

**The Bicycle Club:
Affirming the American Interest
in the Future of the WTO**

by

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I am the only American member of the Appellate Body of the World Trade Organization — the WTO. I am the only American who has had the privilege thus far of serving on the Appellate Body of the WTO. Thus, I am uniquely placed to affirm the *American* interest in the future of the WTO.

This interest can be illustrated by a bicycle. We all know about this bicycle. We all talk about it every time we talk about the future of the WTO. We all ride it every time we try to make the case *for* the future of the WTO.

I seem to remember hearing about the bicycle for the first time when I first went to work at USTR with Reubin Askew in 1979. To the best of my knowledge, it was Fred Bergsten who first referred to the bicycle, earlier in the Seventies.¹ By the late Eighties, the bicycle was so well known that Jagdish Bhagwati was writing about what he described as the “bicycle theory.”² Today, all of us who support the WTO ride the bicycle, and all of us who work for the future of the WTO subscribe to the “bicycle theory.”

The bicycle, of course, is simply a way of describing the trading system that is served by the WTO. It is simply a way of referring to the WTO-based, treaty-based, multilateral world trading system. And the “bicycle theory,” of course, is simply this: Like a bicycle, the world trading system must always go forward. For, if it ever stops going forward, it will surely fall and fail.³

According to the “bicycle theory,” the history of trade, and of trade policymaking, teaches us that a failure to move steadily forward toward freer trade condemns the world trading system to topple over and fall due to the accumulating pressures of protectionism. According to the theory, we must move steadily, gradually, incrementally forward on the bicycle, because, if we do not, the world will be overwhelmed by all the many reactionary forces that would have the nations of the world retreat from trade. If we do not, the world will *turn away* from growing economic integration, *turn away* from the mutual prosperity of growing economic interdependence, and *turn inward* toward all the self-deceiving illusions and all the self-defeating delusions of an isolating and enervating economic autarchy. According to the theory, we must keep *lowering* the *barriers* to trade or we will risk *losing* all the many *gains* from trade.

Thus, whatever the pressures, whatever the economic happenstances, and whatever the political circumstances, we must always keep the bicycle we call the “world trading system” going forward by making ever more progress toward ever freer trade. We must keep pedaling. We must pedal neither too fast nor too slow. We must steer carefully. We must go straight ahead. We must avoid all the wrong turns. And, above all, we must never, *never* stop.

It has never been easy riding the bicycle. It took many centuries to get to the point where the world even had a bicycle. It took half a century of riding and eight long rounds of pedaling through all the many complications of seemingly endless multilateral trade negotiations to create the mutual international endeavor called the WTO. No doubt it will take many more years of hard pedaling to make the WTO all that so many nations of the world and so many billions of people in the world so much need it to be.

There have been more than a few bumps in the road we have followed along the way. Many of you can recall more than a few of them. The difficulties in concluding the Tokyo Round in the Seventies. The long struggle to conclude the Uruguay Round — and create the WTO — in the Eighties and Nineties. The disruptions and the disappointments at Seattle in 1999. The road ahead will be no easier. We can all look forward to a very bumpy ride. Just how bumpy the road ahead will be will depend on how well we steer the bicycle.

The bicycle today is even harder to steer than in the past because our bicycle today is not what it used to be. Because of all our past successes, our bicycle today has bells and whistles, gears and speeds it did not have in the past. The world trading system that originally included only a few countries and only a small fraction of world trade today serves five billion people and includes about ninety-five percent of the world economy.

Our bicycle today is not a bicycle built for one, or for two, or for only a few. Nowadays, it is a bicycle built for one hundred and forty-five. There are — at last count — 145 Members of the WTO. There will soon be more. Almost every country in the world is either a Member of the WTO or wants to be. And, together, *all* the Members of the WTO must continue to steer the bicycle toward freer trade through the process we call “consensus.”

But a corollary, if you will, to the “bicycle theory” is this. As the largest trading nation in the world, the United States of America must help the other Members of the WTO in a shared effort to steer the bicycle in the right direction. However many countries may be sharing in the steering, *our* country must always be *one* country with a firm grip on the handlebars of the bicycle. And we Americans must always be willing to do our fair share of the pedaling.

