitchpakdi and Pascal Lamy. Prior Yerxa was Staff Director to the Subcommittee on Trade of the Committee on Ways and Means of the US House of Representatives from Nov. 1981 to May 1989, and Legal Advisor to the chairman of the US International Trade Commission from Nov. 1977 to Nov. 1981. He was President of the National Foreign Trade Council from May 2016 until Sept. 2021.

536 that the US was going to have to blow up the negotiations over the way services would be
537 negotiated.

538 **Plank-Brumback:** There was a convenient bad cop, agriculture.

539 **Stoler:** Yeah, very convenient at the time. So it was surprising that we went to Brussels not
540 expecting much. Then a lot more happened in some areas than we thought was going to happen.
541 Then we were actually presented at one point in the US delegation with the threat that the
542 meeting might succeed on a basis that would be unacceptable to us.

543 **Plank-Brumback:** Maybe we can just briefly deal with the preshipment inspection and rules of
544 origin because you said they were pretty much finished there in Brussels. What were the issues
545 there? I seem to remember a lot of the preshipment inspection concerned dissatisfaction for how
546 entities like Société Générale de Surveillance [SGS] operated.

547 **Stoler:** Well, one of the big issues there was how, if you're doing an agreement that involves
548 private sector actors, how we could put together a dispute settlement system that would operate
549 in a dispute between the government and a private sector group. Basically, we came up with a
550 rather unique formula in the preshipment inspection agreement that involves the International
551 Chamber of Commerce in Paris taking a role in sorting out the dispute between the preshipment
552 inspection company and the complaining government. To my knowledge, it has never been used.
553 I think the basically the preshipment inspection agreement, the existence of the agreement per se,
554 put the PSI companies like SGS on notice that if they abused their position, we were watching
555 them. There was an avenue to get at the problem if they didn't fix it. So that was relatively easy
556 to fix up, but I remember one aspect of the negotiation. When we thought we had worked out all
557 the details with the group of West African countries, who were negotiating on the other side

558 from us, we went into the plenary session of that group to try to wrap it all up. We had told the
559 chairman, who was the Dutch trade minister, a woman, that everything was all set and then the
560 Africans reneged on their part of the deal. When I got outside the room, I harangued these guys
561 using some choice epithets at the time, and basically told them that the United States was never
562 going to forget this bad faith. I think I scared them so badly that they actually got in touch with
563 the chairman and said, "Can you reopen the meeting? We can go in and finish this now," because
564 they went in and changed their position.

565 **Plank-Brumback:** They didn't need instructions from capital?

566 **Stoler:** Apparently not. Who knows whether they were getting their instructions from the
567 preshipment inspection companies or not either.

568 **Plank-Brumback:** Of course in any dispute you have potentially two country complainants, the
569 one paying for the inspection and the one being inspected.

570 **Stoler:** That's right. On the rules of origin, the major thing there, and this is kind of hard to
571 believe when you think back on it now, was whether the rules of origin agreement would deal
572 only with non-preferential rules of origin for WTO purposes, or whether it would also deal with
573 preferential rules of origin. The US position and some others on the sort of the US side of the
574 scale, was that we should have both non-preferential and preferential rules of origin covered by
575 the agreement. The Europeans said absolutely no way to the preferential rules. Knowing what I
576 know now about rules of origin and with the spread of regional trade agreements and the
577 experience with the fact that the rules of origin work program for non-preferential rules of origin
578 is still not finished twenty years later or something, it's probably a good thing we didn't win that
579 particular battle because it's been a nightmare just on the non-preferential rules.

580 **Plank-Brumback:** Those are important devices, in terms of certainty for business.

581 **Stoler:** So that's where we left that issue.

582 **Plank-Brumback:** So in December of 1991 we have the GATT Director-General Arthur Dunkel
583 issuing the so-called Dunkel Text or Draft Final Act to the Multilateral Trade Negotiations. Did
584 you and the US delegation consider this helpful at the time, and did you recall any major areas
585 where you thought it needed more work and received instructions to change it? How would you
586 characterize the role of Dunkel and the Secretariat in the Uruguay Round?

587 **Stoler:** I think it was very important for the Dunkel Text to come out and rather courageous for
588 Dunkel to put it out. I'm not sure we would have ever finished the Uruguay Round without the
589 Dunkel Text being out on the table. It was pretty clear though there were a number of things in
590 the Dunkel Text that people weren't going to accept, that had to be changed before we got to the
591 end. Some things were pretty good, but other things had to be changed. In particular in the case
592 of the United States, one of the areas which was far from acceptable in the Dunkel Text was the
593 agreement establishing the multilateral trade organization, which would have seriously undercut
594 our role and the US role in decision-making, and the degree of sovereignty that the US
595 considered it enjoyed in the system. So that was one area that I was responsible for, where we
596 knew we were going to have to make some substantial changes before we could go along with
597 the text.

598 **Plank-Brumback:** Let's talk about that a little bit more. The Dunkel Text was essentially a
599 consolidation of Chairs' texts. Was it more?

600 **Stoler:** It was a consolidation of Chairs' texts. I think there were one or two areas where Dunkel
601 and his lieutenants made some decisions about bridging gaps, but it was pretty much a
602 consolidation.

603 **Plank-Brumback:** The agreement establishing the WTO, first referred to as the MTO
604 [Multilateral Trading Organization], where the US finally lifted its reservation quite literally at
605 the last minute at midnight, to having the World Trade Organization. In her book *Peace Through*
606 *Trade: Building the World Trade Organization*, Debra Steger³¹ writes that back in 1990, the US
607 "did not believe that it was necessary to create an organization that was concerned with the
608 issues of 1) effective management of the trading system by a small coordinating group of major
609 trading countries, 2) eliminating the free rider program and the transition from existing GATT to
610 the new system, and 3) providing the maximum incentive for GATT contracting parties to accept
611 the Uruguay Round results as a single undertaking." So what are your recollections of the review
612 of all the agreements of the Dunkel Text and, more importantly, the fleshed-out draft texts of a
613 multilateral trade organization and also modifying the dispute settlement rules?

614 **Stoler:** Well, you can find a picture of Julio Lacarte³² and a group of negotiators, myself among
615 them, who spent three solid months in Room F at the Secretariat, negotiating the end of the
616 dispute settlement text and also the agreement establishing the WTO. This whole group is

³¹ Debra P. Steger was the first WTO Director of the Appellate Body Secretariat. During the Uruguay Round, she was Canada's principal legal counsel and senior negotiator on dispute settlement and the establishment of the WTO. Prior she was general counsel of the Canadian International Trade Tribunal. Steger is Professor Emerita at the University of Ottawa's Faculty of Law.

³² Julio Lacarte Muró, distinguished Uruguayan diplomat, was Deputy Executive Secretary of the GATT at its inception 1947–1948. He served as Minister of Industry and Commerce under Uruguayan President Óscar Diego Gestido Pose in 1967. Lacarte held several ambassadorial positions, including as Permanent Representative of Uruguay to the GATT in 1961–1966 and 1982–1992, as well as ambassador to the European Communities, India, Japan, the United States, and Thailand. During the Uruguay Round, he chaired the negotiating groups on dispute settlement and institutional issues. Lacarte was the first Chairman of the WTO Appellate Body 1995–2001. He died on March 4, 2016.

617 assembled there on the third floor in the GATT in that sort of foyer area next to rooms D and E.
618 Andy Shoyer³³ and I are standing there holding pieces of paper like this that show our sort of
619 continued disagreement with where things were going, and the pieces of paper we had were
620 mock-ups of something called the General Agreement on Trade in Services or GATS, which we
621 considered was an acceptable way to pull everything together without creating an organization
622 called the MTO or the WTO. So up until the last minute, we negotiated all this stuff on the WTO
623 in case it turned out that we went down the WTO route, but we maintained up until the end that
624 we didn't need an organization. We could just have an agreement that everybody had to be part
625 of that would do the same things as the WTO.

626 **Plank-Brumback:** So you were, but you were a code guy, no? But were you still a true believer
627 then?

