Freeman Forum  
Orville Freeman Lecture  
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Humphrey Institute of Public Affairs  
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Dean Brian Atwood,

Ladies and Gentlemen,

It is an honor to be delivering the Orville Freeman Lecture, and a privilege to speak to such a distinguished audience. I wish to further our understanding of the issues relating to the future of agricultural production and I sincerely hope that my contribution will help us all enrich the crucial debate for the development of sustainable agricultural production here in the United States and worldwide.

I have been invited here today for my work in litigation at the World Trade Organization. Let me start by saying that I have always valued negotiation over litigation. However, one should realize how difficult it has been for developing countries to achieve progress in many simple – or theoretically simple – issues. Litigation has hence been used as an instrument of change, as a communication tool for progress, as a fixed point of leverage.

Sustainability – of agriculture as well as of other sectors – is a clear priority. Our capacity to grow and to develop new technologies exceeds our ability to manage development on a political level. Yet we are past the moment for change: nature is giving us signals that we cannot ignore. Some decisions can no longer be postponed.

We must achieve sustainable and affordable food production; it is essential to our livelihood. It is an ambitious challenge, but the goal is achievable if we work together.

Concepts of agricultural policy are undergoing transformations. Our understanding of the role of agriculture has changed, as new concerns for society have been incorporated into our way of thinking and – more slowly – into our policies. Social values and environmental concerns have become increasingly influential. Animal and plant health issues have gained priority with each of the accidents that have happened. Technological developments sometimes provoked reactions. Our comprehension of food security issues for the world population has acquired new dimensions.

The challenge we face today is to develop both public and private policies and practices under a democratic system, incorporating the complex concerns of modern society into the agricultural production system.
As in any difficult task, we should start with the points of consensus. Let us in parallel debate and construct further consensus, but let us not waste time; we should immediately change what we know is wrong.

Trade should be harnessed for our objectives: market forces are an instrument we should learn to manage, not ignore or despise. Policy and practice should take these forces into account, while focusing on sustainability. Economic growth, indeed, is a means of achieving social well-being, not an end in and of itself.

In today’s global world, domestic policies have an international reach that we have not yet become accustomed to. Whatever a major country – such as the United States – does domestically influences the world very rapidly on an economic, social, and environmental scale.

Goods have always been transported overseas, bringing change to the societies involved. The crucial difference today is the speed at which the change generated by international trade occurs. Speed is also needed in political decision-making: if we spend decades debating difficult political choices, technological advancement will simply overtake us.

Half a century ago, countries understood the need for a rules-based international trading system and decided to negotiate agreements. Numerous rounds of negotiations eventually produced the WTO, under which agriculture at long last became – at least partially – covered by multilateral trade rules.

It is true that this sector of the economy has particular characteristics that require special attention. It is dependent on nature and has loose, if any, controls in volumes of production. Adjustments between supply and demand are more difficult and costly than in any other sector.

It is also a sector that has experienced enormous increases in productivity, immediately transferring the benefits of technological advancement to consumers. The flip side of this benefit to society is the enormous stress farmers permanently live under to maintain minimum productivity levels, which require heavy investments in human and capital resources.

These characteristics require particular attention at both the international and local levels. They should not, however, be used as an excuse to transfer domestic political difficulties overseas.

Agricultural trade rules should never have been left behind in international agreements in the first place. The only reason it took more than half a century to include agriculture in the multilateral trading system was that developed countries preferred to ignore the broader consequences of their domestic policies. They could afford to postpone the political difficulties that adjustments would bring at home.
In the WTO, decisions are made by consensus. It is meant to be an institution where members have equal rights. Consensus, however, is a system we are not accustomed to. We usually decide by majority: qualified or simple majority rules are used in our democratic systems, our corporations, our clubs, as well as in many of our family decisions.

Consensus is different. Theoretically, any country can veto a consensus decision. But we know that is not true. A country, even one as large as Brazil, cannot obstruct consensus in the WTO: it took an additional 20 countries, including China, India and South Africa to block consensus on an agricultural text pushed by the European Union and the United States in Cancun.

The fact that United States, the European Union and Japan can hold consensus on their own – and did, for half a century – explains why agriculture was left behind and still remains essentially untouched by the disciplines that govern other areas under the WTO. There was absolutely no reason not to have included rules for agricultural trade in the debates from the very beginning. The various rounds of negotiations would certainly have developed far better trade rules for agriculture than those we have today.

The WTO is a sum of trade agreements that developed countries have imposed to the rest of the world one step at a time. This is not necessarily a bad thing. Indeed, a strong multilateral trade rules system is to the advantage of smaller countries. But the imbalance between those who can and those who cannot veto issues and deny consensus has naturally created an unequal system. It is unacceptable that developing countries’ demands be sidelined while those of interest to rich countries are pushed forward. In other words, the WTO we have today is unacceptable.

Let us look to the future. We should start with what is clearly an important priority: to put an end to what is commonly known as “agricultural dumping”, or exports below the cost of production. If we are able to eliminate this enormous distortion of the international market, we will have made a significant step forward.

