



WORLD TRADE
ORGANIZATION

2007 WTO Public Forum

**“How Can the WTO
Help Harness Globalization?”**



4-5 October 2007



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Help Harness Globalisation?”**



04 - 05 October 07



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FOREWORD

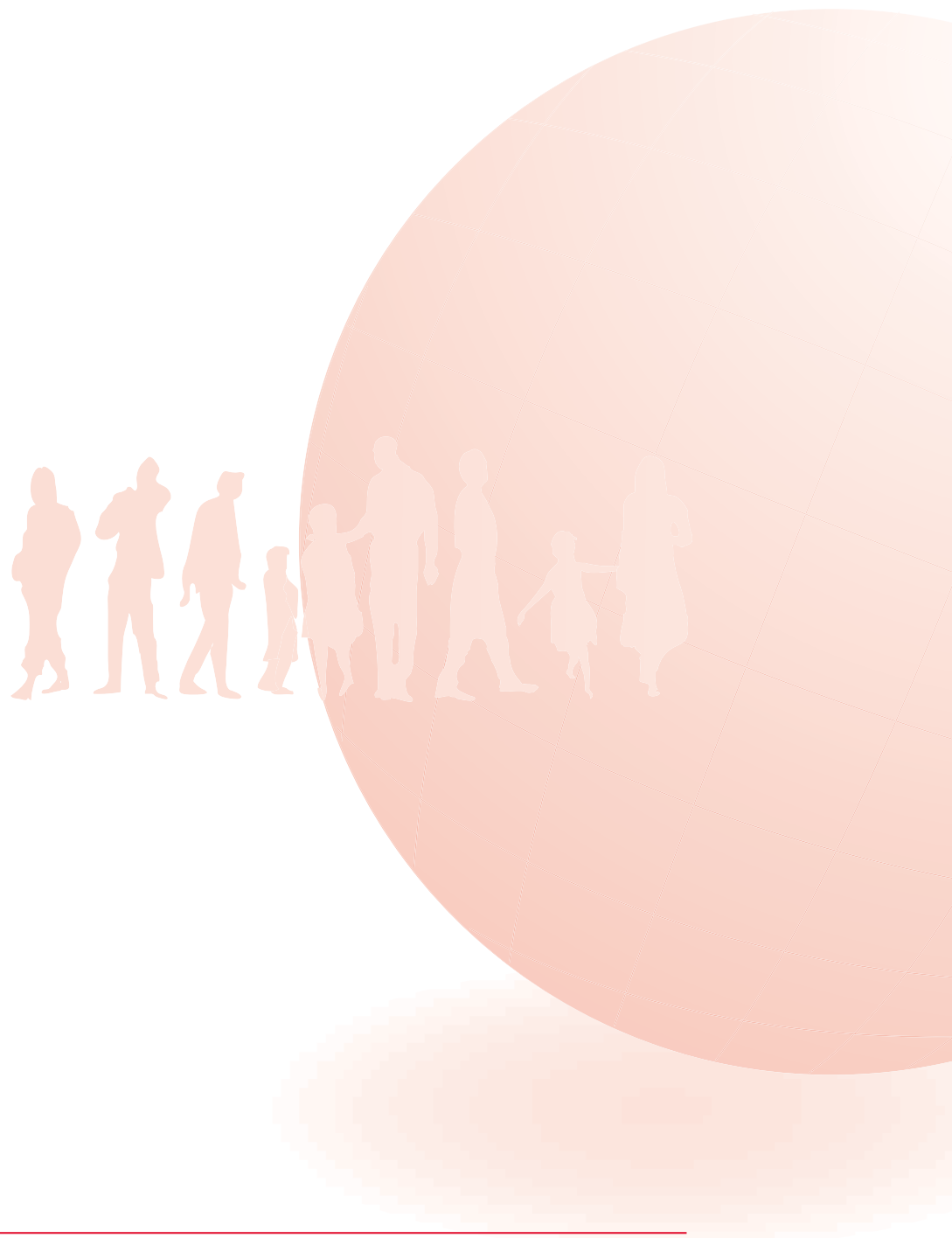
The annual WTO Public Forum represents the most significant opportunity for WTO Members to tap into a large pool of ideas from the public at large on the issues confronting the multilateral trading system. Over the years, the significant increase in the number of participants from across the globe testifies to the relevance of the WTO to the wider world, and it is precisely for this reason that the WTO must continue to engage in a dialogue with the broader public on how it can best meet its needs and aspirations.