628 **Stoler:** That didn't change the fact that we believed in the single undertaking. We were party,
629 partisan, to the plan developed in the Quad, to withdraw from the GATT and join the new GATT
630 so that we severed our MFN obligations to all these countries and left them with a choice of
631 either having no MFN trade relations or joining this single undertaking approach. But in our
632 view at the United States delegation, that was a question which was independent of the creation
633 of the organization. You could have just as easily said, "Well, you have to sign this document to
634 get that result." But of course in the meantime, we went through the whole Lacarte process in
635 trying to fix the text of the MTO. There was one other thing that we had to do, which I still take a

³³ Andrew ("Andy") W. Shoyer served as Assistant General Counsel at USTR from Sept. 1990 to Aug. 1993. He was Legal Advisor at the US Mission to the GATT/WTO from Aug. 1993 to Oct. 1997, involved in dispute settlement and the negotiations leading to the establishment of the WTO. Afterwards Shoyer joined the international trade practice of Powell Goldstein LLP as a partner in Oct. 1997. In May 2002 he moved to Sidley Austin LLP, where he co-leads the global arbitration, trade and advocacy practice group. Shoyer has taught the international trade policy course in Georgetown's Master of Science in Foreign Service program since 2001.

636 certain amount of pride in, even though it's probably the most protectionist thing I ever had to
637 do, is I had to solve the problem of the fact that we were going to be leaving the grandfather
638 clause era and entering an organization or an agreement which no longer had a protocol of
639 provisional application. It was an unacceptable idea in the United States that we would give up
640 the Jones Act as part of that. So I had to negotiate and write the provision that preserved the
641 Jones Act.

642 **Plank-Brumback:** That says a lot that we would give up Section 22, but not the Jones Act.

643 **Stoler:** Well, are you familiar with the solution to the Jones Act thing? The solution is nobody
644 wanted to have something that said: the US gets to keep the Jones Act and the rest of us have to
645 give up everything else. So we actually had to write the Jones Act right into the text of the
646 GATT. It's part of the GATT 1994 paragraph 3(a-e) right in the text. I've got it right there,
647 Rosine. So you can see the provisions of Part II of the GATT 1994 shall not apply to measures
648 taken by a member such and such and then the conditions all go on from there. So the Jones Act
649 is there forever and ever, not as an exception but as something which is a provision of the GATT
650 itself.³⁴

651 **Plank-Brumback:** And you drafted that, a non-lawyer?

652 **Stoler:** Well, I had to draft it and work out the way in which you would operate. So that was one
653 of the things I had to do before we could go along with the non-provisional application part of
654 the new system.

³⁴ "The provisions of Part II of GATT 1994 shall not apply to measures taken by a Member under specific mandatory legislation, enacted by that Member before it became a contracting party to GATT 1947, that prohibits the use, sale or lease of foreign-built or foreign-reconstructed vessels in commercial applications between points in national waters or waters of an exclusive economic zone...." GATT 1994, para. 3(a).

655 **Plank-Brumback:** So you referred to Ambassador Lacarte. He was chairing the institutional
656 group. He, at least, and many others thought that they did have a mandate to complete the text on
657 the MTO agreement in the Dunkel Text, but the US only agreed to participate and indicated it
658 remained opposed to the idea. There's some sort of reference then to the icing of the cake that
659 you would see if the results of the Uruguay Round were a large enough cake. Who coined the
660 term?

661 **Stoler:** That's right. I don't know, but I can tell you who was responsible for the name "World
662 Trade Organization." If somebody hasn't told you already, it was Senator Moynihan,³⁵ who at
663 the end said, "If we're gonna go along with this it can't be called the Moo-ltilateral Trade
664 Organization. Nobody knows what moo-ltilateral is outside of those of you here in Geneva and
665 we can't call it the International Trade Organization because Congress turned that down back in
666 the 1940s, so why not just be simple and call it the 'World Trade Organization.'" And that was
667 the term that the US negotiators went in and said we could accept when the final decision was
668 made.

669 **Plank-Brumback:** What time of the day or night?

670 **Stoler:** That was late at night, I think. It was pretty close to the closing.

671 **Plank-Brumback:** In December 1993.

³⁵ Daniel Patrick Moynihan, Democrat, was the U.S Senator from New York from Jan. 3, 1977 to Jan. 3, 2001. He chaired the Senate Finance Committee from Jan. 3, 1993 to Jan. 3, 1995. Prior he was the US Ambassador to the United Nations from June 30, 1975 to Feb. 2, 1976 under President Gerald R. Ford and Ambassador to India from Feb. 28, 1973 to Jan. 7, 1975 under Presidents Ford and Richard M. Nixon. Moynihan served in the Nixon White House from Jan. 23, 1969 to Dec. 31, 1970.

672 **Stoler:** So that was what happened, but before that could happen, we had to negotiate,
673 renegotiate, a whole range of provisions in the MTO texts on decision-making to make them
674 acceptable to the US delegation. Basically what our objective was, first of all, to instill consensus
675 as the primary decision-making way in which the WTO would operate. But if consensus was not
676 going to be used in particular circumstances, whether it was interpretation of an agreement or
677 waivers or amendments, to make it as difficult as possible to make a decision. We did not want
678 to have, we did not want to be outnumbered by large numbers of developing countries. We didn't
679 want to see the Europeans get up to funny business with some of their allies. So everything that
680 we changed in the WTO decision-making process from September to December of 1993 was
681 designed to make decisions almost impossible to arrive at.

682 **Plank-Brumback:** Did people remind you that it was the US that had asked for a vote, a couple
683 years before?

684 **Stoler:** No, they seem to have forgotten that. I'm happy that they did forget that, but we had lots
685 of discussions about when voting would be appropriate, when it wouldn't be appropriate, to how
686 you would structure it. If you look at the changes that were made from the MTO into the WTO,
687 you'll see that they were really tightened up to the point where it would be very hard. For
688 example, they had provisions in the MTO text that said that a vote would be by two-thirds
689 majority of the votes cast, provided that such a majority must constitute more than half the WTO
690 members. So that's really a majority. This is for waivers. Then we managed to renegotiate to the
691 point where it became a waiver had to be taken on the basis of the vote of three-fourths of all the
692 members, not three-fourths of those voting but three-fourths of all the members, which is a much
693 harder threshold to reach and almost impossible in some cases. So those are some examples of
694 the changes that were made between the two different texts.

695 **Plank-Brumback:** Interesting to know. I now know why those texts read the way they do and
696 how difficult to put them into operation.

697 **Stoler:** I have a sort of a summary that I put together here for you that may be useful to you of
698 what the changes made were between the decision-making things.

699 **Plank-Brumback:** I also wanted to ask that, of course in January of 1993, we have a change of
700 administration with Bill Clinton,³⁶ and his campaign manager Mickey Kantor³⁷ is appointed as
701 USTR. What were the differences that you saw in the US position of the Uruguay Round in '93
702 and what effect did you see in Geneva on the conduct of the Uruguay Round?

703 **Stoler:** Well, those of us who were focused on the Uruguay Round—and in Washington that
704 amounted to John Schmidt,³⁸ who had been appointed as the negotiator for the US, and Dorothy
705 Dwoskin³⁹ was his sidekick. They were about the only people devoting much attention to the
706 Uruguay Round in the first nine months of 1993 and those of us in Geneva had huge free reign.
707 Why? Because everybody else was sucked into the NAFTA [North American Free Trade
708 Agreement] negotiation. Mickey Kantor's first priority was to renegotiate or get acceptable
709 results on NAFTA, because the administration had come in saying, "We just don't want to

³⁶ William "Bill" Jefferson Clinton, Democrat, served as the 42nd US President from Jan. 20, 1993 to Jan. 20, 2001. Prior he was governor of the State of Arkansas from Jan. 9, 1979 to Jan. 19, 1981 and again from Jan. 11, 1983 to Dec. 12, 1992.

³⁷ Michael "Mickey" Kantor served as US Trade Representative from January 21, 1993 to April 12, 1996 and as US Secretary of Commerce from April 12, 1996 to Jan. 21, 1997 under President Bill Clinton. He was the Chairman of the Clinton-Gore Campaign in 1992. Kantor is counsel at the law firm of Mayer Brown.

³⁸ John R. Schmidt was Ambassador and the Chief US Negotiator for the Uruguay Round from 1993 to 1994. From 1994 to 1997, he served as Associate Attorney General in the US Dept. of Justice. He occupied these positions in the Clinton administration. Schmidt is a partner in the law firm of Mayer Brown. See "How We Created the WTO: A Memoir," <https://www.wilsonquarterly.com/quarterly/summer-2015-an-age-of-connectivity/a-world-of-hopes-and-a-world-of-fears-how-we-created-the-wto/>.

