

VIEW FROM THE HILL REMARKS

Congressman Jim Kolbe*

I. OPENING

Thank you. I appreciate the opportunity to speak before you today.

Over the last ten years, we have seen an explosion of international trade and an enormous amount of economic benefits and growth. I think that is directly related to the success of the Uruguay Round and the establishment of the WTO.

Countries and private sectors around the world have found greater confidence in the international trading system and sought to expand trade. That in turn has led to tangible economic benefits for companies, workers, families, and consumers alike.

The title of your conference is *The WTO at 10 and the Road to Hong Kong*. Today, I will spend most of my time talking about the second half of that title, relating to the Doha Development Round, but at first offer up a few words on the WTO after ten years.

II. WTO LEGITIMACY AND RESPECTING THE INTEGRITY OF NEGOTIATIONS

I would highlight what might be characterized as a black cloud on the horizon for the WTO. This cloud, if not addressed by some course changes in WTO operations, will move upon us and darken the prospects for U.S. leadership in the global trading system.

The black cloud relates to what are U.S. concerns of judicial activism by WTO dispute panels. Claude Barfield of the American Enterprise Institute has written extensively on the issue of free trade, sovereignty, and democratic legitimacy. Claude's work is well respected among members of Congress. Because he has been a strong supporter of free trade and multilateral liberalization for so many years, his work raised more than a few eyebrows when he started to sound alarms regarding U.S. sovereignty and WTO dispute resolution panels.

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Remarks published here are as delivered on September 29, 2005, at the ABA Section of International Law Conference of Georgetown University Law Center in Washington, D.C. While written in the trade policy context leading up to the Hong Kong Ministerial, key components and themes remain as relevant today as when the remarks were delivered.

Conservatives in the United States—be it on domestic or international issues—recoil at the concept of judicial activism. As a free trader, I can understand the frustration of dispute resolution panels over the ambiguities that lie in international trade agreements. However, it is inappropriate for WTO panels to use authority and exercise discretion in such a way that is interpreted by Members of the WTO as expansive and beyond the terms of what sovereign governments actually negotiated as outcomes.

I worry about an accumulation of cases where it can be easily demonstrated to American audiences that the WTO panel has made determinations beyond what U.S. negotiators agreed. I foresee what will be an eventual weakening of congressional support—particularly Republican support. I know this will be the topic of many of your panels so I will not dwell on this subject. I will await more input from your discussions.

III. THE ROAD TO HONG KONG

Now, let me address the topic of the second half of your Symposium title. Over the last several years, many have questioned the U.S. commitment to the multilateral trading system. All too often I think this criticism of U.S. trade policy is unjustified given the political will for further trade liberalization that the United States finds among many of the WTO Members.

I think it is time for the WTO Members to rise to the challenge of becoming an effective organization for negotiation of free trade. Without a doubt, success or failure in Hong Kong will have a tremendous impact on U.S. perceptions of the value of the WTO as a mechanism for *prospective* trade liberalization.

In the coming months, I think you will see Ambassador Portman and the Congress catapult the Doha Round to the top of the trade agenda every day now up to the Hong Kong Ministerial. The stakes are simply too high. The Hong Kong meeting in December is a once-in-a-generation opportunity to keep the global trading system on the right track.

This fall, Congress may consider some other bilateral FTAs [free trade agreements]—like with Bahrain or perhaps even Panama, but those efforts at parallel liberalization will not undermine what will be the overriding priority of supporting a successful Hong Kong Ministerial.

IV. THE URGENCY OF THE HONG KONG MINISTERIAL

From a U.S. perspective, I would argue that there is a sense of urgency for success in Hong Kong. *The President's ability to negotiate under TPA expires in mid-year 2007.* Many in this audience are familiar with the term TPA. It stands for trade promotion authority. Congress can empower the President with

special powers to negotiate agreements. Accompanying these powers are special rules for legislative consideration—a single up or down vote on the entire package.

At the end of June 2007, there is a “bewitching hour.” Those special powers and, more importantly, those special procedural considerations in a legislative sense, expire. Consequently, so does the ability of a U.S. President to negotiate.

The period of eighteen months after a Hong Kong Ministerial may seem like a long way away (or a long period of time), but in the context of global trade talks it is right around the corner and very short. Simply put, *there is not enough time for us to have a failure in Hong Kong and to pick up the pieces in time before TPA expires.*

Now some might think that trade promotion authority can be extended. Congress extended fast track a couple of times for the Uruguay Round. All I would say is, “That was then and this is now.” I would not place any bets in Las Vegas on the President getting more negotiating authority in 2007. Why?

For a period of ten years the United States did not have real negotiating authority. For all practical purposes it expired with NAFTA back in 1993 and it took the Trade Act of 2002 to get it back—and that passed by one vote! In the 1990s, during President Clinton’s tenure, proponents of trade liberalization tried twice to give President Clinton the authority. And twice we failed.

