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**Peter Sutherland**

**The Future of the  
World Trade Organisation**

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**Annual Lecture of the Transatlantic Programme**

***The Future of the World Trade Organization***

**PETER SUTHERLAND**

Chairman of BP p.l.c

Former Attorney General of Ireland

Former EU Commissioner

Former Director General of GATT and then WTO

European University Institute, Florence  
Friday 2 July 2004

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## PREFACE

In July 2004, the world trading system reached another of its periodic “critical junctures.” Despite the seemingly regular occurrence of these crucial moments, there seems little doubt that this crisis was real. Unless substantial and rapid progress was made in advancing the agenda of the long-delayed Doha Development Round, the institutions at the heart of global economic governance would indeed suffer a deleterious blow. This lecture was one in a continuing series of presentations at the European University Institute by distinguished commentators on key issues in transatlantic relations. The audience included a number of Ambassadors and other negotiators in the Doha Development Round of the World Trade Organization (WTO) who participated in the Robert Schuman Centre’s annual conference on *WTO Negotiators Meet the Academics – Preparing the Doha Development Round*.

Who better to make such a judgement, and to offer counsel on the way forward, than Peter Sutherland? He was the last Director-General of the General Agreement on Tariffs and Trade (GATT) and the first Director-General of the WTO. He currently chairs a committee of “wise men” charged with providing guidance for the world trade body’s reform and further development. Within a few weeks of his lecture at the European University Institute, WTO negotiators finally did reach consensus on the proposed framework agreements, resulting in the WTO General Council Decision of 1 August 2004, which succeeded in setting out a more precise “Doha Work Programme” for concluding the Doha Development Round in the coming years.

Peter Sutherland is also no stranger to Florence, or to the European University Institute; he played a critical role in the establishment of the Institute’s Transatlantic Programme, which was founded after receiving a generous gift from BP. We were both instructed by his address and delighted by his presence.

Helen Wallace, Director  
Robert Schuman Centre for Advanced Studies  
September 2004



# LECTURE

by

## **Peter Sutherland**

Chairman of BP p.l.c.  
Former Attorney General of Ireland  
Former EU Commissioner  
Former Director General of GATT and then WTO

### **The Future of the World Trade Organization**

In titling this address, “The Future of the World Trade Organization”, I may, on reflection, have committed something of a fraud. You are all crowded in here assuming I am about to divulge the detailed conclusions of the Director-General’s Consultative Board—that I happen to chair—which is looking into the future of the World Trade Organization. No such luck! About the only thing I intend to divulge is that we do not really have any conclusions as yet. But we shall, in not too many months.

That said, the debates we have had in the group have been fascinating and probably complement or parallel some of those you have had in earlier sessions here. But the Board is working in a medium to long-term timeframe. The practical reality is that the future of the WTO may be determined in the next four weeks. And that gives me cause for concern. Let me spend the first part of my comments in discussing why, and then I will move on to some longer term perceptions.

My own view is that the Doha Round was initially something of a political misjudgement. It came too soon after the Uruguay Round and before the many of the commitments made in Marrakesh were even close to full implementation. It superseded a built-in agenda, agreed in the Uruguay Round, that was already demanding and potentially very ambitious. Further, the new Agenda was pushed through at a time when globalisation was being seriously questioned—and systematically misunderstood—in constituencies unfamiliar with the meaning and value of the multilateral trading system.

It was also a time when many developing countries were questioning their own role and purpose as members of the WTO. The only saving grace in Doha was that the ministerial declaration was agreed on the back of huge and justified political concern, in the wake of the events of 11 September 2001, that, somewhere, multilateralism—solidarity among nations—had to be seen to deliver.

This may all seem unduly negative, even a little pointless given where we are now. However, I think it is necessary to understand the roots of the crisis—and I use that word advisedly—facing the WTO at this moment. I see the next few weeks as a watershed. With luck and some wisdom on the part of participants we may see the over-ambition and exaggerated rhetoric of Doha corrected. And with that we should see the WTO—or, rather, its membership—giving itself an opportunity to again make a real and lasting contribution to global growth and development.