³⁹ Dorothy Dwoskin began her career at USTR as attaché in the US Mission to the GATT from Sept. 1985 to Sept. 1988. From Sept. 1988 to June 1993, she was Deputy Assistant USTR for Trade Negotiations. She then served as Assistant USTR for WTO and Multilateral Affairs until March 2007. Dwoskin was Senior Director for Global Trade Policy and Strategy at the Microsoft Corporation from April 2007 until Sept. 2017.

710 accept this agreement that Bush left us with, so it has to be changed,” whether it was labor,
711 environment or other provisions. So that really kept Kantor and everybody off of the Geneva
712 radar screen, until quite late in the year, after they finished NAFTA. And then all of a sudden,
713 they just descended on us like a horde of locusts for the final three or four months of the
714 negotiations. It was a very intense period of time in those last few months on a whole range of
715 very difficult issues. The MTO issues were some of them. We had some serious domestic
716 problems with the way things looked like they were going on the anti-dumping negotiations,
717 with the way they were going on other issues. So it was a very intense period then, but it wasn’t
718 for the first nine months. They didn’t pay attention at all.

719 **Plank-Brumback:** You also have the backdrop of the tuna panel⁴⁰ and NGOs [non-
720 governmental organizations] being very exercised about the loss of sovereignty over domestic
721 policymaking on environmental issues and others on labor.

722 **Stoler:** Well, Kantor in particular was very difficult. I mean this remained the case throughout
723 his time at USTR. Even after the end of the round, I remember at one point he threatened not to
724 send anybody higher than an Assistant USTR to the Marrakesh meeting unless he got some
725 satisfaction on labor standards. He was a real problem on the labor standards issue.

726 **Plank-Brumback:** That was his base. What aspects were you involved in then on the Dispute
727 Settlement Understanding?

728 **Stoler:** Well, it was just wrapping up the last few provisions in the agreement, for example,
729 whether or not there was going to be any special and differential treatment for developing

⁴⁰ “US – Tuna (Mexico)” GATT Panel Report, United States – Restrictions on Imports of Tuna,” DS21/R, unadopted, BISD 39S/155.

730 countries in terms of time periods and things like that. We had to finalize the provisions in the
731 DSU on the Appellate Body and how the Appellate Body would operate, so there were things
732 like that that had to be wrapped up at the end.

733 **Plank-Brumback:** We can get into the Appellate Body later. How was the coordination in
734 general between USTR in Washington and the Geneva office? You just mentioned now that for a
735 blissful couple of months you were on your own. That was unusual, no? How did it normally
736 operate?

737 **Stoler:** Normally there was a lot of back and forth traffic and people coming over from
738 Washington and being part of the delegations or leading the delegations, but that dropped off
739 quite a bit in the first few months of 1993. As I said, we had a great deal of local flexibility at
740 that time.

741 **Plank-Brumback:** There is, well, obviously a few differences in the job as well as differences in
742 perspective between Washington and Geneva offices. One is mostly interacting with the foreign
743 delegations there in Geneva and perhaps in Washington you are following more the pulse of
744 Congress and other political interests.

745 **Stoler:** You also have to remember at the time, we had both. We first of all went quite a few
746 months in 1993 without having a US ambassador in Geneva, so I was in charge of the office and
747 then the ambassador who showed up was probably the biggest zero that has ever served as an
748 ambassador overseas, including at USTR, Booth Gardner.⁴¹ So I suppose we had a situation

⁴¹ Booth Gardner, Democrat, was Deputy USTR, serving in Geneva as U. Ambassador to the GATT and then to the WTO from 1994 to 1996. Prior he served as Governor of the State of Washington from Jan. 16, 1985 to Jan. 13, 1993. He died on March 15, 2013.

749 where the Washington office was happy to put a certain amount of trust in me and the people
750 who were working with me to do what needed to be done. They basically ignored their
751 ambassador when he finally showed up.

752 **Plank-Brumback:** You were also involved in regional trade agreements? Were you involved in
753 the negotiations leading to the Understanding [on the Interpretation of Article XXIV of the
754 General Agreement on Tariffs and Trade 1994]?

755 **Stoler:** No, my involvement in regional agreements was that at one time I was the vice chairman
756 of the Committee on Regional Trade Agreements.

757 **Plank-Brumback:** Were you involved in the legal scrub and the scheduling of services
758 commitments?

759 **Stoler:** Legal scrub, yes, not the scheduling of services commitments.

760 **Plank-Brumback:** So tell us a bit about how the legal scrub went.

761 **Stoler:** The legal scrub was really an interesting exercise because there were a lot of areas,
762 particularly in areas like textiles and apparel, or in agriculture, where the people who did not
763 negotiate those provisions could see that things needed to be cleaned up a bit, but where the
764 negotiators absolutely refused to change the language that they had negotiated.

765 **Plank-Brumback:** Or any comma.

766 **Stoler:** It was really incredible. So we were very frustrated in that group. This thing went on for
767 a couple of months if not more, if I remember correctly, under the chairmanship of the dynamic

768 M.G. Mathur.⁴² We would get these instructions day by day on the following chapter that you're
769 going to go through, this is what you should do, this is what you shouldn't do. As I said, in a
770 number of areas, it proved impossible to do a sensible legal scrub because of the fact that you
771 had the negotiators refusing to change the language they had agreed to.

772 The other thing that I remember about the legal scrub exercise is that we had gotten to the point
773 where we knew there was going to be something called the GATT 1994, and if you look at the
774 text of the GATT 1947–48, whatever you want to call it, that has all these weird provisions in it
775 like US–Cuban preferences and the like. Some people suggested, “Well, shouldn't we update this
776 thing to make it look a little bit more modern and get rid of these historical anomalies?” The
777 Legal Affairs people, Frieder Roessler⁴³ and company said, “Don't touch a thing; don't touch a
778 thing.” It's like taking a time machine backwards—if you step on the wrong mouse, you might
779 alter history for the future. So they said, “You can't change a damn thing in this GATT 1994. It
780 has to be word-for-word identical to what it was in GATT 1947.”

781 So the legal scrub exercise wasn't as much of a legal scrub exercise as it should have been. I
782 have to say that—notwithstanding the fact that all of us who had been in the Tokyo Round and
783 then were in the Uruguay Round had convinced ourselves that we would be much more careful

⁴² M.G. Mathur from India was one of two Deputy Directors-General in the GATT Secretariat from 1973 to his retirement in 1991, serving under GATT Directors-General Olivier Long and Arthur Dunkel. From Aug. 26, 1964 until his appointment as DDG, he headed the Development Division in the Secretariat. Prior Mathur held positions in the Indian Ministries of Finance and Commerce, including as Counsellor in the Indian Economic Mission in Brussels.

⁴³ Frieder Roessler, of German nationality, was the Director of Legal Affairs Division in the GATT and WTO Secretariats from 1989 to 1995. From 2001 to 2012, he served as the first Executive Director of the Advisory Centre on WTO Law (ACWL) in Geneva. The ACWL gives free legal advice and training to its developing country members and least developed countries

784 to avoid this sort of messiness that we had done in the Tokyo Round—I'm still amazed at the
785 things we missed.

786 **Plank-Brumback:** And the jury is still out.

787 **Stoler:** And the jury is still out on some things, but I'm amazed as to some of the things that we
788 missed.

789 **Plank-Brumback:** For example?

790 **Stoler:** Well, the most glaring one is the fact that in a Dispute Settlement Understanding—

791 **Plank-Brumback:** The sequencing issue?

792 **Stoler:** The sequencing thing was one thing we missed, but we also never provided for getting a
793 decision to get rid of the retaliation. There's no established procedure for saying, "Okay, I've
794 complied. Here's the proof I've complied. Does the DSU agree that I've complied and lift the
795 retaliation?" So that's one of the big holes that we left in there. I can never understand how we
796 missed that.

797 **Plank-Brumback:** Maybe you were so keen on fighting the past wars and hadn't gone through
798 that battle.

799 **Stoler:** Sort of blinding. When we were negotiating these provisions for withdrawal of
800 concessions and retaliation and all that, probably most of us didn't expect to see things get to that
801 point. The threat of this will keep this from getting to the point where you have to worry about it.
802 Well, it hasn't in fact in the WTO.