Even if Congress were to extend fast track, an important thing to keep in mind is that Congress can change the terms of that authority. There is always a risk for international negotiations to fall into a tailspin if an extension means that U.S. positions have to be calibrated to a new legal statute.

V. WHAT IS SUCCESS IN HONG KONG?

In my opinion, it is important to keep in mind that the WTO Ministerial in Hong Kong *is not the end point of the negotiation.* It is a milestone. Absolutely, it is important. However, it is another point *in a continuum* to closure at the end of 2006. Keep in mind that what the WTO membership agreed to was a framework for negotiations at the last ministerial meeting or the one in Geneva.

Ten weeks from now in Hong Kong, the decisions facing negotiators will be how to put more flesh on the skeletal framework. Success should be defined in terms of meaningful progress, not the end of the negotiations. *Personally, I would define success in Hong Kong as significant new offers for trade liberalization in agriculture, in services, and in manufacturing coupled with a commitment to make those offers more specific as modalities in further negotiations over 2006.*

Of key note: It would be wrong to assume that Hong Kong can only focus on agriculture subsidies. Both the EU and the United States need to show important progress in the area of services and manufacturing market access. We must remember: the Doha negotiation is *a comprehensive one* that encompasses

all sectors. Therefore, at the negotiating table, all countries must move together in all sectors. This December, every country must “sweeten its offer.” Every country will have to go to Hong Kong with a willingness to deal that we have so far not seen.

That means developing countries, too.

VI. RISING TO THE CHALLENGE OF AGRICULTURE NEGOTIATIONS

Now, there is a great degree of emphasis on the outcome of agriculture negotiations in Hong Kong. In my opinion, two key “meetings of the minds” need to happen.

First, there is no doubt that the United States and Europe have to come to an agreement on reducing subsidies and affording each other market access. Specifically, I think the United States and the EU cannot simply agree to shift subsidies among amber, green, and blue boxes of subsidies. A shell game of shifting subsidies from the amber box to the green or blue boxes will not be sufficient to win the confidence of countries such as those in the G-20. If the EU and the United States fail to come to an agreement, there is no hope for an agreement among the broader WTO membership.

Second, other key Members like Japan, South Korea, and India need also to sweeten their market access offers in the area of agriculture. This second “consensus” is an essential compliment to the first. Cancun failed in part because the G-20 and others felt that the United States and EU got together and announced a *fait accompli*.

It is obvious that this go-around, both the United States and the EU need to work interactively with representatives of the G-20 so that what is worked out is mutually re-enforcing to a global deal on agriculture.

Farmers in both the EU and the United States need to know that the Doha agreement ultimately is not just about more market access to each other. Farmers *everywhere* need to be persuaded that the entire world can be their market again.

At this point in my remarks, I have to underscore the connection of the Hong Kong Ministerial to the broader issues of the U.S. budget deficit and reform of America’s agricultural policies. The U.S. Congress is on the cusp of another debate on agricultural subsidies in the form of a five-year authorization for American farmers. Many around the world were disappointed with the U.S. embrace of domestic price supports in the last farm bill reauthorization in 2001.

If we are to be successful in Hong Kong, then the United States needs the prospect of an ambitious agreement to solidify domestic political support for reform of American agricultural policies. It is true that American farmers will not be able to expect any more generous handouts in times of soaring budget deficits. When the last farm bill was written by Congress, the congressional committees

catering to agricultural interests took advantage of unrealistic expectations of budget surpluses.

American farm interests will not be able to leverage any rosy budget projections this time to yet again increase amber box subsidies. However, they will fight “tooth and nail” to hold on to every subsidy they have—whatever color that subsidy may be.

So while budget pressures are a useful impetus to reduce subsidies, they must be coupled with meaningful global opportunities for American agriculture. American agricultural interests will not unilaterally give up farm subsidies without the prospects for greater trade around the world.

A broader dynamic is necessary for reform in the United States: *one that is a confluence of pressures and opportunities*, including pressures to reduce spending, pressures to help developing countries, opportunities for U.S. exporters in manufacturing and services—and yes, even new opportunities for some U.S. farmers. Politically, the Hong Kong Ministerial has to combine with other synergistic pressures reaffirming domestic reasons to reform developed-country agricultural policies. Unfortunately, I do not foresee any other way to successfully reduce subsidies without a successful Hong Kong Ministerial.

Sadly, it is not as simple as pointing out the fact that developed countries spend \$320 billion a year on farm subsidies, an amount six times as much as what they spend on foreign aid.

VII. CHALLENGE OF THE U.S. TRADE REPRESENTATIVE

In light of this dynamic, you might wonder what the U.S. Trade Representative must have in mind as he or she negotiates the Doha Round and aims to secure congressional support for the final outcome.