In the last years, civil society has influenced the agenda of the WTO on numerous occasions. Firstly, on the issue of intellectual property rights and access to essential medicines. As a result of the attention which civil society drew to this issue, the WTO reached an agreement in August 2003 on the use of compulsory licences by developing countries without manufacturing capacity, in order to help them access life-sustaining medicines. This agreement was incorporated as an amendment to the WTO TRIPS Agreement on the eve of the Hong Kong Ministerial Conference in December 2005. Second, civil society was behind the launching of negotiations on fisheries subsidies in the WTO. Their emphasis on the perilous state of much of the world's fish stock underlined the vital role that the WTO could play in protecting the world's fish stock and in saving it from depletion. Third, civil society is, to a large extent, responsible for elevating the link between trade and the environment, which had been debated for many years in both the GATT and the WTO, to a "negotiating" stage. Finally, in the ongoing agriculture negotiations, there are numerous issues which civil society has worked hard to bring forward, including the need to ensure that food aid must continue to be available to those who need it. All of these examples attest to the important contribution civil society has made to shaping the agenda of the WTO. I sincerely hope that the Public Forum will continue to provide an opportunity for the wider world to make its voice heard.

This year's Forum on "*How the WTO can Help Harness Globalization?*" addressed the tools that the WTO requires to help harness globalization, and the need for cooperation amongst different international organizations. The main ideas presented in the Forum are captured in this publication. Significant in this year's event was the presence of a very wide range of societal actors: different types of non-governmental organizations – advancing a range of issues, including the environment, human rights, labour rights; as well as parliamentarians, academics, members of the business community; journalists, lawyers; and students. It is their ideas, and their contribution, that this publication seeks to consolidate, and which WTO Members will certainly reflect on as they go forward. There is no doubt that an exchange of views, such as the one we had at this year's Forum, can but strengthen the multilateral trading system.

I would like to express my appreciation to the European Commission and Norway for their generous financial contributions that have made this year's event possible.

Pascal Lamy





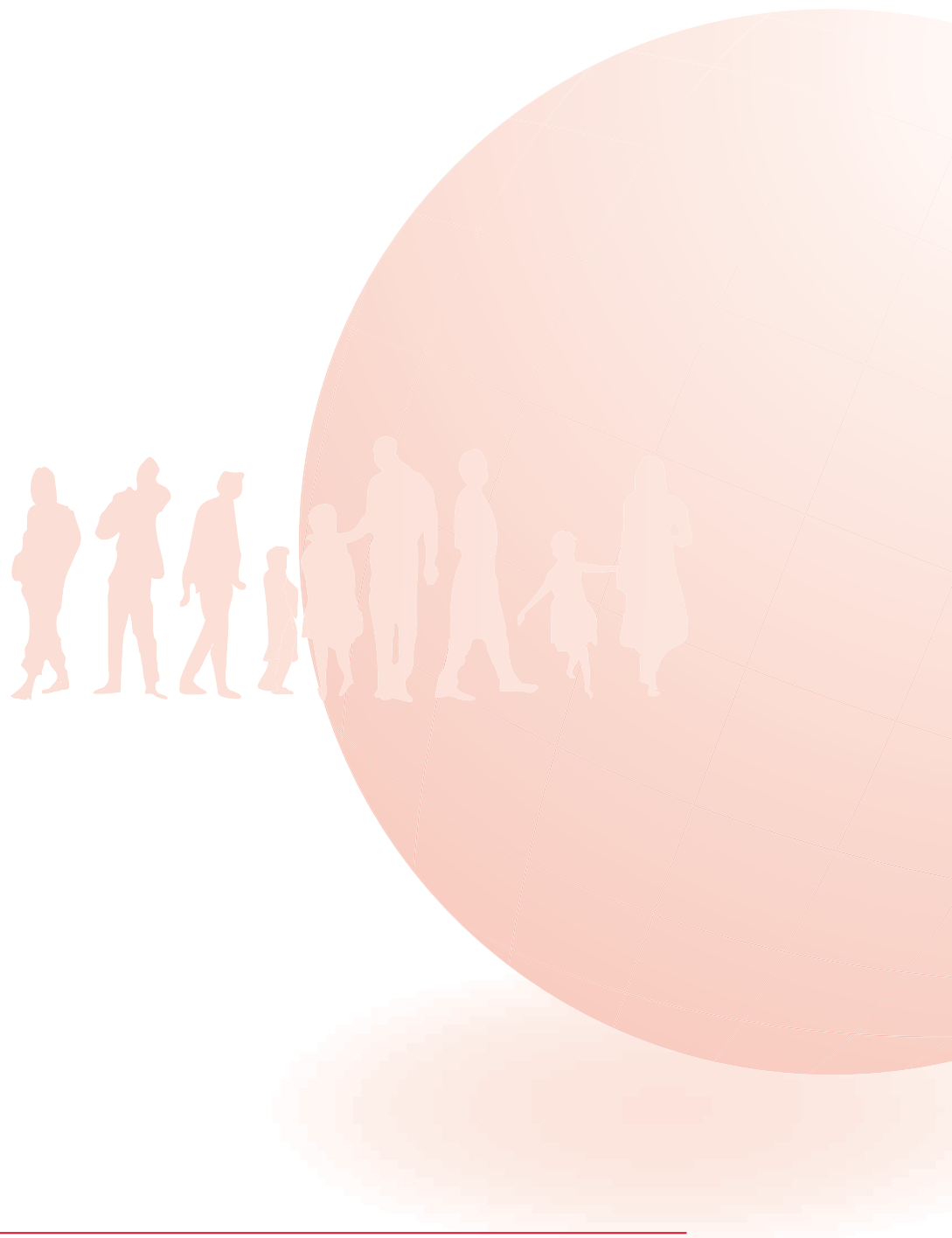
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The production of the Report was coordinated by Serge Marin-Pache of the Information and Media Relations Division. Special gratitude is also due to the translators of the Language Services and Documentation Division for their hard work.