803 **Plank-Brumback:** So do you think then, you always have to judge the balance of an entire
804 package and there are different trade-offs even within its individual parts, that you think it was a
805 pretty satisfactory package overall as an outcome?

806 **Stoler:** Oh yeah, for the United States, I think the Uruguay Round was a terrific outcome,
807 particularly when you consider that we effectively paid nothing for it. The big thing that other
808 countries wanted from us was to stop or renounce the ability to use Section 301 in a unilateralist
809 way. Basically, we were able to design a DSU with time limits that aligned with Section 301 in a
810 way that basically made the DSU a compatible instrument with 301. So we gave up nothing. I
811 think there was a case in semiconductors in Japan where we did take unilateral retaliation against
812 the Japanese outside the scope of approved GATT/WTO process, but apart from that I don't
813 think anybody seriously contemplated having large-scale retaliatory actions without multilateral
814 approval. So we gave up very little. If you look at the agriculture concessions that were made in
815 the Uruguay Round, they were a nice start towards bringing disciplines to agriculture, but for
816 example, most of the subsidy limits that were agreed to had enough headroom in them that they
817 were no problem really to implement in the days after the Round was finished.

818 So what did we pay? Not much. What do we get? A very dramatically improved multilateral
819 system, notwithstanding the fact that the developing countries are still demanding S&D [special
820 and differential treatment] and many of them haven't implemented what they should have. They
821 are much better integrated into the system than they were prior to the WTO.

822 **Plank-Brumback:** Did you foresee the implementation difficulties?

823 **Stoler:** No, I think we all thought the time periods that had been provided for were going to be
824 sufficient because, in part, they had been negotiated with the developing countries in the course

825 of the negotiations. I will say that the other area where I personally think we made a mistake is,
826 at the time we thought the single undertaking was a pretty neat trick to get all these raggedy
827 countries into the system and be able to tell the Congress that the free rider problem was solved,
828 but it never occurred to us, or it didn't occur to us as it should have, that by forcing them into the
829 system, we were also going to force them into the decision-making process. We had a nice
830 arrangement going with sixty-five de facto contracting parties in the old days of the GATT
831 where you never saw these guys in Geneva. They never had anything to do with the decision-
832 making. By forcing them into the system, we forced them into complicating our decision-
833 making. I'm sure that has a lot to do with the problems that we're having in the current Doha
834 negotiations.

835 **Plank-Brumback:** There's been some grouching, too, about agricultural subsidies, that maybe the
836 EU got off too easily and the US had to make concessions in the Uruguay Round.

837 **Stoler:** I never heard much Europe post-Uruguay Round squealing on that from agriculture. If
838 you look at what they did in the 2000 Farm Bill, everybody said, "Oh my god, you're going back
839 against your commitments in the Round!" But apparently the administration found—

840 **Plank-Brumback:** There was a lot of water. I have a not very short list of GATT disputes, and
841 I'm sure you may have been involved in some. I was just wondering if there were any that would
842 come to mind that you might want to comment on what the issues were or why it was that case
843 was important.

844 **Stoler:** These are GATT?

845 **Plank-Brumback:** These are the GATT. Maybe they were rolled in the disciplines that you
846 ultimately negotiated on like subsidies, anti-dumping, and countervailing—

847 **Stoler:** Well, obviously there was very important impact of the pasta and wheat flour cases, in
848 terms of what ended up being done.

849 **Plank-Brumback:** Both substantive and procedural.

850 **Stoler:** Both substantive and procedural aspects of the post-Uruguay Round situation. We've got
851 a couple of cases that related to intellectual property rights that I recall. Here, at the
852 manufacturing clause copyright case⁴⁴ and the Section 337 Tariff Act⁴⁵ cases, of course, had a lot
853 to do with the way in which we had to treat some of these questions in the TRIPs Agreement
854 [Agreement on Trade-Related Aspects of Intellectual Property Rights] later on when that was
855 negotiated.

856 **Plank-Brumback:** You were involved in TRIPs?

857 **Stoler:** Very tangentially. Softwood lumber is happily one I never had anything to do with. I
858 think I'm the only American that never had—

859 **Plank-Brumback:** And you had dealt with Canada too! You would have been well-placed.

860 **Stoler:** Definition of “industry” concerning wine and grape products.⁴⁶ There is an interesting
861 case; I think it was a subsidies case. Intellectually, very interesting case. The question is: Is a

⁴⁴ GATT Panel Report, United States - Manufacturing Clause, L/5609, adopted on May 15, 1984, BISD 31S/74.

⁴⁵ GATT Panel Report, United States – Section 337 of the Tariff Act of 1930, L/6439, adopted on Nov. 7, 1989, BISD 36S/345.

⁴⁶ GATT Panel Report, United States – Definition of Industry Concerning Wine and Grape Products, SCM/71, adopted by the Committee on Subsidies and Countervailing Measures on April 28, 1992, BISD 39S/436.

862 wine grape grower part of the wine industry and can a wine grape grower claim to be injured by
863 imports of subsidized wine?

864 **Plank-Brumback:** Goes back to the definition of domestic industry, doesn't it?

865 **Stoler:** Yeah, and when I thought about that particular case in time, I always thought, well
866 actually, logically, if you take it to the point that if the domestic wine industry can't be viable
867 because of imports of subsidized wine, then obviously the grape growing industry is not going to
868 be viable, provided they are not growing table grapes. Because if they're growing wine grapes,
869 what are they going to do with them? So I had a certain sympathy for that case, but I
870 remembered that it had no traction whatsoever.

871 **Plank-Brumback:** In his acknowledgement in his book, *Trade and Freedom*, James Bacchus⁴⁷
872 gives thanks to Mickey Kantor, Rufus Yerma, Dorothy Dwoskin, and you, who he writes had a
873 little to do with his nomination for the Appellate Body. What was your involvement in that and
874 later on, what was your reaction on the procedures that the Appellate Body itself established, for
875 example, divisions, rotation, and most importantly, on collegiality? At the time, the US

⁴⁷ James Leonard Bacchus, American lawyer and Democrat, served as one of the founding members of the WTO Appellate Body from 1995 to 2003. Bacchus worked as a newspaper reporter in Florida from 1964 to 1973. He became the deputy press secretary and chief speechwriter for Florida Governor Reubin Askew from 1974 to 1976, and then served as his special assistant at USTR from 1979 to 1981. Bacchus was an attorney with Greenberg Traurig, P.A. in Miami in 1979 and again in 1981–1982. He then was a partner with Akerman Senterfitt & Eidson in Orlando from 1984 to 1990. Bacchus served in the US House of Representatives, representing Florida's 11th Congressional District from Jan. 3, 1991 to Jan. 3, 1993, and Florida's 15th Congressional District from Jan. 3, 1993 to Jan. 3, 1995. Bacchus chaired the global practice at Greenberg Traurig, P.A. from 2004 to 2017. Since September 2017, he has been the Distinguished University Professor of Global Affairs and Director of the Center for Global Economic and Environmental Opportunity at the University of Central Florida in Orlando. See his interview for the oral history project of the Institute of International Economic Law at Georgetown Law on the world trading system.

876 representative noted that the procedures were far from perfect, and they had certain difficulties
877 with possible sanctions against members. Rule 29 was cited.⁴⁸

878 **Stoler:** I recently wrote a chapter for a book that's going to be published sometime later this year
879 called "The Role of Chairman in the GATT/WTO System." It's being organized by a Brazilian.
880 He's got a lot of people with experience over the years, including people who were chairmen and
881 stuff like that. I wrote a chapter on different chairmen that I had known who had done things in
882 difficult situations. One of the people that I dealt with was Don Kenyon,⁴⁹ who had been the
883 Australian Ambassador at the time and Chairman of the Dispute Settlement Body [DSB] in its
884 first full year of operation, where he was tasked with getting the first Appellate Body on board.
885 His life was made very difficult by the fact that both the EC and the US considered that of the
886 seven Appellate Body judges, they should each get two. No matter how many times Kenyon
887 explained that it wasn't going to be possible for there to be two Europeans and two Americans
888 on this Appellate Body, he just couldn't seem to get through to them until Kantor finally cracked
889 and said, "Okay, we will have to find a way through this, but there are some conditions to our
890 going along with this whole thing."