Worldwide, there are many adherents to the “bicycle theory” and to this corollary. Worldwide, there are many who agree that the bicycle must keep going forward, and that the United States must help with the steering and with the pedaling. Worldwide, there are many members and many chapters of what might be called “The Bicycle Club.”

In Washington especially, there are many charter members of “The Bicycle Club.” Lawyers. Economists. Scholars. Former trade negotiators. Those who have

worked hard through the years in the House, in the Senate, in USTR, and in other executive agencies to try always to move the bicycle forward. Those who are still pedaling the bicycle as hard and as well as they can.

And no other chapter of “The Bicycle Club” is the focus of more of the world’s attention today than the chapter in Washington. The chapter of the club in the capital of the United States is a focus of the world’s attention today because there is increasing concern throughout the world that the United States may be on the verge of loosening its grip on the handlebars, lifting its feet from the pedals, and letting the bicycle tip and fall.

All those who are members in good standing of the Washington chapter of “The Bicycle Club” fully understand that keeping the bicycle moving steadily forward is not only in the common *international* interest of all the Members of the WTO. It is also very much in the *national* interest of the United States of America.

But not everyone in Washington understands this. Not everyone in Washington — or in America — comprehends the compelling American interest in the future of the WTO. Not everyone in our country knows why we Americans must keep riding the bicycle.

And it is time they were told.

Some in the Congress of the United States are trying to tell them. And they are having some success. The recent approval by the Congress of trade promotion authority for the President of the United States should not be overlooked by those either in the United States or elsewhere in the world who are looking for evidence of a continuing American commitment to world trade and to the future of the WTO.

I am not some metaphysical theorist. I am not unmindful of the practical realities of pressing political concerns. In the parlance of the Hill, I have “run for sheriff.” I am a former Member of Congress. I was a Democrat from a heavily Republican Congressional district. I know what it is like to cast a tough vote.

Thus, I wish to commend Senator Tom Daschle, Senator Max Baucus, my own Senators Bob Graham and Bill Nelson, and those among my many other friends and former colleagues in both parties in the House and in the Senate who cast a very tough vote for trade promotion authority in the midst of an economic slowdown and on the eve of an election season. The vote for trade promotion authority is, indeed, evidence of the continuing American commitment to moving the bicycle forward.

Some in the executive branch in the United States are also trying to tell America why we Americans must keep riding the bicycle. And they, too, are having some success. Like the recent Congressional approval of trade promotion authority, the American contribution to the decision at the WTO Ministerial Conference in Doha to

launch a new round of multilateral trade negotiations must not be overlooked by those in search of evidence of the continuing American commitment to trade.

As an alumnus of USTR, I was proud of the considerable courage shown by the dedicated trade negotiators from USTR in even going to Doha in the face of the dire difficulties for all Americans at that time. And I believe every other Member of the WTO would agree with me that the United States Trade Representative, Ambassador Robert Zoellick, and all those who work with him at USTR, did much in Doha to help secure the successful launch of the new round, and have done much more since Doha to try to keep the bicycle going forward.

New negotiating authority has been secured. A new round of global trade negotiations has been launched. The new negotiations have already begun, and are continuing, in Geneva. The bicycle *is* still moving forward. The United States *does* still seem to be holding on to the handlebars and pushing down on the pedals. Why, then, all the concern, both here in the United States and in the rest of the world? Why, then, the worry that “the Americans” — as we are called in Geneva — will let the bicycle fall?

Fundamentally, the worry is that, despite these recent accomplishments, there will, in the end, simply not be the *political will* in the United States to conclude the mutually beneficial trade agreements that will enable the United States and all the other Members of the WTO to maximize the many gains they all can make from increased world trade. This fear is fueled especially by an accumulating frustration at the seeming reluctance of some who should be among the foremost American advocates of trade to support and defend the trading system as faithfully and forcefully as they should.

On the merits, this reluctance is difficult to understand. The American interest in the future of the WTO, and in the future of the world trading system served by the WTO, can hardly be overstated. Economically, the case for freer trade is irrefutable. Statistically, the potential gains from freer trade are overwhelming. Politically, the alternative to a worldwide rule-based system for serving the American interest in freer trade is simply non-existent. In very many ways, the future of America *is* the future of the WTO.