The organization of the Public Forum was possible thanks to the generous contributions of the European Commission and Norway, who donated respectively EUR 100,000 (around CHF 165,000) and CHF 184,000.





ABBREVIATIONS

| | |
|---------|--|
| A4T | Aid for Trade |
| ABCDoha | American Business Coalition for Doha |
| ACP | African, Caribbean and Pacific Group |
| ADB | Asian Development Bank |
| ADPIC | Aspectos de los Derechos de Propiedad Intelectual relacionados con el Comercio |
| AGOA | African Growth and Opportunity Act |
| AITIC | Agency for International Trade Information and Cooperation |
| APEC | Asia Pacific Economic Cooperation |
| ASCM | Agreement on Subsidies and Countervailing Measures |
| BIS | Bank for International Settlements |
| BITS | Bilateral Investment Treaties |
| BPO | Business Process Outsourcing |
| CAFE | Corporate Average Fuel Efficiency |
| CAFTA | Canadian Agri-Food Trade Alliance |
| CAN | Comunidad Andina |
| CAP | Common Agricultural Policy |
| CARICOM | Caribbean Community |
| CASIN | Centre for Applied Studies in International Negotiations |
| CBD | Convention on Biological Diversity |
| CDM | Clean Development Mechanism |
| CEDAW | Convention on the Elimination of all forms of Discrimination Against Women |
| CEO | Chief Executive Officer |
| CEPAL | Comisión Económica para América Latina y el Caribe |
| CIEL | Center for International Environmental Law |
| CISDL | Centre for International Sustainable Development Law |
| CRC | Convention on the Rights of the Child |
| CSR | Corporate Social Responsibility |
| CTD | Committee on Trade and Development |
| CTE | Committee on Trade and Environment |
| CTE SS | Committee on Trade and Environment, Special Session |
| CUTS | Consumer Unity & Trust Society |
| CVDs | Countervailing Duties |
| DDA | Doha Development Agenda |
| DFID | Department for International Development |
| DI | Dansk Industri |