⁴⁸ "[The representative of the United States] further noted that the Working Procedures were far from perfect. In particular Rule 29 was disturbing in its implications for possible sanctions against Members." WT/DSB/M/11, p. 12, March 19, 1996. Working Procedures for Appellate Review, Rule 29: "Where a participant fails to file a submission within the required time periods or fails to appear at the oral hearing, the division shall, after hearing the views of the participants, issue such order, including dismissal of the appeal, as it deems appropriate." WT/AB/WP/1, Feb. 15, 1996.

⁴⁹ Donald Kenyon served as the Permanent Representative of Australia to the GATT and later to the WTO from 1993 to 1996. He was the first Chairman of the WTO Dispute Settlement Body in 1995. Kenyon was also Chairman of the Cairns Group of agricultural exporting countries during the Uruguay Round in Geneva. He then served as Chief of the Australian Mission to the European Union and Ambassador to the Kingdom of Belgium and Grand Duchy of Luxembourg in Brussels from 1997 to 2000. He joined the Department of Trade (DFAT) in 1967, which later merged and became the Department of Foreign Affairs and Trade in 1987. Kenyon served in multiple positions at the Australian Mission in Brussels in 1970–1974, 1980–1982, and 1986–1989. His appointments in Canberra included Assistant Secretary for Commodity Policy and for GATT respectively, and Principal Adviser, Multilateral Trade Division during 1989–1993. He retired from DFAT in October 2001 and has been associated with the Centre for European Studies at the Australian National University since 2002.

891 The EC never really did give up. They had to be rolled on it. The EC basically said that the price
892 Kenyon was going to have to pay is he would never get to be Chairman of the General Council,
893 which had been seen as sort of the normal step from DSB up to the Chair of the Council. Kenyon
894 basically paid the price for not going along with the EC on their two members on the Appellate
895 Body. But one of the concessions that Kantor got out of this whole thing was he tried to get it
896 written into the procedures that Kenyon was working with, that whenever the Appellate Body
897 took up a case, all seven members would have to have an *en banc* meeting on the case. Kenyon
898 and other people said, “Well that’s not what the DSU says. We can’t write something that the
899 DSU doesn’t support. Sorry, you can’t do that.” But he got an understanding that Kenyon would
900 mention this issue to the Appellate Body members once they came on board. I think that the
901 current day operating procedures that were developed by the first Appellate Body on having the
902 exchange of views⁵⁰ and other ways of involving all seven members really relate back to this
903 concern that the US and the EU had that there would be major disputes settled without any
904 involvement of the US or EU member of the Appellate Body. So there were funny ways of
905 getting things introduced into the side of the procedures.

906 I recently had a researcher contact me about how the US had handled its Appellate Body
907 nominees the first time around, when we put up Jim Bacchus and a Stanford University professor
908 named Thomas Erlich and whether there was any preference shown for one or the other, or
909 whether we had just laid back. Andy Shoyer and I exchanged views on this as to our recollection
910 at the time. Actually, I think it’s fair to say that we really let them try to sell themselves. The fact
911 that Erlich was a real stick in the mud, who almost insulted the people that he met with, with his

⁵⁰ Rule 4(3): “In accordance with the objectives set out in paragraph 1, the division responsible for deciding each appeal shall exchange views with the other Members before the division finalizes the appellate report for circulation to the WTO Members...” n.50.

912 big intelligence putting everybody off, and Jim being an affable talkative guy, there was really
913 no question whom the other members were going to support. So it wasn't a question of having a
914 preference built in, but there was no way the other guy was going to come across better than Jim
915 Bacchus did back then.

916 **Plank-Brumback:** Another side to collegiality.

917 **Stoler:** That's right, exactly. Well, I think that we were really lucky to have those first seven that
918 we had, because they worked really well with each other. They had a sense of purpose. They
919 came up with rules that made sense. They came up with approaches that made sense. I think they
920 were very responsible in what they did.

921 Probably one of my worst experiences in the WTO was with the Appellate Body's special rule
922 on handling *amicus curiae* briefs in the asbestos case,⁵¹ where the Appellate Body actually did a
923 very sensible thing with a rule, but the WTO Secretariat people in the information and media
924 relations business, and also in the NGOs area, miscast what it was the Appellate Body had said.
925 They made it sound as though the Appellate Body was soliciting *amicus curiae* briefs with this
926 rule, whereas in fact what the rule was intended to do was put up ten different hurdles that made
927 it hard to get something in. That was a very bad experience. I think they did the right thing, but
928 in fact they hadn't properly prepared the ground with the Secretariat and then some people in the
929 Secretariat didn't say what's going on, and the backfire against all that was a very unpleasant
930 experience when it never should have been.

⁵¹ European Communities – Measures Affecting Asbestos and Asbestos Containing Products, Communication from the Appellate Body, WT/DS135/9, Nov. 8, 2000.

931 **Plank-Brumback:** And of course, the Appellate Body had its own Secretariat and that had to be
932 worked out. So any recollections about the issues involved around that and how difficult was it
933 to be separate but in the same house?

934 **Stoler:** Well, your friend and mine, Jane Bradley⁵² seriously complicated all this business about
935 the separate Secretariat and the status of the Appellate Body and everything else because Jane
936 always had a bee in her bonnet that there should be some sort of Chinese firewall between that
937 Secretariat and the rest of the Secretariat, and between the Appellate Body members and
938 anybody else, so that people couldn't interfere with the operation of this Supreme Court or there
939 wouldn't be any sort of pollution of ideas. The people hired into the WTO Secretariat couldn't
940 transfer to the Appellate Body or vice versa, different employment conditions and everything
941 else. Then later on, there was a certain stage back in about 2001 when we tried to change the
942 conditions of employment at the Appellate Body to make them permanent employees as opposed
943 to—not permanent employees—but to give them a regular contract and pension and all kinds of
944 stuff like that, instead of having to pay all these allowances and things that you could never know
945 whether they were going up or down. There were people like Jane who argued against that and
946 the US, because that would be a way of having these guys in Geneva more than they should have
947 been and they'd get polluted by the thought process, and all that sort of thing.

948 **Plank-Brumback:** You thought that was a bit overboard?

⁵² A. Jane Bradley was at the time the lead US negotiator for the WTO Dispute Settlement Understanding and chief US lawyer for the Uruguay Round in Geneva. In 1996, she was appointed as the first Assistant US Trade Representative for Monitoring and Enforcement at USTR. She served as the Executive Director of the Institute of International Economic Law and Adjunct Professor at Georgetown University Law Center from 2004 until 2010. See the interviews that she conducted for the IIEL's oral history project of the world trading system. Bradley began her career at USTR in 1981 and held various positions, including as Deputy General Counsel and Assistant US Trade Representative for Dispute Resolution.

949 **Stoler:** It's physically impossible to maintain the sort of isolation that some people thought it
950 could be maintained between those groups and the rest of the people in Geneva.

951 **Plank-Brumback:** Like they're not even eating in the same cafeteria.

952 **Stoler:** Yeah, stuff like that. That's just ridiculous. So why pretend that you're going to create a
953 situation that will never work and then create all these problems for the group at the same time?

954 **Plank-Brumback:** You became Deputy Director-General of the WTO in November 1999.

955 **Stoler:** A week before Seattle.⁵³

956 **Plank-Brumback:** Goodness. So what do you want to say first about the controversy of who
957 would succeed Ruggiero,⁵⁴ or how you got to be Deputy Director General, or how bad was
958 Seattle?

959 **Stoler:** That was probably the darkest days of the GATT/WTO that I ever saw because the world
960 was so evenly split. The Americas were split; the Europeans were split; the Africans were split;
961 the Asians were split. There was no single group that could get its act together. The European
962 Union didn't have a position because half its members were one way and half were the other

⁵³ The Third WTO Ministerial Conference was held in Seattle, Washington State, USA on Nov. 30–Dec. 3, 1999.