At the most basic level, trade is a manifestation of human nature through what Adam Smith famously described in 1776 in The Wealth of Nations as the human “propensity to trade, barter, and exchange one thing for another.”⁴ Trade results from a *division of labor* that arises from human nature. As the psychologist Steven Pinker says in his thoughtful new book, The Blank Slate, “There are two ways to get something from other people: steal it or trade for it. The first involves the psychology of dominance; the second, the psychology of reciprocal altruism. The goal of a peaceful and prosperous society is to minimize the use of dominance, which leads to violence and waste, and to maximize the use of reciprocity, which leads to gains in trade that make everyone better off.”⁵ Thus, the mutual reciprocity of trade — the mutual

exchange that *is* trade — is an act of mutual and enlightened self-interest in pursuit of the “*gains from trade*.”

There are many “gains from trade.” Smith first taught us that trade leads to *direct* gains that arise from the specialization that results from an *international* division of labor. David Ricardo later instructed us, through his enduring explanation of “comparative advantage,” that we can maximize these direct gains by specializing in those economic pursuits in which we are relatively the most productive when compared to others. We always *do* best by doing *what* we do best when compared to others.

The direct gains from trade include economies of scale, lower production costs, lower consumer prices, broader consumer choices, broader producer choices, and bigger potential markets. All this results in higher income. As one contemporary follower of Smith and Ricardo, the Dartmouth economist Douglas Irwin, has reminded us, the many efficiencies resulting from specialization and trade result in a “higher real income” that “translates into an ability to afford more of all goods and services than would be possible without trade.”⁶

Trade leads also to *indirect* gains. Trade serves initiative and inspires incentive. Trade leads to more, and more intensified, competition that makes domestic producers more efficient. Trade furthers the transfer of technology, and of technical and managerial know-how. Trade inspires the research and development of new technologies. Trade stimulates a continuous flow of innovations of all kinds. Trade, in short, improves overall economic performance by promoting the growth of human productivity.⁷

Another contemporary economist, Timothy Taylor, has summarized these direct and indirect “gains from trade” as follows: “Trade allows countries to specialize in the products they have the greatest advantage in producing. Specialization encourages learning and innovation about those products and allows nations to take advantage of economies of scale. When countries specialize and trade, the world’s productive resources of labor, physical resources, and time are used more efficiently. Trade allows consumers and businesses to seek out the best deal in a global market, giving producers an incentive to compete in the market.”⁸

There are also other important “gains from trade.” John Stuart Mill claimed that “the economical advantages of commerce are surpassed in importance by those of its effects which are intellectual and moral.”⁹ Trade leads not only to the creation of prosperity. Trade leads also to the spread of ideas and to the spread of peace. That old GATT hand, the Enlightenment philosopher Immanuel Kant, put it this way: “The spirit of trade cannot co-exist with war, and sooner or later this spirit dominates every people.”¹⁰

An enlightened and visionary view of the mutual self-interest of all nations in securing the “gains from trade” motivates the United States and every other Member of the WTO. The WTO is not something that has somehow been *imposed* on the United

States or on other Members of the WTO. The WTO is something that the United States and the other Members of the WTO have *voluntarily created*. It is a common assertion of their shared self-interest in working together to maximize the gains from trade. And it is a common acknowledgment that the gains from trade will be maximized *only if* they work together.

The United States and the other Members of the WTO have created the WTO because the United States and the rest of the world very much need a global trading institution such as the WTO. The German statesman, Otto von Bismarck, once said of the Kingdom of Italy in the nineteenth century, “If the Kingdom of Italy did not exist, we should have to invent it.”¹¹ Likewise, today, if the WTO did not exist, we would have to invent it. We would *need* to invent it in order to have any hope of attaining all the many potential “gains from trade.”

The overarching goal of the WTO is to serve the mutual self-interest *of* all WTO Members by maximizing the “gains from trade” *for* all WTO Members through the best possible allocation and the best possible use of the world’s limited resources. In the very first paragraph of the preface to the Marrakesh Agreement that established the WTO, the United States and the other Members of the WTO identified as their common goal “the optimal use of the world’s resources in accordance with the objective of sustainable development.”¹² The goal of the WTO is “sustainable development” for the benefit of everyone on our shrinking planet. It is toward this goal that the WTO treaty seeks to lower the barriers to world trade and to establish the rule of law in the world trading system.