| | |
|--------|---|
| DMD | Doha Ministerial Declaration |
| DNA | Deoxyribonucleic Acid |
| DSB | Dispute Settlement Body |
| DSU | Dispute Settlement Understanding |
| DTI | Department of Trade and Industry |
| EADI | European Association of Development Research and Training Institutes |
| EASESP | Escola de Administração de Empresas de São Paulo |
| EBA | Everything But Arms |
| ECIPE | European Centre for International Political Economy |
| ECLAC | Economic Commission for Latin America and the Caribbean |
| EGS | Environmental Goods and Services |
| EIF | Enhanced Integrated Framework |
| ELG | Export Led Growth |
| ERD | External Relations Division |
| ESF | European Services Forum |
| EUBP | Employees Union of Bayer Philippines |
| FAO | United Nations Food and Agriculture Organization |
| FDI | Foreign Direct Investment |
| FES | Friedrich-Ebert-Foundation |
| FIRA | Foreign Investment Review Act |
| FLEGT | Forest Law Enforcement, Governance and Trade |
| FSC | Forest Stewardship Council |
| FTA | Free Trade Agreement |
| G-4 | EU, US, India and Brazil |
| G-8 | Canada, France, Germany, Italy, Japan, Russia, United Kingdom, United States of America. The European Union is always represented by the President of the European Commission. |
| G-20 | Since 21 November 2006, 22 members: Argentina, Bolivia, Brazil, Chile, China, Cuba, Egypt, Guatemala, India, Indonesia, Mexico, Nigeria, Pakistan, Paraguay, Peru, Philippines, South Africa, Tanzania, Thailand, Uruguay, Venezuela, Zimbabwe |
| G-33 | Since 27 November 2006 understood to comprise 46 countries: Antigua and Barbuda, Barbados, Belize, Benin, Bolivia, Botswana, China, Congo, Côte d'Ivoire, Cuba, Dominica, Dominican Republic, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, India, Indonesia, Jamaica, Kenya, Rep. Korea, Madagascar, Mauritius, Mongolia, Mozambique, Nicaragua, Nigeria, Pakistan, Panama, Peru, Philippines, St Kitts and Nevis, St Lucia, St Vincent and the Grenadines, Senegal, Sri Lanka, Suriname, Tanzania, Trinidad and Tobago, Turkey, Uganda, Venezuela, Zambia, Zimbabwe |



| | |
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| G-77 | 130 countries: Afghanistan, Algeria, Angola, Antigua and Barbuda, Argentina, Bahamas, Bahrain, Bangladesh, Barbados, Belize, Benin, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, Central African Republic, Chad, Chile, China, Colombia, Comoros, Congo, Costa Rica Côte d'Ivoire, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Ethiopia, Fiji, Gabon, Gambia, Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, India, Indonesia Iran, Iraq, Jamaica, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Mali, Marshall Islands, Mauritania, Mauritius, Micronesia, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Palestine, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Qatar, Rwanda, Saint Kitts and Nevis, Saint Lucia, Sainte Vincent and the Grenadines, Samoa, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Solomon Islands, Somalia, South Africa, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Thailand, Timor-Leste, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkmenistan, Uganda, United Arab Emirates, United Republic of Tanzania, Uruguay, Vanuatu, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe |
| G-90 | Angola, Antigua and Barbuda, Bangladesh, Barbados, Belize, Benin, Botswana, Burkina Faso, Burundi, Cambodia, Cameroon, Central African Republic, Chad, Congo, Côte d'Ivoire, Cuba, Democratic Republic of the Congo, Djibouti, Dominica, Dominican Republic, Egypt, Fiji, Gabon, The Gambia, Ghana, Grenada, Guinea (Conakry), Guinea Bissau, Guyana, Haiti, Jamaica, Kenya, Lesotho, Madagascar, Malawi, Maldives, Mali, Mauritania, Mauritius, Morocco, Mozambique, Myanmar, Namibia, Nepal, Niger, Nigeria, Papua New Guinea, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Senegal, Sierra Leone, Solomon Islands, South Africa, Suriname, Swaziland, Tanzania, Togo, Trinidad and Tobago, Tunisia, Uganda, Zambia, Zimbabwe |
| GAN | Global Academic Network |
| GATS | General Agreement on Trade in Services |
| GATT | General Agreement on Tariffs and Trade |
| GBD | Global Business Dialogue |
| GDP | Gross Domestic Product |
| GEG | Global Economic Governance |
| GGDP | Global Governance for Development Programme |