⁵⁴ Renato Ruggiero, Italian diplomat and politician, was WTO Director-General from May 1, 1995 to April 30, 1999. Prior from 1955 to 1969 he had postings in the Italian diplomatic service in São Paulo, Moscow, Washington, Political Affairs Secretariat, and Belgrade. Ruggiero was posted to the Italian Mission to the EC in Brussels in 1969, then from July 1970 to 1977 he served respectively as Chef de Cabinet to EC Commission President Franco Malfatti, Political Advisor to EC Commission President Sicco Mansholt, and spokesman for EC Commission President Roy Jenkins. Ruggiero returned to Rome in 1978 becoming the Coordinator for Community Affairs in the Ministry of Foreign Affairs, then Chef de Cabinet to two foreign ministers. In 1980 he was appointed Ambassador and Permanent Representative to the EC in Brussels and from 1984 to 1987 he was Director-General for Economic Affairs then Secretary-General in the Ministry of Foreign Affairs in Rome. Ruggiero served as Minister of Foreign Trade under Prime Ministers Giovanni Goria, Ciriaco De Mita, and Giulio Andreotti from July 28, 1987 to April 12, 1991. He then joined the boards of Fiat and other companies. Following his tenure at the WTO, he became Chairman of Eni and then Salomon Smith Barney. He was Minister of Foreign Affairs under Prime Minister Silvio Berlusconi from June 11, 2001 to Jan. 12, 2002. In February 2003, he became the Chairman of Citigroup in Switzerland. He died on Aug. 4, 2013. See https://www.wto.org/english/thewto_e/dg_e/rr_e.htm.

963 way. Most people weren't being entirely honest with each other. The US wanted Mike Moore.⁵⁵
 964 The Australians wanted Supachai.⁵⁶ Just everywhere you went there was bad blood about this
 965 whole thing. I think it's still impossible to this day to say who really had the votes, when Ali
 966 Mchumo⁵⁷ said he thought that Mike Moore was over the top because the system wasn't
 967 operating transparently enough to necessarily believe Mchumo when he said that. We thought we
 968 had a good result there, but the rest of the world didn't accept this, so it doesn't matter whether
 969 we thought we had a good result or not. I started learning Spanish in July of 1999 because I was
 970 convinced that neither Moore nor Supachai were going to get the job. I still had a good chance of
 971 becoming a Deputy DG. I thought we were going to end up with somebody from Latin America,
 972 so I better start learning the lingo to go with the job.

973 Then Seattle came around. Seattle's another meeting that we went to thinking, "This is never
 974 going to work," but we never thought it was going to turn out as badly as it did. For lots of

⁵⁵ Michael ("Mike") Kenneth Moore, New Zealand Labour politician, was WTO Director-General from Sept. 1, 1999 to Sept. 1, 2002. Prior he was an elected member of New Zealand's Parliament, representing different constituencies from Nov. 25, 1972 to Nov. 29, 1975, and from Nov. 25, 1978 to Aug. 31, 1999. He served as New Zealand's Minister of Tourism (1984–1987), Minister of Overseas Trade and Marketing (1984–1990), Deputy Minister of Finance (1988–1990), Minister of Foreign Affairs (Jan. to Oct. 1990), and Prime Minister (Sept. 4 to Oct. 27, 1990). From 1990 to 1993 he led the Labour Party and the Opposition until Helen Clark successfully challenged him for the party leadership, and from 1993 to 1999 Moore was the Opposition Spokesperson on Foreign Affairs and Overseas Trade. He was New Zealand's Ambassador to the United States from 2010 to 2015. He died on Feb. 2, 2020. See https://www.wto.org/english/thewto_e/dg_e/mm_e.htm.

⁵⁶ Supachai Panitchpakdi, Thai Democrat politician, was WTO Director-General from Sept. 1, 2002 to Sept. 1, 2005. Prior he worked at the Bank of Thailand from 1974 to 1986. In 1986, he was elected as a member of the Thai Parliament and served as Deputy Finance Minister until 1988. From 1998 to 1992 Supachai was President of the Thai Military Bank. He was appointed Senator in 1992 and Deputy Prime Minister responsible for economic and trade policy, serving until 1995. He served again as Deputy Prime Minister and Minister of Commerce from Nov. 14, 1997 to Nov. 9, 2002. Following his tenure at the WTO, he served as Secretary-General of the United Nations Conference on Trade and Development (UNCTAD) from Sept. 1, 2005 to Aug. 31, 2013. See https://www.wto.org/english/thewto_e/dg_e/sp_e.htm.

⁵⁷ Ali Said Mchumo, Ambassador and Permanent Representative of the United Republic of Tanzania to the United Nations in Geneva and Vienna from 1995 to 2002, and Chairman of the WTO General Council in 1999. He chaired the WTO Trade Policy Review Body in 1998. Prior he served as Ambassador to the United Kingdom and Ireland (1991–1995), Ambassador to Japan (1988–1991), Ambassador to the Republic of Mozambique (1983–1988) and Minister for Trade (1981–1983). From 2002 to 2004, he was Deputy Secretary General of the East African Community and from 2004 to 2012 the Managing Director of the Common Fund for Commodities. In April 2019, he became the Director General of the International Bamboo and Rattan Organisation.

975 reasons, it turned out to be a complete disaster, as you know. I had the misfortune of being the
976 senior American on the delegation, so I had to talk to the complete idiot who was the mayor of
977 Seattle on several occasions to keep the mayor from withdrawing. He threatened to withdraw
978 police protection on a couple of different occasions before the meeting was over. I had to argue
979 with him to keep the police around the place until at least midnight on the last day because he
980 wanted to withdraw them earlier than that. It was just a complete disaster. It was stupid to have
981 the meeting in Seattle in the first place, putting a controversial meeting like that in the middle of
982 the main shopping district between Thanksgiving and Christmas, when all the shops depended on
983 making the maximum number of sales.

984 **Plank-Brumback:** And all the shop windows were busted. Would you say they sort of
985 underprepared and then overreacted?

986 **Stoler:** They underprepared and they also had great too much faith in what people told them.
987 The future rioters told the Seattle police, “Just let us get up close to show our signs. Then we will
988 withdraw.” The police said, “Fine, okay. Go ahead.” Then they completely pulled the rug out
989 from under us once they got around the buildings,

990 **Plank-Brumback:** What is the one or two images that still burns in your mind about that?

991 **Stoler:** Probably my favorite moment was, I was able to get through the crowds for the opening
992 session that was being held in this big theater and where we were expecting people like Kofi
993 Annan⁵⁸ and the Secretary of State⁵⁹ and others to come and get up on the stage with us. One of

⁵⁸ Kofi Atta Annan, Ghanian diplomat, was the Secretary-General of the United Nations at the time from January 1997 to December 2006. He died on Aug. 18, 2018.

⁵⁹ Madeleine Jana Korbel Albright was US Secretary of State at the time, serving from Jan. 23, 1997 to Jan. 20, 2001 under President Bill Clinton.

994 the vice chairmen of the WTO members, a woman who was the Colombian trade minister⁶⁰ and
995 another vice chairman, who was the Pakistani trade minister⁶¹ had also managed to fight their
996 way through the crowds, and we were standing here on sort of the side of the stage, waiting to
997 see who else would make it so we could open this meeting officially. The Colombian trade
998 minister turned to me and said, “If this kind of riot happened at a big meeting like this in
999 Colombia, your State Department would be issuing an alert saying, ‘Don’t visit the country. The
1000 country is out of control.’” The Pakistani said, “Yeah, and if it happened in Pakistan, the State
1001 Department would be issuing an alert saying, ‘Don’t travel to Pakistan,’ plus they would take
1002 sanctions against our exports of textiles and fabrics.” I said, “Well, you put it exactly where I see
1003 it. This is worse than being in a Third World country. What an absolute mess.” We never did
1004 have the meeting to launch the session because people like Annan and others couldn’t get out of
1005 their hotels.

1006 **Plank-Brumback:** Any recollections of the Singapore Ministerial?⁶²

1007 **Stoler:** I had a very difficult job at the 1996 Singapore Ministerial meeting. My job was to gain
1008 the others’ agreement to the inclusion in the text of the language on labor standards found in
1009 paragraph four.⁶³ So I was Mr. Stinko at that meeting. The United States only had two allies on

⁶⁰ Marta Lucía Ramírez de Rincón, Conservative Party politician, was the Minister of Foreign Trade of Colombia at the time from Aug. 7, 1998 to Feb. 1, 2002 and then Ambassador to France from Feb. 1 to July 6, 2002, under President Andrés Pastrana Arango. She served as Minister of National Defense from Aug. 7, 2002 to Nov. 9, 2003 under President Álvaro Uribe Vélez. Ramírez was elected Senator and served from July 20, 2006 to July 9, 2009. She ran unsuccessfully for President of Colombia in 2010 and again in 2014. On Aug. 7, 2018, she became Vice President, and as of May 19, 2021 was also Minister of Foreign Affairs, under President Iván Duque Márquez.