In creating, first, the GATT, and, now, the WTO, the countries and other customs territories that comprise the world trading system have sought and secured the “gains from trade” that result from an international division of labor. Since the creation of the GATT-based trading system, average tariffs in industrialized countries have been cut from high double-digits to *less than four percent*.¹³ In the half century or so since the creation of the GATT, global trade has increased *14-fold*, and this historic increase in world trade has supported a *six-fold* increase in global GDP.¹⁴ WTO figures show that worldwide exports that accounted for only eight percent of worldwide production in 1950 account for more than 26 percent of worldwide production today.¹⁵ As world trade continues to grow, as the wheels of the bicycle keep turning, this percentage continues to grow as well.

Through the lowering of tariffs and other trade barriers, millions upon millions of people in America and in every other part of the world have been lifted out of poverty since the establishment of the multilateral trading system in the aftermath of World War II. The dynamic growth of world trade in the past five decades has contributed significantly to the longest and the strongest period of sustained economic growth in human history. Much of humanity has enjoyed unprecedented prosperity in the wake of what President John F. Kennedy, an early champion of the multilateral trading system, described rightly — and memorably — as “the rising tide of trade.”¹⁶

The eighth, and most recent, of the “rounds” of global trade negotiations was the Uruguay Round, which was concluded in 1994, and which led to the transformation of the GATT into the WTO in 1995. I am proud that I was one of the original co-sponsors in the United States House of Representatives of the American implementing legislation for the Uruguay Round trade agreements. One study at the time showed that the agreements to lower trade barriers that were concluded in the Uruguay Round would result in an *annual* gain in GDP of \$13 billion dollars for the United States and \$96 billion dollars for the world as a whole.¹⁷ Those “gains from trade” for the United States and for other Members of the WTO are being realized now through the phased implementation of the Uruguay Round trade agreements. For example, according to USTR, since the conclusion of the Uruguay Round and the creation of the WTO, American exports of goods and services have risen by more than *\$300 billion dollars*.¹⁸

Many more gains can be made by lowering the many barriers that remain to trade worldwide. Here in the United States, what Professor Irwin calls “the deadweight losses associated with trade barriers” of all kinds that have been imposed *by the United States alone* are high.¹⁹ In 1996, the United States International Trade Commission calculated that the net cost — “the deadweight loss” — to the American people of existing U.S. trade barriers at that time was about \$12.4 billion dollars.²⁰ As Irwin stresses, these are *annual* costs. These are costs that, in the absence of the removal of these trade barriers, will recur every year from now on — in *perpetuity*.²¹ Moreover, as he has pointed out, “such estimates understate the true costs of trade barriers, in part, because they fail to consider the productivity and variety benefits of trade.”²²

One recent study, at the University of Michigan, concluded that, if the new trade round reduced global tariffs on agricultural and industrial goods and barriers on services trade *by one third*, the gain *for the United States alone* would be \$177 billion dollars *annually* — almost two percent of US GDP.²³ According to the President’s Council of Economic Advisers, that is about \$2500 dollars *annually* for the average American family of four.²⁴ The same Michigan study concluded that, if *all* the global barriers to trade in goods and services were eliminated, the gain *for the United States alone* would be \$537 billion dollars *annually* — almost *six percent* of US GDP.²⁵

Cutting barriers to trade in agriculture, manufacturing, and services by *one third* in the new trade round would boost the *world* economy by *\$613 billion dollars annually*.²⁶ As former WTO Director-General Mike Moore has said, “That’s like adding an economy the size of Canada to the world economy.”²⁷ Moreover, the World Bank has estimated that, if *all* trade barriers were abolished, the new trade round that is just now getting underway, coupled with related market reforms, could add *\$2.8 trillion dollars* to annual global income by 2015.²⁸ As annual global income in 2000 was approximately \$30 trillion dollars, this would be an increase in overall annual global income of *nearly 10 percent*.²⁹

All this helps explain why the United States has always been in the forefront in world efforts to lower the barriers to world trade. The potential gains to the United States alone from continuing to lower the barriers to freer trade are enormous.

Furthermore, and although my focus today is on the benefits of trade to the United States, I would be remiss if I did not mention also that, while a successful conclusion of the new WTO round would benefit the United States and other *developed* countries substantially, lowering the remaining barriers to trade would undoubtedly benefit the people of the world's many *developing* countries *even more*.