| | |
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| GHG | Greenhouse Gases |
| GMO | Genetic Modified Organisms |
| GSI | Global Subsidies Initiative |
| GSP | Generalised System of Preferences |
| HEI | Graduate Institute of International Studies |
| HIV | Human Immunodeficiency Virus |
| IAS | Industrias Ambientalmente Sensibles |
| IATP | Institute for Agriculture and Trade Policy |
| IBSA | India, Brazil and South Africa |
| ICCPR | International Covenant on Civil and Political Rights |
| ICESCR | International Covenant on Economic, Social and Cultural Rights |
| ICT | Information and Communication Technologies |
| ICTSD | International Centre for Trade and Sustainable Development |
| IDRC | International Development Research Centre |
| IED | Inversión Extranjera Directa |
| IF | Integrated Framework |
| IFAP | International Federation of Agricultural Producers |
| IFC | International Finance Corporation |
| IGTN | International Gender and Trade Network |
| IISD | International Institute for Sustainable Development |
| ILC | International Law Commission |
| ILO | International Labour Organization |
| IMF | International Monetary Fund |
| IP | Intellectual Property |
| IPU | Inter-Parliamentary Union |
| ISEAL | International Social and Environmental Labelling Alliance |
| ITC | International Trade Centre |
| ITLOS | International Tribunal for the Law of the Sea |
| ITSP | International Trade and Services Policy |
| ITTC | Institute for Training and Technical Cooperation |
| ITUC | International Trade Union Confederation |
| JI | Joint Implementation |
| JITAP | Joint Integrated Trade Assistance Programme |
| LATN | Latin American Trade Network |
| LICs | Low Income Countries |
| LDCs | Least-developed Countries |
| MEAs | Multilateral Environmental Agreements |
| MERCOSUR | Southern Common Market |
| MFN | Most Favoured Nation |



| | |
|-------|--|
| MSMEs | Micro, Small and Medium Enterprises |
| MTS | Multilateral Trading System |
| NAFTA | North American Free Trade Agreement |
| NAMA | Non-Agricultural Market Access |
| NCCR | National Centre of Competence in Research |
| NCP | National Contact Points |
| NGO | Non-Governmental Organization |
| NTBs | Non-tariff barriers |
| ODA | Official development assistance |
| ODI | Overseas Development Institute |
| OECD | Organisation for Economic Co-operation and Development |
| PEAP | Poverty Eradication Action Plan |
| PMA | Plan for the Modernisation of Agriculture |
| PPMs | Process and Production Methods |
| PRSP | Poverty Reduction Strategy Programmes |
| PTAs | Preferential Trade Agreements |
| R&D | Research and Development |
| RAMs | Recently Acceded Members |
| RIS | Research and Information System |
| RoOs | Rules of Origin (RoOs) |
| RTA | Regional Trade Agreement |
| S&DT | Special and differential treatment |
| SAPs | Structural Adjustment Programs |
| SD | Sustainable Development |
| SIDS | Small Island Developing States |
| SME | Small and medium size enterprise |
| SP | Special Products |
| SPS | Sanitary and Phytosanitary Measures |
| SRE | Small and Remote Economies |
| SSM | Special Safeguard Mechanism |
| SVEs | Small and Vulnerable Economies |
| TACB | Technical Assistance and Capacity Building |
| TBT | Technical Barriers to Trade |
| TNC | Trade Negotiations Committee |
| TNCs | Transnational Corporations |
| TPA | Trade Promotion Authority |
| TPR | Trade Policy Review |
| TPRD | Trade Policies Review Division |
| TPRM | Trade Policy Review Mechanism |

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| TRIMs | Trade-Related Investment Measures |
| TRIPS | Trade-related aspects of intellectual property rights |
| TRQs | Tariff Rate Quotas |
| TRTA | Trade Related Technical Assistance |
| TUAC | Trade Union Advisory Committee |
| TWN | Third World Network |
| UDHR | Universal Declaration of Human Rights |
| UNCLOS | United Nations Convention on the Law of the Sea |
| UNCTAD | United Nations Conference for Trade and Development |
| UNDP | United Nations Development Programme |
| UNEP | United Nations Environment Programme |
| UNFCCC | United Nations Framework Convention on Climate Change |
| VPAs | Voluntary Partnership Agreements |
| WIPO | World Intellectual Property Organization |
| WTO | World Trade Organization |



INTRODUCTION

The 2007 Public Forum was held at WTO headquarters in Geneva from 4 to 5 October. Its title was “How Can the WTO Help Harness Globalization?”. The Forum took place at a time when the Doha negotiations are gathering momentum, but the benefits of globalization are increasingly being challenged by both North and South, and concerns are growing over the impact of globalization on the environment – all this as the multilateral trading system celebrates its 60th Anniversary.