⁶¹ Abdul Razak Dawood, was the Minister of Commerce, Industry and Promotion of Pakistan at the time, serving from Nov. 6, 1999 to Nov. 23, 2002 under Chief Executive Pervez Musharraf. Since Aug. 20, 2018, he is the Advisor for Commerce and Investment with the rank of Federal Minister to Prime Minister Imran Khan.

⁶² The First WTO Ministerial Conference was held in Singapore on Dec. 9–13, 1993.

⁶³ “We renew our commitment to the observance of internationally recognized core labour standards. The International Labour Organization (ILO) is the competent body to set and deal with these standards, and we affirm our support for its work in promoting them. We believe that economic growth and development fostered by increased trade and further trade liberalization contribute to the promotion of these standards. We reject the use of

1010 that in the entire world: the French delegation, who of course couldn't speak publicly because
1011 they were part of the EC, and the Norwegian delegation, which could speak publicly but who
1012 cared what Norway said about things? So we were in just an impossible situation on that
1013 language. I'm amazed that we managed to get something as sensible as we finally did. I had to
1014 spend day and night negotiating paragraph four of that text on the labor standards issue, but we
1015 hoped that that would get rid of it once and for all at that stage. In fact, there hasn't been that
1016 much activity in the WTO since that on labor standards, so I think it was fairly successful.

1017 **Plank-Brumback:** We borrowed some of that language for the FTAA.⁶⁴

1018 **Stoler:** Not bad language actually. The other thing that I was involved in in Singapore was,
1019 together with Jeff Lang,⁶⁵ who was one of the Deputy USTRs at the time, the treatment of what
1020 became known as the Singapore issues.

1021 **Plank-Brumback:** Competition?

labour standards for protectionist purposes, and agree that the comparative advantage of countries, particularly low-wage developing countries, must in no way be put into question. In this regard, we note that the WTO and ILO Secretariats will continue their existing collaboration." WTO Singapore Ministerial Declaration, para. 4, adopted on Dec. 13, 1996, WT/MIN(96), Dec. 18, 1996.

⁶⁴ "We reiterate that one of our general objectives is...to further secure, in accordance with our respective laws and regulations, the observance and promotion of worker rights, renewing our commitment to the observance of internationally recognized core labor standards, and acknowledging that the International Labour Organization is the competent body to set and deal those core labor standards." Free Trade Area of the Americas: Buenos Aires Ministerial Declaration, para. 4, adopted on April 7, 2001.

⁶⁵ Jeffrey M. Lang, American lawyer, served as Deputy US Trade Representative from May 1995 to 1999 under USTRs Mickey Kantor and Charlene Barshefsky. He then joined the law firm of Wilmer, Cutler & Pickering until 2003. Prior he was the Deputy General Counsel for the US International Trade Commission from Dec. 1975 to Nov. 1979 and then Chief Trade Counsel of the Senate Finance Committee until April 15, 1990, when he joined the law firm of Winthrop, Stimson, Putnam & Roberts.

1022 **Stoler:** We were as the US position was, we were in favor of transparency in government
 1023 procurement. We didn't care much one way or the other about trade facilitation. We were very
 1024 much against the competition policy thing because—

1025 **Plank-Brumback:** Even though it was in NAFTA to a certain extent.

1026 **Stoler:** We were concerned that the way in which it was being approached by so many WTO
 1027 members in the lead-up to the ministerial meeting and in their attitude, was that this was going to
 1028 be used as a stick to beat us on anti-dumping.

1029 **Plank-Brumback:** Exactly. Why can't you apply competition principles to the process?

1030 **Stoler:** That was the concern and that was why—although we had tacitly said to the EC, if you
 1031 can sell this, we'll go along with it—we were more than happy to see the thing go down the tube.
 1032 At a certain point in time the Europeans basically blackmailed us into supporting the language on
 1033 competition policy. It was in the Declaration⁶⁶ because they said, if we don't get this then we're
 1034 going to support those who want to put something directly on anti-dumping in the text and then
 1035 you'll really be sorry. We said, we distrust you guys enough that we suspect that's probably true
 1036 that you would do that.

1037 **Plank-Brumback:** Recollections of the Geneva ministerial and the fiftieth anniversary?⁶⁷

⁶⁶ “Having regard to the existing WTO provisions on matters related to investment and competition policy and the built-in agenda in these areas, including under the TRIMs Agreement, and on the understanding that the work undertaken shall not prejudice whether negotiations will be initiated in the future, we also agree to...establish a working group to study issues raised by Members relating to the interaction between trade and competition policy, including anti-competitive practices, in order to identify any areas that may merit further consideration in the WTO framework....” Singapore Ministerial Declaration, para. 20, n.65.

⁶⁷ The Second WTO Ministerial Conference was held in Geneva, Switzerland on May 18–20, 1998. The fiftieth anniversary of the multilateral trading system was commemorated on that occasion.

1038 **Stoler:** Not much there, other than the fact that I was the liaison person between the delegation
1039 in Geneva and the WTO and the advance team for the President.⁶⁸ I tell you, it was impressive in
1040 some ways to see how an advance team works on a presidential visit, how many people they put
1041 on the spot for weeks ahead of time, the attention to detail that they put into making sure that
1042 when the President was speaking on the stage, you saw that this was in Geneva at a WTO event
1043 and there was an American flag somewhere, and all this kind of stuff. The rest of the world is
1044 rank amateurs compared to these guys when it comes to setting up that sort of thing for a
1045 meeting.

1046 **Plank-Brumback:** Not to mention security.

1047 **Stoler:** Not to mention security, yeah. So that made a big impression on me.

1048 **Plank-Brumback:** And you were involved in the planning for the Doha Round.

1049 **Stoler:** Yes. The main objective for the planning for the Doha Round was to avoid presenting a
1050 text that had millions of brackets in it. I worked closely with Stuart Harbinson⁶⁹ on putting
1051 together a text that would in as many places as possible reflect what was the view of the plurality
1052 of WTO members, with only having some choices in the investment and competition area. It
1053 proved to be the right approach to take, I think.

1054 **Plank-Brumback:** It was very difficult times too, immediately after 9/11.

⁶⁸ President Bill Clinton at the time.

⁶⁹ Stuart Harbinson represented Hong Kong and the Hong Kong Special Administrative Region of China at the WTO at the time from 1994 to 2002. In this capacity, he chaired a number of WTO bodies, including the TRIPs and Services Council, the Dispute Settlement Body, and the General Council (2001–2002). He joined the WTO Secretariat as Chief of Staff to Director-General Dr. Supachai Panitchpakdi and then became Special Adviser to WTO Director-General Pascal Lamy. After his tenure in the WTO Secretariat, Harbinson worked in the UNCTAD Secretariat in Geneva and then as a senior trade policy adviser in the law firm of Sidley Austin LLP. As of Jan. 2016, he was a senior consultant on international trade with Hume Brophy.

1055 **Stoler:** Yeah. Well, the major story there is that we had a lot of problems inside the Secretariat.
1056 Those people who always used to put themselves up as being superior to the United Nations
1057 employees when they came to discussing questions of salaries and benefits, suddenly had no
1058 desire to go to the Persian Gulf a couple of months after 9/11. My favorite story there is Paulo
1059 Barthel-Rosa,⁷⁰ who was due to retire six months ahead of the Doha Ministerial meeting,⁷¹ but
1060 because he'd been head of the Council Division, he came to us and said, "Give me an extra six
1061 months because I can run that meeting like nobody else can run that meeting. I'll take care of the
1062 details." Nobody knew where it was going to meet then, I think. We said, "Okay Paulo, we'll
1063 make an exception to the rule. You can stay on for six months." Afterwards, a week before the
1064 Doha meeting, Paulo Barthel-Rosa came into my office, crying like a baby, saying, "I can't go to
1065 Doha. I might get killed. I'm supposed to be retired; you can't do this to me!" and refused to go.
1066 So we said, "Well, get your stuff out of your office in the next two hours. You're out of here,
1067 because we kept you on for six months just for this purpose." Before he left, not only did he clear
1068 out his office, but he convinced everybody on his staff not to go to Doha either. None of our
1069 interpreters went. The entire WTO Secretariat interpreter team refused to go to Doha. So all of a
1070 sudden we had to scour the world looking for people who had very expensive rates who would
1071 go to Doha, Qatar and do the work that these experts from this highly vaunted Secretariat were
1072 supposed to be doing for us in Doha. People left, right, and sideways were jumping ship at a time

⁷⁰ Paulo Roberto Barthel-Rosa, Brazilian diplomat, joined the GATT Secretariat in the mid-1980s as Director of the Development Division, then became Director of the GATT Session, Council Related Bodies and Trade and Development Division. He was Director of the WTO Council Division until his retirement in 2001. Prior he was at the Embassy of Brazil in Vienna from 1980–1981. He was Counsellor at the Permanent Mission of Brazil to the Office of the United Nations at Geneva from 1975 to 1979 and Deputy Director of the Trade Policy Division at Itamaraty from 1972 to 1975.