Clearly, we are moving back to a more manageable agenda on or more realistic timeline. I suspect none of us here in this room believe that the round can now be concluded before 2006/7 and that is to assume something more than a reassertion of the Doha declaration can be agreed by the end of this month. We should accept the delay with reasonable equanimity. If it provides a timeframe to capture a deal with significant economic impact for all the players, then the wait will be worth it.

Of course, it will be tempting to say that what we are now looking at is a rather modest negotiation. It is certainly not a negotiation on the scale of the Uruguay Round. But that is to miss the point. What is being sought is of enormous potential significance. If we can walk away from the Doha Round with export subsidies in agriculture on track for elimination, along with other trade-distorting forms of export support, then it will be a huge achievement that will impact poverty and hardship throughout the global farming community. So too, if we can secure some meaningful new limits on domestic support and open a few markets. The problems of agricultural trade cannot be resolved in a single trade round. Perhaps it will take another two sets of negotiations before we can say that international exchanges in farm commodities are being conducted on a basis that is comparable with that for industrial goods.

Naturally, the business community is looking for results on more than just agriculture. The WTO needs to secure a good package of non-agricultural market access commitments in the Doha Round and it needs to go much further than what is now on the table on services. The only other big-ticket item is trade facilitation. I believe that a deal that provides new disciplines on the activities of customs services and other practical aspects of moving goods across frontiers will be of benefit to developing countries that wish to be truly part of the global trading community. That said, the costs are going to be considerable and they must be accounted for up-front. For least-developed countries—which have most to gain, but most to pay, for trade facilitation—a best endeavours undertaking by other WTO members to provide assistance for implementation will be insufficient. We, in the rich countries, stand to gain from reform in the poorest. These are very practical and measurable reforms, the financing for which cannot be met from the internal resources of poor nations alone.

The other element of the Doha package that seems still likely to bear some fruit is that on rule making. I have some doubts that we will get very far on trade defence instruments—though there ought to be some refinements in the disciplines that would be acceptable. That is especially so for measures already condemned through the dispute settlement cases in these areas.

One aspect of rulemaking that I think is a prerequisite for a respectable Doha Round outcome is in the area of rules on regional trade agreements. Sadly, we now have a

multilateral system in which virtually everyone has an interest in a preferential trade deal. That does not make it easy to bring some rigour to the WTO's oversight responsibilities. To date, these have been notable for their inadequacy and ineffectiveness. There needs to be a serious attempt to provide workable review conditions that will encourage the eventual consolidation of regional agreements into the multilateral system. The jigsaw puzzle of administrative complications and unpredictability—and their attendant business costs—that these proliferating deals represent is not sustainable.

So, there is plenty to fight for still in the Doha Round. But the game for July 2004 is less about immediate, solid, commercial benefit than about the WTO's credibility, and that of its members. It may even be about the ultimate survival of the institution as an effective instrument of multilateralism.

The WTO has to show again that it can deliver: to deliver something better than a lowest-common-denominator text of politically safe, but commercially meaningless diplomatic verbiage. I guess the test will be that the frameworks—notably those on agriculture and non-agricultural market access—demonstrate unambiguously that something of real value is achievable in the Doha Round. My impression is that this absolute necessity is increasingly understood and that most parties are working with an appropriate sense of urgency. Nevertheless, we are still far from an agreement. So I feel justified in rehearsing here why the current efforts are so vital to the system and to the interests of all the WTO's members.

First, there is the issue of credibility. The WTO must be seen again as capable of delivering. Leaving aside the remarkable work on dispute settlement and the major accession negotiations—especially that of China—little of economic significance has been delivered for well over five years. That does not give business people much reason to support the system.

And when I talk about business support I am not referring simply to the interests of global companies. These large firms have a perception of the global market that leads them to support multilateralism as a principle—and they will go on doing so. I am thinking more of tens of thousands of enterprises in developed, developing and least-developed countries alike for which the trading conditions created by the WTO can mean the difference between success and failure—between opportunity and simple survival.