Trade is a means to an end. The end is human freedom. The cause of trade is the cause of freedom. The "gains from trade" can give us the means to give more real meaning to freedom in America and in all the world. The "rising tide" of trade can also be the rising tide of humanity.

Given all this, why would there be any reluctance at all within the United States to move the bicycle forward?

Every member of "The Bicycle Club" knows the answer. The "gains from trade" are *general*. The dislocations that result from the changing patterns of trade and the changing terms of trade are *specific*. And this has political consequences. Moreover, in trade, as in so much else, the way we *are* is often far more vocal and far more influential than the way we *should be*. In trade, as in so much else, the implacable weight of inertia can be a very powerful force in opposition to needed change. And this, too, has political consequences.

The challenge facing the Washington chapter of "The Bicycle Club" and all the other American members of "The Bicycle Club" is the challenge of confronting and overcoming these consequences. The "bicycle theory" is not an *economic* theory. The "bicycle theory" is a *political* theory. "The Bicycle Club" is, therefore, a *political* club. And the challenge facing every card-carrying, dues-paying, hard-pedaling American member of "The Bicycle Club" is the challenge of summoning and sustaining the *political will* to move the bicycle forward in the face of all the powerful political opposition to freer trade.

This challenge is greater during hard economic times, because the weight of the political opposition to trade is greater during hard economic times. And these are hard times. These times are harder than some would have us think. In hard times, we need freer trade the most. But, in hard times, it is harder politically to find the political will to be for freer trade. In hard times, it is harder politically to acknowledge and articulate the verities of trade and the virtues of the trading system.

An example is WTO dispute settlement. The United States of America has long maintained in international trade negotiations — and continues to maintain consistently within the councils of the WTO — that the key to securing all the many "gains from trade" for all WTO Members is having a multilateral trading system based on agreed rules that are fairly and effectively enforced. The key is having a *system* in which we have the *rule of law*. And that is precisely what the United States and the other Members of the WTO *now have* as a result of their establishment and their support of the WTO dispute settlement system.

WTO dispute settlement serves the shared interest of *all* WTO Members in establishing and enforcing the rule of law in world trade. And yet no other Member of the WTO has a greater interest in ensuring the rule of law in world trade than the largest trading nation in the world — the United States of America. For, without the rule of law, there will be neither security nor stability nor predictability in the trading system. And, without security, without stability, without predictability, the ability of the millions of people of the United States to continue to make the gains they can and should make from trade through continued trade expansion and through continued development of an international division of labor will be greatly at risk.

A world without the rule of law is *not* a world in which we Americans can maximize the many gains we can make from trade. Trade makes the economic pie larger. The freer trade is, the larger the pie. But only if there are agreed rules for trade will the economic pie be as large for everyone as it can be. And only if those rules are fairly and effectively enforced through the rule of law will our share of the pie be as large as it ought to be.

All this has long been a premise of American trade policy. It has been an assumption of Democratic and Republican administrations alike. It has been a bipartisan assumption of the leadership of the Congress. And we Americans must remember this basic premise of our longstanding national trade policy. We must keep it ever in mind if we hope to have the political will to keep moving the bicycle forward.

The political philosopher Hannah Arendt, who fled Nazi Germany and became an American citizen, once lamented what she saw as a tendency of her adopted country toward forgetfulness. She described this tendency as “the American failure to remember.”³⁰ She was not referring to trade. But what she saw and said about America can be seen in the attitude of some Americans toward trade and — especially — in the attitude of some Americans toward the rule of law in trade through WTO dispute settlement. Some Americans *do* seem to fail to remember — some Americans *do* seem to evidence an American tendency toward forgetfulness — when they express what they see as the American interest in WTO dispute settlement.

In affirming the American interest in the future of the WTO, I am not free today to say all that I might wish to say. Yet I am free today to say *this much* about what we Americans must all realize — and what we Americans must all *remember* — about WTO dispute settlement.

Seven members of “The Bicycle Club” serve the 145 Members of the WTO as Members of the Appellate Body of the WTO. Six are among the most dedicated and most distinguished international jurists in the world. One is a hard-pedaling American. We seven are servants of the world.