⁷¹ The Fourth WTO Ministerial Conference was held in Doha, Qatar on Nov. 9–14, 2001.

1073 when we needed them the most. I was extremely disappointed in the behavior of some of the
1074 people in the Secretariat then.

1075 **Plank-Brumback:** And you had to manage.

1076 **Stoler:** One group came to us and said, “We need to have a special insurance policy if we’re
1077 going to go out there and take a risk of losing our lives. Who’s going to take care of our wives
1078 and kids if we get killed out there?” We said, “Come on, you don’t need a special insurance
1079 policy for this business.” “Oh no, we do.” So finally we said, “Okay, we got a special insurance
1080 policy.” Then they said, “It must really be dangerous if you have a special insurance policy.
1081 We’re not going to go out there.” You couldn’t win. There was no way you could win with these
1082 people. It was very disappointing.

1083 **Plank-Brumback:** Any images from Doha itself and the conference?

1084 **Stoler:** We had an incident in Doha that again was very telling. The way in which security was
1085 organized at the Doha meeting, there was an inner circle, a second circle, a third circle, and
1086 depending on how important you were, your hotel was either in the first, second, third circle.
1087 Security provided that no vehicle could cross from one circle to the other so there were transfer
1088 points where you had to get off, change buses, go to the next one, change buses, etc.

1089 One night at about thirty minutes after midnight, three of our English secretaries had left the
1090 conference and were going to their hotel accommodations in the third zone from the first zone.
1091 They got to the transfer between the second and third zones. They got onto the bus that was
1092 waiting there for them. This Pakistani bus driver closed the doors of the bus, drew the curtains,
1093 went back in the back where these three girls were sitting and started to fondle them, tried to feel

1094 them up. Of course they weren't going to have it. They kicked the crap out of the guy. He ran
1095 back up to the front of the bus and then drove them to the hotel and dropped them off. Then they
1096 called us. They said they had been accosted on the bus. We said, "Alright, well tomorrow
1097 morning we are going to tell the police about all this."

1098 So next morning we got a group together to talk about what to do. We said, "The girls have to
1099 get down to the police station. Whom should we send with them? We should send somebody
1100 who speaks Arabic ideally." We've got two people in the Secretariat who speak Arabic, Abdel-
1101 Hamid Mamdouh, the head of the Trade in Services and Investment Division, and a woman in
1102 the Trade and Environment Division named [Fattah?], both of them Egyptians. We explained the
1103 situation. We decided, well, maybe it's better for her to go down with the ladies and talk to them
1104 about this thing. All right, problem solved, right?

1105 About a half an hour later, the head of the Qatari security bunch and a bunch of heavily armed
1106 people come in my office, they say, "What the hell's going on?" I said, "What do you mean what
1107 is going on?" [Fattah?] has just sent a message over the email to everybody at the conference
1108 including the Qataris, which she forgot were linked in on this and to everybody in the WTO
1109 Secretariat back in Geneva, suggesting that three women were badly raped on a bus last night
1110 and that your reaction was to send a group of women to a Qatari police station where everybody
1111 knows "Qataris are dogs" and all four of them are likely to get raped in this police station run by
1112 these Qatari dogs. They said, "You either fix this right away or you're all out of here. The entire
1113 conference is shut down out of here because we're so insulted by this." Oh Christ. We call this
1114 [Fattah?] in and said, "I don't know what you're thinking but you are *persona non grata*. You're
1115 out of here on the next plane out of here today." We wrote a letter of apology to the Qataris. We
1116 tried to make good on this as quickly as we possibly could. The reaction from the WTO

1117 Secretariat staff was that we had somehow sold [Fattah?] down the river, and that she was the
1118 one we should have been protecting instead of the conference and the ability to deal with the
1119 Qataris, who were just fuming.

1120 **Plank-Brumback:** It must have been a most difficult negotiation.

1121 **Stoler:** It was not fun.

1122 **Plank-Brumback:** There are two simple questions left: who do you think was the best Director-
1123 General that you observed and why, and predictions for the Doha Round?

1124 **Stoler:** I think the best Director-General was probably Peter Sutherland,⁷² because he combined
1125 the ability to understand the detail with a very strong personality at a time when that was needed,
1126 and a way of talking to anybody from his driver to a minister or a head of state effectively, where
1127 some of the clowns who have been in that job, including Lamy, think that everything has to be
1128 done between him and ministers and he can't be bothered to talk to the people either on his staff
1129 or the people in Geneva who are the ambassadors, which is a serious mistake.

⁷² Peter Denis Sutherland KCMG served as the Attorney General of Ireland from 1981 to 1984. He was the European Commissioner responsible for Competition Policy as well as Social Affairs, Education and Relations with the European Parliament from 1985 to 1989. During the period from 1989 to 1993, he was Chairman of Allied Irish Banks. Sutherland served as the last GATT Director-General on July 1, 1993, helping steer the Uruguay Round to conclusion, and became the first Director-General of the World Trade Organization on Jan. 1, 1995. After leaving Geneva, he was non-executive Chairman of Goldman Sachs International and BP in the period 1995–2015. He served as UN Special Representative for International Migration from 2006 to 2017. At the request of then-WTO Director-General Supachai Panitchpakdi, Sutherland chaired a Consultative Board that undertook a report on “The Future of the WTO: Addressing institutional challenges in the new millennium,” the so-called Sutherland Report in 2005. https://www.wto.org/english/thewto_e/10anniv_e/future_wto_e.pdf. Sutherland also co-authored a report entitled “The Doha Round: Setting a deadline, defining a final deal,” which was commissioned by the heads of government of Britain, Germany, Turkey, and Indonesia in 2011. <https://voxeu.org/sites/default/files/file/doha-round-setting-deadline-defining-final-deal-interim-report-jan-2011.pdf>. Sutherland died on Jan. 7, 2018. See https://www.wto.org/english/thewto_e/dg_e/ps_e.htm.

1130 I think that the time has come to end the Doha Round on a basis other than what is on the table
1131 because I think that some of the things that are on the table today, if they were the basis for an
1132 agreement, would be worse than no agreement at all. I have in mind things like creating these
1133 special and sensitive categories for agricultural products that once you create them, you'll never
1134 get rid of them. It's one thing to be protectionist unilaterally, and say, "I'm not going to
1135 unilaterally liberalize my rice market," but if I tell you that you can call rice "sensitive" for the
1136 next fifty years, you'll never get anything done on that.

1137 I think the reason why we've got these problems is because people tried to get too tight with the
1138 rules after the experience of the loose approach of the Uruguay Round. When you get that tight,
1139 you have to carve out all these loopholes. I think probably what we need to do is to get a group
1140 like the G20⁷³ or some critical mass tight group that says we have got to get out of town. Let's
1141 finish the Doha Round with a flexible approach that produces a repeat of what we did in the
1142 Uruguay Round. An average cut of 35 percent on subsidies or an average cut of 35 percent of
1143 tariffs and that sort of thing, and just say that's good enough for now. The time isn't right for
1144 getting into anything more detailed because trying to stick with what is on the table is not getting
1145 us anywhere and if we did have some sort of a breakthrough, I think the results could be worse
1146 than not having a result at all.

1147 **Plank-Brumback:** Who was the best US negotiator you ever saw?

1148 **Stoler:** The best US negotiator was Warren Lavorel.

⁷³ The Group of Twenty or G20 is an international forum that gathers together the major economies. It was established in 1999 and since 2008 meets annually at the level of heads of state and government. G20 members are: Argentina, Australia, Brazil, Canada, China, France, Germany, India, Indonesia, Italy, Mexico, Japan, Russia, Saudi Arabia, South Africa, South Korea, Turkey, United Kingdom, United States, and the European Union.