Wherever they are, companies want the same things. For a start they need transparency and predictability in business and trading regulation. Rather few, I suggest, would opt for corruption as the ideal environment. They want efficient services—especially financial services. They want fair competition at home and equitable treatment with competitors in export markets. They need recourse to open, efficient and honest legal systems. Many need better market access overseas, or the chance to invest. Some need protection from time to time.

All this is very simple stuff. It also happens to be the stuff of the WTO. This is core business. Unfortunately, it is core business that has been neglected in favour of some relatively unproductive diversions in recent years. I have to say that the endless debates about internal transparency—while probably valid—have not helped one single company anywhere earn one dollar in export markets. And if the WTO is worth having, it is to give

opportunities to companies and entrepreneurs. One cannot say too many times that it is not governments, international agencies or, indeed, NGOs that create wealth for the world's poor. Governments can distribute. Business people, farmers, traders, services suppliers, researchers and educators create. One sometimes has the impression that this simple truth is ignored or hidden in Geneva.

The WTO has two roles. First it is a system of rules and disciplines—enforceable rules and disciplines. Second it is a negotiating vehicle. The first role is not currently in doubt—although we should not be complacent, as I will discuss later. The second surely is. The vehicle is seriously in need of gasoline, or some fundamental maintenance. The chassis is solid—the engine has seen better days. I will be divulging no confidence if I tell you that this is a preoccupation of the Consultative Board.

Broadly the concern is that far from being an instrument of negotiation the WTO is settling for being an instrument of litigation. My fear is that if the two roles cannot be fulfilled convincingly and consistently then ultimately both will fall into disrepute. Yes, we can settle for a certain amount of gap filling through the DSU. But there are political limits to wholesale reliance on dispute settlement. True, it may be an easy way out when negotiators can find no basis for compromise. Yet that is to excuse the process of negotiation and the negotiators themselves, be they Geneva-based diplomats, senior officials or ministers. The nexus and interplay between these three sets of participants is crucial—but currently seriously dysfunctional.

The Consultative Board will offer some proposals in this area. I trust they will be considered objectively—and in the light of the recent failure to secure meaningful results through multilateral negotiations. Certainly, no one set of participants has a monopoly of ability or experience. There will be times when diplomats must make the running—perhaps most of the time. But there will be times when only senior officials or ministers can move the process. That is hardly news. The issue is the extent to which the three groups of players interact and secure the best, not the worst, from the system. We need to find dealmakers—and we need to create deal-making situations.

Clearly, I am straying a little from the immediate situation. However, this is all about delivery. What must also be delivered is something solid that will respond to the ambitions of developing countries. I happen to believe that the best the WTO can offer is, as I have already outlined, a big package in the core business of the Doha Round. With that—and especially for the least-developed countries—there will be need for some special and differential treatment and a large amount of non-discretionary technical assistance to aid implementation.

I fear the focus on making Part IV of the GATT significantly more operational is neither likely to be fruitful nor, even if it were, especially valuable. Denuding the WTO of all disciplines affecting least-developed countries harms—above all—the least-developed countries. If poor countries do not use the WTO for what it was intended—as a prop and encouragement for economic and regulatory reform—then the institution is never likely to deliver benefits to the poor.

I hope these realities will be kept in mind in the coming weeks. We must restore some credibility to multilateralism as a primary means of securing global economic progress. We need to demonstrate to many constituencies that the WTO is worthwhile.

Like it or not, one constituency that we are going to have to convince is the US Congress. As a European I am perfectly comfortable to say that without the US very little of value gets done in the WTO—and it was no less the case in the GATT. This may not be a popular message. But it is a necessary one if there is any danger of the US giving up on the WTO. I do not believe any such intention exists at present. There may be political irritation at the impact of dispute cases—and there may be business frustration at the sluggishness of the Doha Round in opening up markets. However, the US was instrumental in creating the WTO. The institution sits well with the generous and outward looking foreign policy principles that have traditionally been pursued and supported in Washington.