In our work together in WTO dispute settlement, we seven are ever mindful of *all* our responsibilities to *all* the Members of the WTO. We do our very best to assist

the WTO Members in their mutual efforts — in the words of the WTO treaty — “to preserve the rights and obligations of Members under the covered agreements, and to clarify the existing provisions of those agreements in accordance with customary rules of interpretation of public international law.”³¹ We do no more. We do no less.

We seven are each bound by the WTO Rules of Conduct. The “Governing Principle” of those rules is that we must each *always* be “independent and impartial.”³² We always are. One reporter from the New York Times has gone so far as to say that we are both “impartial and unflinching.”³³ We always will be. We seven serve the world, the world trading system, and every Member of the WTO best by being always independent, impartial, and unflinching.

We do not choose the cases that are resolved in WTO dispute settlement. The Members of the WTO that are the parties to a particular trade dispute decide for themselves whether to engage in dispute settlement. We do not choose which cases in dispute settlement are appealed to the Appellate Body. The parties to a dispute have an absolute right to appeal, and they decide whether to appeal. Moreover, we do not decide which legal issues are appealed to us. The parties to a dispute have the exclusive right to decide which legal issues, if any, are appealed.

And, once the parties to a dispute decide to appeal a legal issue to the Appellate Body for a final ruling, we seven have absolutely no authority *not* to rule on that issue. Under the WTO treaty, we “shall address each of the issues raised” on appeal.³⁴ In accordance with this treaty obligation, we address *every* issue that is raised on appeal. We address *only* those issues that are raised on appeal. We rule *only* on what is *necessary* to resolve the dispute on appeal. We always exercise a considerable measure of what I would describe — and what I believe almost any objective observer would also describe — as “quasi-judicial” restraint. And we always explain our reasoning.

In the past seven years, there have been thousands of pages of reasoning and rulings in WTO dispute settlement. Thus far, on the Appellate Body, we have reasoned and ruled in nearly sixty appeals. Some may disagree with some of our reasoning. Some may disagree with some of our rulings. However, this is in the very nature of an appellate legal process. This is unavoidable under the rule of law. There have been, for example, some rulings of the Supreme Court of the United States with which some Americans might not agree. We Americans must always remember: The *real* test of our commitment to the rule of law is *not* whether we comply with the rulings with which we *agree*. The *real* test is whether we comply with the rulings with which we *may not agree*.

We seven on the Appellate Body of the WTO serve *all* the Members of the WTO. We serve all the Members of the WTO *equally*. We serve them all equally by treating them all equally and by assisting them all equally in their mutual efforts to establish and uphold the international rule of law through WTO dispute settlement. And, in serving the rule of law, we serve the *real national interest* of the United States of America.

Those Americans who wish to serve the *real national interest* of America in world trade would do well to read again the masterpiece of the great French thinker Alexis de Tocqueville, Democracy in America. Alexis de Tocqueville never rode a bicycle. He died a few years before the bicycle was invented. However, he believed that we Americans have a special way of seeing our self-interest. And I believe that, if we Americans see our self-interest in that way, if we define our self-interest as he believed we define it, we will remember to keep riding the bicycle.

Tocqueville saw democracy in America as a way of fulfilling the promise of individual human freedom. He saw what he described as “the principle of interest rightly understood” as the way Americans went about trying to fulfill that promise in the America he visited in the 1830’s.³⁵ What Tocqueville called “the principle of interest rightly understood” is a principle of rational, national self-interest. It is a way of seeing our self-interest that ranges both *far afield* and *far ahead*. It is a way of seeing our self-interest in our *broader* as well as our *narrower* needs. It is a way of seeing our self-interest in our needs *tomorrow* as well as our needs *today*. It is a way of *seeing* our self-interest and *seeking* our self-interest that takes the broader and longer view.

Tocqueville saw “the principle of interest rightly understood” as finding “universal acceptance” in the America of the 1830’s.³⁶ He saw the commitment of the American people to that principle in those early years of our youthful and idealistic republic as “clear and sure.”³⁷ To be able to ride the bicycle, we must be able to say the same of America today. In all that we do in world trade, we must, as Americans, remember to be true to “the principle of interest rightly understood.” In all that we do relating to the WTO, we must never forget our *real national interest*. And, in all that we do relating to WTO dispute settlement, we must take the broader and longer view.