In the Uruguay Round, developing countries lacked the understanding, focus and unity that would have been required to eliminate dumping. Allowing continued dumping in the Doha Round would be a mistake that neither developed nor developing countries can allow.

There is no need to compromise: we all know that dumping is incompatible with the principles of sustainability and that it should be eliminated as quickly as possible.

We need to stop exports below production costs and put an end to the deterioration of international prices through the support of rich countries’ budgets and treasuries. We need to end this immoral competition in the international market, a competition which should be made illegal. Farmers should compete with farmers. Government support should not be admitted in the international market.
We should not limit this ban to the classic definition of export subsidies of the Uruguay Round. Indeed, we all know that subsidies under the so-called “domestic support pillar” of the current round of negotiations may assist exports through covering part of the production costs. The cotton case made this clear. Why should developed countries’ agricultural sectors, which already have much better production capacities, receive government support to compete with developing countries in the international market?

Farmers in developing countries already face severe limitations, such as weak public services, lack of public agricultural research, deficient extension services and public education, limited infrastructure, and a macroeconomic environment that rarely favors agricultural development. Competing against dumping as well is clearly unsustainable.

Eliminating agricultural dumping in the Doha Round would not solve all distortions in agricultural trade. It would, however, represent an important step forward. It would create a new economic environment for agricultural markets and give a new direction to the future development of domestic agricultural policies.

Developed countries know that they have to change their agricultural policies. In the US in particular, the debate about the new farm policy is intense. What started out decades ago as a sound policy for food production and the well-being of farmers has evolved into a series of distortions. Resources are being wasted: some receive too much for nearly nothing, while the majority does not receive anything.

The United States is not only competing unfairly with developing countries; it is also not preparing itself for sustainable production. It is not my place to say what should be done in the US. We in Brazil also have a lot to change in preparation for our country’s future. But domestic policy, here and elsewhere, should not be allowed to export distortions caused by domestic political difficulties.

An important first step would be to clear the international market of the effects of trade-distorting subsidies. The two major agricultural disputes over cotton and sugar recently initiated by Brazil were attempts to address this problem. They proved that it is possible.

Litigation, however, will never replace negotiation; it occurs in the absence of negotiation. The sugar case reflected the lack of even minimal progress made in the sugar trade since the Uruguay Round, while the cotton case reflected the wrong direction taken by US domestic agricultural policy in recent years.

Cannot we negotiate in Hong Kong progress, avoiding future disputes?

Let me call attention to the different ways in which the European Union and the United States respectively reacted to the sugar and cotton disputes. Neither case challenged the farmers’ right to safety nets, but both challenged the dumping aspect of a domestic policy.
Although it reacted legally to the formal dispute, the European Union politically understood the need to change from the beginning. Agriculture Commissioner Franz Fischler proposed a new sugar regime even before the results of the arbitration panel were delivered. This new proposed regime, now approved, basically attended to Brazil’s complaint. Today, Brasilia and Brussels differ only on the schedule of the implementation process. The dumping of sugar will end.

To this day, reactions to the cotton case in the US remain very political, even after the Appellate Body confirmed Brazil’s victory. The clearly illegal export subsidy Step 2 program – which last year the panel determined should be eliminated by July 1st 2005 – is still in effect and Congress has yet to approve its elimination. The rest of the dispute – reductions in the marketing loan and countercyclical programs – is still completely undefined, while the US is attempting to influence the Doha Round outcome so that it can continue to export cotton with distortions. This would reduce development opportunities for Brazil, as well as for African and other countries.

The cotton program should be changed, and not only because the US lost a dispute under agreed rules. The change should be unilateral. There is absolutely no sense in spending billions of dollars on a few fortunate and very organized producers in Washington, for a program that has nothing to do with safety nets for farmers or with the sustainability of the global environment.

The outcome of the strong and organized fight to preserve this highly distorted cotton program will be revealed in Hong Kong. More than the future of Brazilian farmers, who will survive independently of what happens next week, it is the future of the cotton producing countries in the forgotten continent of Africa that is at stake. Their survival will require more than offering development grants, which history has shown to be of limited effectiveness.

The elimination of cotton – and indeed all agricultural dumping – should become a US proposal. This country has the obligation to lead the way in putting an end to what everyone agrees is wrong. The US should not dump. Why then not lead the elimination of dumping on a global scale?

This is a special moment. Next week, ministers will meet in Hong Kong for what could represent a major change. Unfortunately, prospects are not good. Developed countries do not seem genuinely prepared to change, and developing countries still have not been able to focus on what is essential.

We cannot loose hope. Our participation, our creativity and our good will in understanding each other’s points of view are essential for the changes that will be necessary to achieve an agreement on agricultural trade that can lead the world to a sustainable production system.

The results of the Uruguay Round gave us the course we are still on. Is this course still the best? Can we continue to deliver what is expected with the same negotiating structure?
Our countries and the world are no longer the same. Should we not consider a new approach for the Doha, or as many prefer, the Development Round? Hong Kong will show us where we stand.

The emergence of non-governmental organizations as an important new voice in trade negotiations is a reality. Civil society participation has created a new environment for trade negotiations, which is certainly more complex, but also offers stronger potential for achieving the results we all need.