Traditionally, there are three pillars essential to the trade coalitions that pass trade agreements in the Congress. All of these pillars are united under an umbrella view that connects trade liberalization with a net benefit to the U.S. economy and U.S. national security interests around the world. Each pillar brings congressional votes and is united with the glue that American consumerism and free trade support U.S. economic and strategic interests around the world.

The *first pillar* I would point out has to do with U.S. agriculture interests. No future trade agreement will pass the U.S. Congress if it does not carefully balance agriculture interests in favor of free trade. Agricultural interests have traditionally been the backbone of coalitions passing trade agreements.

The *second pillar* involves U.S. manufacturing interests. Despite the decline in manufacturing employment in the United States, manufacturing as a percentage of U.S. GDP is still very important. Manufacturing interests will have to be recognized with significant, if not zero, tariffs on many manufactured goods.

Support will also be essential from the services sector that stands to reap significant gains in the new global round. Services represent 80% of economic

output in the United States, and the sector employs 87 million Americans. That is *the third and final traditional pillar* of support.

VIII. THE OPPORTUNITY FOR A FOURTH PILLAR

Naturally, because this round of global trade is called “the Doha Development Round,” you might wonder how important is the development theme. I would say that it is critically important. In so many respects, the development theme, and its flipside, “American consumerism,” is an opportunity for a fourth pillar of congressional support in the American political process.

More consumer choice at lower prices has the potential to more fully integrate the world’s poorest countries in the global economy in a way that provides *independence through markets rather than dependence on foreign aid*. Economic growth and poverty reduction through trade can help achieve U.S. strategic interests for a more stable and prosperous global trading system.

Now the “alliance” of development and American consumerism as a pillar of support for trade liberalization is not a strong one within the conduct of U.S. trade policy. Some development advocates might point to passage of AGOA [African Growth and Opportunity Act] as a measure of legislative strength. Sadly, I fear AGOA—as a trade preference measure—is more a reflection of our limitation of helping developing countries than truly embracing free trade with them. One has to look no further than the highly restrictive rules of origin provisions in it and other trade preference deals such as the Andean Trade Preference Agreement. In the context of free trade agreements (separate from trade preference arrangements), most members of Congress coalesce around mercantile interests, not consumer interests.

For a long time, I have been a free trade advocate in support of U.S. consumers. In recent years, I have been actively trying to nurture this among development advocates, specifically think tanks, NGOs, and members of the Democratic Party who support development and developing countries. It is an uphill battle but one I think we have to essentially win. Members of Congress who want to see development in poor countries cannot expect to do it through foreign aid alone.

Over the next year, Congress has to increasingly see the wisdom of pairing U.S. consumer interests with that of reducing poverty and generating economic growth around the world. I firmly believe that congressional excitement and approval will occur only if the final outcome is a comprehensive one. That also means benefiting U.S. consumers and developing countries alike.

For that reason, let me explicitly urge opposition to what I consider a counterproductive idea. The suggestion by some European interests that the Doha Round would be more doable if it was a mini-round is a recipe for disaster when it comes to U.S. congressional consideration. I do not think it is appropriate to scale back our ambitions for the Doha Round simply to make it more convenient for a

country or two of the European Union that might be struggling with the aftermath of a failed constitutional referendum.

IX. THE IMPERATIVE OF REBUILDING BIPARTISANSHIP IN U.S. TRADE POLICY

Moving forward towards Hong Kong, I think it is important to start a process of rebuilding the bipartisan coalitions that have supported U.S. global leadership in support of the WTO. In my view, the partisan polarization over trade is unsustainable and unproductive to our long-term cause of a global trading system that is secure, stable, and beneficial to all participants.

The promise of Doha—market access for the developing world—simply will not be possible if congressional passage is necessary with supra-majorities of Republican votes. All of you recall the famous election-year map of the United States: blue states for Al Gore and John Kerry and red states for George Bush.

To pass a Doha agreement in the U.S. Congress, there will not be as many red-state Republicans who will vote in favor. Red-state farmers who farm cotton, rice, sugar, and dairy may lose in an agreement. Textile workers in states throughout the South also will not look favorably on a WTO agreement. They never have. Therefore, significant numbers of those red-state Republican members—who recently have voted for free trade agreements like the CAFTA [Central America Free Trade Agreement]—will have to be replaced with blue-state Democrats.

In closing, I would say that effective, broad-based trade liberalization for the benefit of all parties to an agreement requires a bipartisan trade coalition. A balanced free trade coalition that draws strength from both sides of the aisle—Democrats and Republicans alike—is not only a legislative exercise in counting votes and achieving victory. It also is essential to the quality of that victory.

Thank you.