If the WTO can reach a respectable set of decisions on the Doha negotiating frameworks this July then I have little doubt that Congress will acquiesce in the rolling over of “fast track” negotiating authority for a further two years—the two years in which the Doha negotiations will have to conclude. But without the clear prospect of a worthwhile Doha outcome it would be complacent of us to assume Congressional goodwill towards an institution that is manifestly failing to deliver.

The implications of the US stepping back from the WTO would be dangerous for all of us. For a start we would lose the Doha Round. Three years work would have been for nothing. The prospect of eliminating export subsidies in agriculture would once again be a pipedream. Valuable practical advances—like that on trade facilitation—would be for the distant future. All the market access opportunities that could be opened up multilaterally will end up on the plates of the chosen few benefiting from bilateral or regional deals.

Furthermore, we should not be too confident about re-launching a trade round in the foreseeable future. Without US leadership the EU would be unlikely or unable to go it alone. And we are not yet at the stage where trade rounds without these two great markets could have any but the most marginal impact on the prospects for poor nations.

Two more potential costs stand out in this depressing scenario. The first is our ability to cope with the dramatically burgeoning presence of China in the global marketplace. That presence should be welcome and beneficial for us all ultimately. But only China’s commitment to the WTO provides the basis for coping intelligently with the impact of such broad-based and dynamic competition.

The case of Russia—even now in the process of negotiating accession—is almost as serious. We need Russia fully integrated into the global economy. The WTO is presently driving the process of domestic regulatory reform. There is no other system out there that can pull Russia in the right direction. If, in the absence of such pressure, Moscow changes direction, we shall all be the losers—not just economically but perhaps in the context of our own security. Russia is prepared to pay a price for its WTO membership—but the price will only be justifiable domestically if the WTO holds on to its own credibility.

So, for China and Russia the WTO must deliver this month.

Finally in this gloomy litany, I think we must consider the impact of a failure this July on the crown jewels of the WTO—the dispute settlement system. I believe the DSU has been a truly remarkable success. It has taken on far more cases than we ever thought likely, or possible. With few exceptions the work of the panels, the Appellate Body and the secretariat's legal division has, rightly, been applauded. The body of jurisprudence—if I may call it that—is now hugely impressive. And the results are there for all to see. Disputes are being settled—often without recourse to the full procedure and usually without recourse to the blunt weapon of retaliation. Without knowing it thousands—perhaps tens of thousands—of companies around the world have benefited from the work of dispute settlement in the WTO.

In short, this is not an instrument to put at risk. Yet the system has credibility only for as long as it is respected—with or without good grace—by the WTO's membership. Respect means accepting the findings of panels and the AB and implementing the recommendations—or, sometimes, taking the consequences of not doing so. As we have seen, where DSB recommendations require legislative action they can be a hard sell. In the final analysis however, legislators have continued to accept that the system can only work for their national interests if it also works for the national interests of others. In short, credibility and utility is only maintained by respect for DSU judgements.

It is profoundly to be hoped that this political perception of self-interest will persist. But we must ask the following question. If the institution within which the DSU operates becomes so tarnished by failure will dispute settlement continue to be revered as a process apart? Again, I do not want to be accused of scare mongering, but we would be complacent to ignore the dangers in a failure of the Doha Round this summer. The potential impact on dispute settlement in the WTO strikes me as one of the more insidious among them.

If we can successfully negotiate the watershed of July 2004, then the WTO has a chance to demonstrate that it can achieve the goals set for it ten years ago. It will not be easy. For the Doha Round, the most difficult will still be in front of us. After all, even assuming the best possible outcome in the coming weeks, we will be a long way from agreeing the detailed basis on which most of the negotiations will take place. Fixing precise targets for agricultural and non-agricultural market access bargaining will be hard. Settling clear timelines for implementation—especially with respect to developing countries—will be no less challenging. Yet it can be done. Indeed, it must be done.