The last Ministerial meeting in Cancun showed all of us that developing countries have the knowledge and organizational capacity to prevent what had happened in the past. But that is not enough, we need more than what happened in Cancun: we need alliances between developing and developed countries. We need the will to change, the will to understand what is needed to achieve the major improvements that are essential for development.

Unfortunately, we are probably not there yet.

Last year, in what is called the “framework agreement”, an important political step was taken: the European Union finally accepted that it had to eliminate classic export subsidies. This was of course a major breakthrough. We all know how difficult this can be to explain to local farmers. But we also know that European societies expected this step from their leaders.

We have since then dedicated ourselves to the development of new rules and commitments based on this new framework document. We know what to expect for the export subsidies pillar, as the political decision for this important step has been taken. But as far as the other two pillars are concerned, it seems to me that we are very far from an agreement that can give developing countries what they expect and need.

I am not sure that Hong Kong will give us any new direction for the domestic support pillar. The framework document left us with the challenging experience of developing a whole new set of rules: rules to lower the amber box on a product-by-product basis, rules for the newly expanded blue box to avoid the circumvention of commitments, rules guaranteeing that the green box is really decoupled from production. Will we succeed?

A green box subsidy is better than a blue one, which in turn is less trade-distorting than an amber box subsidy. This hierarchy should be acknowledged in the new agreement. But is this enough?

I personally do not think so, and it worries me that we dedicate ourselves to the developing more rules, or better rules, while the international market is still highly distorted by subsidies.

Direct payment subsidies, green or not green, are good initiatives that should not be challenged. But we cannot ignore that a billion dollar direct payment continues to distort
trade. Sophisticated and complex rules for direct payments can be developed, but how large a check can you give to a producer and still call it decoupled from production?

Moreover, I do not believe that developed countries, particularly the United States, are prepared to change their domestic policy in the direction that is needed. We have seen how difficult it has been to implement the WTO rulings in the cotton case.

How significant a step can be taken this time in the market access pillar? The United States has already announced that without a breakthrough in market access, it will continue to hold on to its current internal support – with the inevitable dumping effect this has on many products besides cotton.

It appears today that the European Union and many others are not prepared to offer major new access to their agricultural markets. Can limited progress in market access be used not to move forward with the elimination of distortions caused by subsidies in the international market?

The elimination of dumping should precede market access. Dumping is illegal for non-agricultural products, so why admit it for agriculture? Besides, dumping provides a strong argument for higher tariff barriers.

The competence and cleverness of US negotiators in the July 2004 framework agreement should not prevent us from understanding what is really happening. Can we accept a negotiation that essentially maintains the destructive capacity of the cotton and other programs?

I would prefer a proposal that guaranteed the end of exports below production costs – the end of dumping – independently of the volume of the resources that would be reduced. I would prefer to see the US develop a policy which offered a sound safety net to its farmers, but focused on the sustainability of agricultural production, while leaving the international market free of subsidy distortions.

The export-oriented US farm subsidy legislation of recent years is far from producing a sound policy. It is a race to the bottom of the international market that Brazil has faced with relative success. However, the economic pressures farmers confront only make sustainability more difficult, for us and others worldwide.

Eliminating dumping does not challenge the development of sound domestic policies. Safety nets for farmers should be developed. Environmental and consumer issues should be considered. But let us not export political difficulties abroad.

Consensus-building in the WTO is a formidable task. Although I am a permanent optimist, I do not see the consensus that would be needed for an agreement in Hong Kong, or even a year from then.
We should start looking for solutions today, before we start detailing new rules that may not deliver what we all desire: a new agreement on agriculture. A consistent agreement that would take the concerns of modern society into account and lead the world to a sustainable agricultural production system.

We should focus our ambitions.

Let us negotiate the issues separately. Trade distortions in the domestic market – be it through tariff barriers or domestic subsidies – will require limits for improved future market considerations.

Trade distortions in the international market – be it through classic export subsidies or policy instruments traditionally included in the domestic policy pillar that have clear effects in the international market – should be eliminated.

This new approach could simplify the task of ensuring that the new rules prevent trade distortions in the international market. It would accommodate the fact that there is strong support for the elimination of distortions in the international market and weaker support for opening domestic markets to foreign competition.

Although we must still develop disciplines for subsidies in the different boxes, let us already agree upon one simple new rule: if a country wants to export, no trade-distorting subsidies of any kind are allowed. A rule that looks at trade at the border, and not at the color or amount of the subsidy. A different concept of limiting subsidies.

This simple rule would be strongly supported by NGOs, urban society, media, and some rural segments of developed countries, as well as, of course, by all developing countries that cannot afford to subsidize their own exporters. We can obtain a very considerable majority.

Change is never easy but we should be working in favor of better and sounder principles, trying not to limit the scope and creativity of domestic policy legislators. They could look at one major simple rule: no dumping; no exports with the help of subsidies, be they amber, blue, supposedly green or de minimis. No more disputes on this issue.

The real challenge – the development of a worldwide sustainable modern agricultural production system – should unite us all.

Thank you.

Pedro de Camargo Neto
p.camargoneto@uol.com.br