This year’s Forum was aimed at stimulating a frank debate on the role the WTO can play in using trade as an engine of development, and on how it can contribute to a better distribution of the benefits of trade in today’s globalized economy. Primarily, the WTO is about making trade possible by creating trade opportunities through multilateral trade opening and the building of multilateral rules to ensure a level playing field. But, clearly removing obstacles to trade is often not enough for countries to reap the benefits of trade opening. To fully benefit from further trade opening, countries require the right domestic policy framework, institutional capacity and economic infrastructure to be in place. The dialogue at the Forum, involving the public at large, on the issues confronting the multilateral trading system provides ideas and input that can but strengthen the foundations of the multilateral trading system and contribute towards ensuring that all countries and economies benefit from trade opening.

This publication presents a summary of the proceedings of the different sessions that took place. Each report has been prepared under the full responsibility of the individual organizer(s) of each panel. The publication is divided into four main parts structured around the sub-themes identified for this year’s Forum, namely: (i) global governance; (ii) coherence between the national and international levels of policy-making and between different multilateral institutions; (iii) economic growth and the role of trade as a vehicle for economic growth; and (iv) sustainable development.

The discussions on global governance in Part I address the challenge presented by interdependence and globalization, and the role the WTO can play to ensure that globalization works to the benefit of all peoples. The discussions in the different sessions focused on: the need and priorities for reform of WTO’s governance to make global trade work for development; the need to harness globalization; the role of innovation and technical change in harnessing globalization and the contribution of the WTO, other institutions and actors; the participation of developing countries in the WTO; the media coverage of the Doha Development Agenda (DDA); the relationship between social standards and international trade; the need to rebalance trade with global norms; ideas, policies and good practices necessary to build a more equitable and sustainable multilateral trading system; how trade, labour and social policies, reinforce and complement each other in attaining the overall objective of sustainable development; and the changes to WTO rules that would most likely complement the development and growth strategies of particular countries.

Coherence between the national and international levels of policy-making and the contribution of the WTO to the construction of a coherent multilateral system is discussed in Part II. The main questions examined are: the role of the dispute settlement system within the WTO and its relationship with other areas of international law and adjudication mechanisms; the challenges that developing countries face from mainstreaming international trade into national development strategies; the implications for the world trading system of the rapid development of preferential trade agreements (PTAs) around the world; benefits and challenges that result from the Single Undertaking; complementary policies and institutions required for export-led growth to impact positively on poverty-reduction; coherent strategies for trade liberalization – bottom-up policies, regional agreements and WTO-system compatibility; and finally, a discussion on the problems that coherence *per se* raises.

Part III addresses trade as a vehicle for economic growth and development. In particular, this section considers the following issues: the contribution of services to development and the role of regulation and trade liberalization in fostering economic development and growth; the benefits and challenges linked to the expansion of trade in agriculture and agri-food and the relationship between increased trade in agriculture and the overall economic agendas of WTO Members; the need for policy space or flexibilities for economic diversification and competitiveness for small and vulnerable economies; the need for enhanced awareness among entrepreneurs of the opportunities of the ongoing multilateral trade negotiations; the DDA's impact on development and growth; the WTO's record in addressing trade-distorting subsidies and proposals for improving its performance; and the contribution of the WTO towards increasing economic growth by providing a new mechanism for the removal of non-trade barriers.

The interaction of trade and economic development, social development, and environmental protection is explored in Part IV, within the sub-theme of sustainable development. The following questions are considered: the need to restore morality to the global market; the effects of trade liberalization on the environment; sustainable development in the areas of natural resources trade and services; how business-NGO partnerships can contribute towards conservation and sustainable livelihoods; the need for an agreement on agriculture that promotes economic growth and sustainable development of rural communities worldwide; the link between trade and climate change; the potential role of the WTO in supporting climate change mitigation efforts; and the link between trade rules and sustainable development.

The speeches delivered during the Opening Plenary of the Public Forum by Pascal Lamy, WTO Director-General; HE Tarja Holonen, President of the Republic of Finland; HE Olubanke King-Akerele, Minister for Foreign Affairs of the Republic of Liberia; and Prof. Kishore Mahbubani, Dean of the Lee Kuan Yew School of Public Policy at the National University of Singapore, are reproduced in Annex I. Annex II presents the programme of the 2007 Public Forum.