However, looking ahead further, I have little doubt that some complex institutional issues must be tackled. The Doha Round has struggled for many reasons. Some are probably transitory. The political impact of the anti-globalisation movement and the rebalancing of the procedures of the WTO towards a broader involvement of developing countries will, I trust, be behind us. Making the institution and its rules valid for the coming decades will, however, require further reflection in the not too distant future.

There are probably four key issues—each of which the Consultative Board is considering—which are going to be fundamental to making the WTO deliver in the long term. As I have already mentioned we need a clearer demarcation of the nexus between

the involvement of ministers, senior officials and Geneva-based diplomats. Second, we have to look at the decision-making process itself. Third we need to consider the validity of broad trade rounds with large agendas. Finally, we must understand and make provision for the relationship between the multilateral system and a parallel system of bilateral and regional trade agreements.

I will not delve too far into these arguments. Let me merely give you a taste of the debate, much of which, in any event, I am sure you have all reflected on at one time or another.

The hierarchy of trade negotiations has always been problematic. Ministers and senior officials tend to blame Geneva for immobility—at the same time failing to send the kind of instructions that would provide negotiating manoeuvrability. Ambassadors in Geneva prefer to keep their turf clear and resent grand, high-flown political “agreements” that seldom provide the substance for consensus at the technical level. At the same time the Geneva process is somewhat blinkered and, except at points of extreme crisis, not over-effective.

At root, it seems to me that the key is for ministers to understand better the realities and practical requirements of the Geneva process. At the same time, Geneva must build in to its consultative procedures the domestic political and economic environments within which governments must take their decisions on trade policies and formulate positions in trade negotiations. This is a two-way relationship and we need to ensure the institutional framework reflects it.

The process of decision-making is something different. It is long and frustrating. At the centre of the frustration is the consensus rule. Can or should we deviate from it? My personal view is that the rule is the fundamental safeguard in the WTO that stops the rich and powerful overwhelming the poor and weak. It is also the rule that gives WTO decisions absolute credibility in legislatures everywhere. This is not to say that there may not be occasions when we could reasonably deviate from consensus—as the Marrakesh Agreement allows—but I suspect they will be few and far between.

Should we stick with large trade rounds? While they are in process, the tendency is always to say “never again”! We have limited experience of successful sectoral negotiations—though these have tended to be in areas where the door was open to reform and market opening. The key question is whether we would ever get multilateral commitments to reform agriculture outside a broad-based negotiating agenda in which the political pain can be diluted. The answer may be that we simply have to be much more modest and withstand the temptation to throw everything bar the kitchen sink into trade rounds. Maybe we should keep rulemaking separate from market access bargaining.

I have already referred to the challenge of proliferating regional agreements. I believe the challenge is very serious. It is partly caused by the limited results of the WTO at the multilateral level while, in diverting attention from Geneva, it is itself partly responsible for those limited results. The Balkanisation of the global trading system is entirely illogical and dangerous while we are seeking to maximise the potential—especially in the interests of development—of an increasingly global view of trade and investment taken by the private sector. It is also very expensive. I hardly need to rehearse here the many

studies showing the extra business costs associated with the chaotic multiplication of preferential duties and import regimes.

We need to find a way for the WTO to make the disciplines of GATT Article XXIV fully operational. Further, we need soon to consider how we can rationalize the situation. Establishing a date for free trade under the WTO would clearly be one way out. Are we ready for that yet? Probably not, but we need to have the debate before too many years have passed.

To conclude therefore; we have some big issues to face for the future. Right now, we have a very concerning situation that faces us in the next four weeks. The stakes are very high. Failure is difficult to contemplate if the potential costs are kept in mind. I hope the negotiators in this room will ensure their national positions are elevated above the small and inconsequential. If anyone believes—as apparently some did in Cancun last year—that a breakdown of the Doha Round is some kind of victory, then they should think again. We will all lose from a failure this time. Agreement means we live to negotiate another day—and the institution of the WTO will be safeguarded until it can take the time to reflect on its own future.

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**Peter Sutherland**

*The Future of the*

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