Listen to this. On dispute settlement, *here* is the broader and longer view:

“To ensure that the United States secures the full benefits of the WTO Agreements, the United States sought and obtained a strong, binding and expeditious dispute settlement process for the WTO. The dispute settlement process provides certainty for American businesses and workers that their disputes will be heard by a panel of impartial experts, and that the defending foreign government will not be able unilaterally to derail the process.

“As a result, under the WTO we have better enforcement of U.S. rights and more certainty that our trading partners will abide by the rules and open their markets to American exports. The WTO dispute settlement process has proven valuable in achieving tangible gains for American companies and workers, across a broad range of sectors, including agriculture, manufacturing, services and intellectual property protection.

“It has also served as a deterrent — our trading partners know it is ready and available to us if they do not fulfill their obligations. We have been successful in

reaching rapid resolution of our complaints through early settlement, and have also achieved substantial benefits from litigation and resulting panel decisions which enforce our rights.”³⁸

These are not *my* words. These are the official words of the Office of the United States Trade Representative in the Executive Office of the President of the United States of America. You can read them — just as I did — on the official USTR website. These words are a worthy summary and an accurate expression of the broader and longer view of the *real national interest* of the United States in WTO dispute settlement. They are a statement of our real interest “rightly understood.”

Many able attorneys from many countries appear before us in Geneva. Every other Member of the WTO would agree that the appellate advocates for the United States are among the very best in WTO dispute settlement. The attorneys from USTR and other American agencies who argue before us in appellate proceedings always do so ably and aggressively. In every case that comes before us, they make the very best case they can for the legal position of the United States.

But, as any attorney will tell you, some cases are better than others. And we Americans must always remember that our *real national interest* as Americans is *not* in the outcome of any *one* case in WTO dispute settlement. Our real interest is in having a dispute settlement system in which *every* case can be resolved, and can be resolved fairly, through the rule of law. Our real interest is in *the system*. Our real interest is in the system, because the system *establishes and upholds* the international rule of law.

In dispute settlement, and in all else relating to trade, our *real national interest* is in taking the broader and longer view by working for the future of the WTO. And this interest will best be served by keeping our hands firmly on the handlebars, keeping our feet securely on the pedals, and always moving the bicycle forward. Of all times, now is not the time, and, of all countries, ours must not be the country, to let the bicycle fall.

But we will be able to move the bicycle forward only if we continue to benefit from the very best efforts of every member of “The Bicycle Club.” All of us who are loyal members of “The Bicycle Club” must keep riding. We must keep steering. We must be out in the forefront, pedaling as hard as we can. “The Bicycle Club” must meet more frequently. We must enlist more members. We must add more chapters. We must continue to pay our dues.

Some may fear that America will fail to remember. Some may worry that America will not be able to summon the political will to keep the bicycle going. Some may be concerned that we Americans will forget America’s real national interest, and that we will forget to take the broader and longer view.

Those of us who are members of “The Bicycle Club” know better. We know that Americans will remember the real American interest in the future of trade and in

the future of the WTO. Because we know, as everyone ought to know, that no one ever forgets how to ride a bicycle.

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James Bacchus is the Chairman of the Appellate Body of the World Trade Organization in Geneva, Switzerland. He is the youngest Member, the longest serving Member, the only North American Member, and the only remaining original Member of the global tribunal, which hears final appeals in international trade disputes involving the 95 percent of world commerce conducted by the 144 countries and other customs territories that are Members of the WTO. Bacchus is a former Special Assistant to the United States Trade Representative in the Executive Office of the President. He is also a former member of the Congress of the United States, from Florida. He served two terms in the U.S. House of Representatives before choosing not to seek re-election in 1994. In 1995, he was appointed by the Members of the WTO to the Appellate Body. Bacchus received a Bachelor of Arts degree from Vanderbilt University, Magna Cum Laude and Phi Beta Kappa, with High Honors in History. He received a Master of Arts degree from Yale University, where he was a Woodrow Wilson Fellow in History. He was graduated with High Honors from the Florida State University College of Law, where he was Editor-in-Chief of the FSU Law Review. This article is adapted from his remarks to the Washington International Trade Association on November 12, 2002. These are his personal views, and are not the views of his colleagues on the Appellate Body or the official views of the WTO.