I. GLOBAL GOVERNANCE

A. **A Governance Audit of the WTO: Roundtable Discussion on Making Global Trade Work for Development, Organized by the Global Economic Governance (GEG) Programme, Oxford University and the Graduate Institute of International Studies (HEI), Geneva**

Report written by the Global Economic Governance (GEG) Programme, Oxford University and the Graduate Institute of International Studies (HEI), Geneva

Abstract

The World Trade Organization (WTO) faces consistent complaints that it does not do enough to respond to the needs of developing countries and the challenges of environmental sustainability. With the Doha Round still in play, we can only speculate on how close governments will come to achieving the ambitions of the Doha Development Agenda. Meanwhile, questions about the needs and priorities for reform of the governance of the WTO remain. Whereas the recommendations of the Sutherland Report on the Future of the WTO (2005) provoked considerable discussion in the scholarly literature, the issue of appropriate institutional reforms has not yet been taken up in earnest in policymaking circles. When discussions do take place, the emphasis is too often limited to reforms necessary to speed the process for reaching new WTO deals, neglecting broader questions of how to ensure the global trading system advances the ends for which it was established – to improve economic welfare in all countries, reduce poverty and advance sustainable development.

The questions the roundtable addressed were the following:

- *How well does the governance of the WTO system respond to the needs of developing countries and environmental sustainability? How has governance of the WTO system evolved over time?*
- *How can we make the governance of the WTO system work better for development and for environmental sustainability?*

Governance Audit

A governance audit aims to shed light on decision-making processes, posing questions such as: Who sets the agenda and defines priorities? Who participates in decision-making? How transparent is the decision-making process? Who controls the budget? How accountable are decision-makers to those they represent? What processes and mechanisms exist to assess performance against objectives? Who monitors and evaluates decisions and their outcomes? What are the opportunities for complaint and redress? In this research project, we use the concept of a governance audit as a

tool for systematically identifying the possible avenues and mechanisms for improving the responsiveness and accountability of the WTO system to development priorities and sustainability concerns.

Over the past decade, there has been growing attention to the governance of international organizations. A number of scholars have, for example, scrutinized the accountability of the World Bank and IMF to member states and to the mandate, goals and priorities they have set for each agency. In both cases, significant deficiencies in accountability to developing country members were identified. The WTO differs in important respects from the international financial organizations. Whereas the centrepiece of the World Bank is its bureaucracy; the centrepiece of the WTO is the suite of legal agreements between Member States. Yet, compared to its predecessor the GATT, the WTO is also more than a set of agreements. Indeed, the WTO is best understood as a system established to serve a broad set of functions.

At the heart of the WTO system is the WTO Secretariat, a discrete international organization which is an actor in its own right. Alongside the Secretariat and legal agreements, the WTO system is also comprised of the interactions among WTO Member States, who conduct much of the day-to-day business of the WTO, the Appellate Body and a host of international agencies and non-government organizations (NGOs).

Governing the WTO System: An Audit of Functions

The Agreement Establishing the WTO outlines specific functions for the WTO, both formalizing some of those previously served by the GATT Secretariat and also extending beyond them. In practice, the range of functions served by the WTO system as a whole now include:

- 1. Negotiation – serving as a forum for negotiations and consensus building on trade rules;*
- 2. Monitoring – promoting transparency of Members' trade policies and actions with regard to the implementation of WTO obligations;*
- 3. Administration – administering WTO agreements;*
- 4. Dispute settlement – providing a process for WTO Members to mediate and settle disputes;*
- 5. Technical assistance and capacity building – providing trade-related training and financial, technical and legal advice to support developing country participation in the WTO system;*
- 6. Research – publishing information and analysis on emerging trade trends and issues related to the negotiation and implementation of WTO rules;*
- 7. Outreach – disseminating information to the media, industry, governments and civil society to promote understanding of the WTO system and to enable informed discussion about its objectives and activities; and*
- 8. Cooperation – maintaining cooperative relationships with relevant international organizations.*

The WTO system serves these eight functions through the activities and interactions of a variety of actors, including the WTO Secretariat, WTO Members, Appellate Body members, international organizations, bilateral donors, NGOs, industry groups and scholars. Some functions rest primarily in the hands of WTO Members or the Secretariat, while others involve a broader set of actors.

Analysis of the governance of the WTO system thus calls for an approach that combines investigation of: (i) the governance of the WTO Secretariat and its relationship to the WTO membership; (ii) the relationship of the WTO Members to each other in respect of their legal obligations; and (iii) the responsiveness of both the WTO Secretariat and WTO Members to the goals, principles and priorities that inform their legal agreements. Given the focus of our research on development, our research approaches the governance of each of the WTO's functions with a particular question: how effectively does the governance of that function address development needs?

