The Bush-Schwab Policy on the Colombia FTA Has Failed Miserably

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The recent adjournment of the 110th Congress provides the final verdict on the Bush Administration's strategy for securing the enactment of the Colombia-US Free Trade Agreement. The verdict is that the non-cooperative strategy of President Bush and US Trade Representative Susan Schwab failed miserably.

By way of background, recall that on 7 April 2008, the Bush Administration sent implementing legislation for the FTA to Congress without having first obtained a go-ahead from House and Senate leaders. Although the President has a right to do this under the law (19 USCS §3805(a)(1)), the informal understanding going back to 1979 was that the President would send the legislation to the Congress only after the House and Senate committees had marked up the bill in so-called 'non-markup' sessions.

As with many established legislative-executive traditions during the Bush Administration, this one was not followed. Instead, the bill written solely by the Administration was sent to Congress on a take-it-or-leave it basis. Ambassador Schwab explained the Administration's reasoning in a press release that day which said: "Because only so many legislative work days remain between now and Congress' targeted adjournment date in September, the Administration was compelled to send the legislation at this time to Congress to ensure a vote this year." Perhaps if the Administration had had better intelligence about when the Congress was likely to adjourn for the year, the unilateral action on 7 April might have been avoided.

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The Congressional reaction to the Administration's maneuver was harsh and a response came quickly. On 10 April, the House voted to strip the Colombia free trade bill of fast track status. In response, Ambassador Schwab issued a press release on that day, she criticised the House for changing the rules "in the middle of the game."

For the rest of 2008, advocates of the free trade agreement with Colombia discussed the possibility that the House might change course and take up the bill. That, sadly, never happened. A key reason may have been that Presidential candidate Barack Obama opposes the trade agreement.

It is hard to see the Colombia episode as anything other than a major miscalculation by the Bush Administration. Apparently, the Administration thought that the agreement could be rammed down the throats of the Congress. Ambassador Schwab, with her many years of experience as a Senate staffer, should have known better and if she did she was unable to dissuade the Administration against this reckless strategy.

The costs of the Bush strategy are high. First, the good-for-one-ride fast track procedure for Colombia has now been used up, as Ambassador Schwab herself acknowledged in a speech to the Club for Growth on 17 November. Second, by forcing the hand of the Speaker, the Administration has taken the fig leaf off of the 30-year old fast track process. By fig leaf, I mean that it was always understood that the procedural requirement for a guaranteed up or down vote in the House and Senate was something that each of those bodies could undo, but until this year, both chambers acted as though each had a legal obligation to honor the fast track rules. Unfortunately, this fig leaf is now gone and any future fast track will have less credibility domestically and internationally. This will make it harder for future Administrations to negotiate new trade agreements and thus open overseas markets and level the playing field for our workers and families. Third, by sending the Colombia FTA bill to Capitol Hill without support, the Administration has embarrassed our close ally Colombia and put vital US interests in Latin America at risk.

In criticising the self-defeating actions of the Bush Administration on trade with Colombia, I do not excuse the vapid actions of the Congress. It was wrong for Speaker Pelosi to take fast track away from the implementing bill. It was also wrong for the Democratic House and Senate leadership to refuse to work with the Administration to firm up the language of the implementing bill. And while I am assigning blame, it was also wrong back in the spring for the pro-trade business groups and institutes around Washington to goad the Administration into "calling the Congress's bluff" on the Colombia FTA.

Looking ahead, I think the Colombia FTA is in for a bumpy road but I doubt it is dead. As I pointed out in remarks several months ago at the Inter-American Dialogue, it would be possible for the next Administration to use the fast track for the Panama FTA to also enact the Colombia FTA. It would also be possible to approve the FTA without fast track (as was done with Jordan) but that requires a well-disciplined Congress. Of course, in the immediate future, the Obama Administration will need to start by deciding whether it is for greater international trade or against it. In governing, it is hard to be both at the same time.

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Facts and Figures

A World Bank report released in December examined the impact of the financial crisis on GDP growth across the world. Here are some of the key projections for 2009:

- Global GDP growth will slip from 2.5 percent in 2008 to 0.9 percent. Developing country growth is expected to fall from 7.9 percent in 2007 to 4.5 percent in 2009.

- For the first time since 1982, world trade will contract by 2.1 percent.

- Investment growth in the developing world is projected to fall from 13 percent in 2007 to 3.5 percent in 2009.

- Compared to 2008, GDP growth in 2009 is expected to drop from 8.4 percent to 6.7 percent in East Asia and the Pacific; from 5.3 percent to 2.7 percent in Europe and Central Asia; from 4.4 percent to 2.1 percent in Latin America and the Caribbean; from 5.8 percent to 3.9 percent in the Middle East and North Africa; from 6.3 percent to in South Asia; and from 5.4 percent to 4.6 percent in Sub-Saharan Africa.

So, What Next?

Yet another do-or-die moment passed in the Doha Round when a highly anticipated ministerial gathering was abandoned in December, leaving all actors perplexed about where to go next.

New negotiating texts released in early December failed to inspire confidence among WTO Members that ministers would succeed in clinching a framework deal on agriculture and industrial market access (see pages 5 and 7). Bowing to the inevitable, WTO Director General Pascal Lamy told the membership on 12 December that his consultations with capitals had not revealed "a readiness to spend the political capital" needed to reach an agreement. The US had particularly little room to manoeuvre after its main farming and manufacturing lobbies, as well as a bi-partisan group of senators, advised against a ministerial meeting. Indian officials also expressed serious doubts over the likelihood of achieving convergence. Traditional grumblings from mercantilist perspectives were promptly heard from many corners on the terms of the market access texts on the table.

Where to Now?

DG Pascal Lamy, in for a new term in office as the sole candidate, believes that the WTO's main goal for 2009 should remain advancing the Doha Round, although he has also suggested stepping up work in monitoring trade measures taken in the wake of the financial crisis, trade finance and Aid for Trade (see page 4).

Many, however, think that the WTO has suffered from its near-exclusive focus on the perpetually faltering talks. Writing in the January issue of Foreign Affairs, trade researchers Aaditya Mattoo and Arvind Subramaniam argued that the issues now at stake in the round were marginal and distracted attention from "other matters of greater significance, such as the consequences for trade of misaligned exchange rates and environmental protection." It was time, they suggested, "to start working on a new agenda that really matters instead of trying to resuscitate an inconsequential enterprise."

Few would disagree that it would be a mistake to abandon the round altogether. Although the economic gains resulting from its conclusion now appear far smaller than what seemed possible when the round was launched seven years ago, a new multilateral trade deal still potentially offers the best bulwark against rising protectionism around the world (see page 2). Talks should continue to keep that possibility alive. Early implementation of available outcomes, such as trade facilitation, and of duty- and quota-free access for least-developed countries would help keep the WTO relevant and bolster confidence in its ability to deliver development benefits.

Meanwhile, there is an urgent need to devote greater energy to finding responses to new challenges facing the international trading system – ranging from trade-finance linkages to food security to energy policy and, above all, climate change. Any serious move to curb greenhouse gas emissions through domestic regulations will most likely be accompanied by demands to offset the perceived harm to the international competitiveness of domestic industry. Setting up a viable global regulatory framework that makes international co-operation effective, such as the agreements envisaged to emerge from the Copenhagen climate summit next December, will require complementary and well-informed action from the WTO. In this context, it could be helpful to set up a working group, including all interests, to look both into the trade ramifications of climate change policies, and the challenges that climate change itself poses on trade.