Notes

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- ¹ See Fred Bergsten, Toward a New International Economic Order (Lexington, Mass.: Lexington Books, 1975).
- ² Jagdish Bhagwati, Protectionism (Cambridge, Mass.: The MIT Press, 1988), 41.
- ³ See Ben Zissimos, “Gradualism, the Bicycle Theory, and Perpetual Trade Liberalization.” This paper was first presented at the “Asian Crisis II” conference in Seattle, Washington, on January 4-5, 2000.
- ⁴ Adam Smith, The Wealth of Nations (New York: The Modern Library, 1994), 14 [1776].
- ⁵ Steven Pinker, The Blank Slate: The Modern Denial of Human Nature (New York: Viking, 2002), 297.
- ⁶ Douglas A. Irwin, Free Trade Under Fire (Princeton: Princeton University Press, 2002), 30.
- ⁷ Id. at 36-39.
- ⁸ Timothy Taylor, “The Truth about Globalization,” The Public Interest (Spring, 2002).
- ⁹ Quoted in Irwin, Free Trade Under Fire, at 45.
- ¹⁰ Immanuel Kant, “To Perpetual Peace: A Philosophical Sketch,” Perpetual Peace and Other Essays (Indianapolis; Hackett, 1983), 107, 125 [1795].
- ¹¹ A. J. P. Taylor, Bismarck: The Man and the Statesman (New York: Vintage, 1967), 49 [1955].
- ¹² The Marrakesh Agreement establishing the World Trade Organization, done at Marrakesh, Morocco (15 April 1994).
- ¹³ World Trade Organization, The Multilateral Trading System: 50 Years of Achievement (Geneva: WTO, 1998), 5.
- ¹⁴ Id. at 21.
- ¹⁵ Id.
- ¹⁶ John F. Kennedy, Presidential Address in Frankfurt, Germany (June 24, 1963.).
- ¹⁷ Glen W. Harrison, Thomas W. Rutherford, and David G. Tarr, “Quantifying the Uruguay Round,” in Will Martin and L. Alan Winters, eds., The Uruguay Round and the Developing Countries (New York: Cambridge University Press, 1996). See also Irwin, Free Trade Under Fire, at 31.
- ¹⁸ Office of the United States Trade Representative, “America and the World Trade Organization,” 2, online at ustr.gov.
- ¹⁹ Irwin, Free Trade Under Fire, at 55.
- ²⁰ Irwin, Free Trade Under Fire, at 55-66.
- ²¹ Irwin, Free Trade Under Fire, at 60.
- ²² Id.

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- ²³ Drusilla K. Brown, Alan Deardorff, and Robert M. Stern, “Impact on NAFTA Members of Multilateral and Regional Trade Arrangements and Initiatives and Harmonization of NAFTA’s External Tariffs,” Research Seminar in International Economics Discussion Paper No. 471, University of Michigan (June 2001). *See also* Irwin, Free Trade Under Fire, at 29-35.
- ²⁴ Council of Economic Advisers, “Trade and the American Economy: The Case for Trade Promotion Authority” (February 12, 2002), 14, online at whitehouse.gov/cea/pubs.html.
- ²⁵ Brown et al, University of Michigan study, *supra*.
- ²⁶ Mike Moore, “To Doha and Beyond: A Roadmap for Successfully Concluding the Doha Development Round,” Address to the Evian VII Plenary Meeting, Montreux, Switzerland (April 12, 2002).
- ²⁷ *Id.*
- ²⁸ *Id.*
- ²⁹ *Id.*
- ³⁰ Hannah Arendt, On Revolution (New York: Penguin Books, 1990) 220, 319 [1963].
- ³¹ Art 3.2, WTO Dispute Settlement Understanding.
- ³² *See* Article II and Article III, Rules of Conduct for the Understanding on Rules and Procedures Governing the Settlement of Disputes, World Trade Organization.
- ³³ Michael M. Weinstein, “Economic Scene: Should Clinton Embrace the China Trade Deal? “Some Say Yes,” New York Times (September 9, 1999). at C2.
- ³⁴ Article 17.12, WTO Dispute Settlement Understanding.
- ³⁵ Alexis de Tocqueville, Democracy in America (New York: the Colonial Press, 1899), Volume II, 129 [1840].
- ³⁶ *Id.* at 130.
- ³⁷ *Id.* at 131.
- ³⁸ USTR, “America and the World Trade Organization,” *supra*, at 5-6.