In the existing scholarly literature, the various functions of the WTO system tend to be analysed independently. In practice, however, the functions are closely inter-connected. Of the many WTO functions, the focus of our session was on three of these: negotiation, monitoring, and capacity-building. Other functions of the WTO system will be similarly examined in the coming year. For each function, the three panel presentations targeted issues identified as deserving particular attention. The analysis and findings represent a work in progress; we do not yet claim to advance a comprehensive picture of the governance challenges facing the WTO system or a firm set of conclusions. Each presentation did nonetheless propose priorities for future debates on the reform of WTO governance.¹

1. Presentations by the panellists

The session was moderated by Dr Carolyn Deere, Director, Global Trade Governance Project, Global Economic Governance Programme, Oxford and Matthew Stilwell, Fellow, Graduate Institute of International Studies, Geneva.

(a) Mayur Patel, Global Trade Governance Project, GEG, Oxford

Governing the WTO System: The Negotiation Function

Of all the WTO's functions, its existence as a forum for countries to negotiate the rules and agreements that regulate global trade is arguably the most important. Yet, concerns about the developing country representation in the negotiations have been a long-standing feature of debates about the multilateral trading system. In 1999, the dramatic breakdown of the Seattle Ministerial elevated their marginalisation in key deliberations to one of the

¹ A more complete version of these briefing notes and the associated power-point presentation are available on the WTO website.

central political challenges facing the international trade regime. WTO Members, NGOs and scholars put forward several proposals to reform the transparency and inclusiveness of the WTO. Although this ongoing debate has to date yielded no formal institutional changes, the actual practices of negotiation and consensus-building have evolved considerably over the past decade. The most significant shift has been the rise of developing country coalitions and their inclusion as platforms for joint-representation in the WTO.

Coalition bargaining is not new to the trading system, but what is striking about some of today's groupings is their unprecedented proliferation and institutionalisation. Many coalitions are highly visible, formalised and co-ordinated. This is most notably the case for the G-20, the G-33, the NAMA-11, the Least-developed Countries (LDCs) Group, the African, Caribbean and Pacific (ACP) Group, the African Group, the Small Vulnerable Economies (SVEs), CARICOM and the Cairns Group, all of which meet regularly to establish and defend common positions.

The implications of these shifts on the governance of WTO negotiations are insufficiently understood and warrant further consideration: does the rise of coalitions alleviate concerns about transparency and participation in decision-making activities? Do these adaptations compensate for the lack of formal WTO reform? How sustainable is this form of joint-representation?

Evolving Practice

The WTO's negotiating function involves both formal processes, such as Ministerials (and mini-Ministerials), and Committee and Council meetings, and informal processes, such as "Green Room" discussions, "bilaterals", and small-group retreats and meetings. These informal processes have gradually changed as developing country coalitions have become more organized. Previously, under the GATT, developing countries were largely excluded from the green room and other small-group discussions. Even in the early days of the WTO, the handful of developing countries that were included in key informal deliberations were only invited in their individual capacity, rather than as representatives of wider groupings. More recently, it has become customary for some developing countries to be involved in inner circle consultations in their ex officio capacity as co-ordinators of coalitions.

This shift to explicitly include coalitions in WTO decision-making began with preparations for the Doha Ministerial in 2001, and has since become further institutionalised. At the Ministerial in Hong Kong, the green room process, re-labelled the Chairman's Consultative Group, functioned as a "pseudo-parliamentary" system with different country constituencies represented through their co-ordinators. In this manner, the African Group (represented by Egypt), the ACP/G-90 (Mauritius), the LDCs (Zambia), the G-20 (Brazil) and the G-33 (Indonesia) were all active participants in inner circle deliberations.

WTO Members and the WTO Secretariat have increasingly drawn on coalitions to help manage the complexity of multilateral negotiations. Reaching out to groupings is now a

favoured means of building consensus, bolstering the legitimacy of outcomes and satisfying the desires of all member states to be represented in discussions. These developments demand further consideration, for they have important implications on the governance and accountability of the WTO.

The Implications for WTO Governance

Firstly, coalitions have improved the representation and lobbying capacity of developing countries. The majority of developing country delegations are relatively small and ill-equipped to follow, let alone influence, the negotiations. Coalition bargaining has thus allowed WTO Member to partially offset their individual constraints through cooperation in information gathering, policy analysis and participation in WTO meetings.

Secondly, coalitions have improved developing countries' access to informal negotiating processes in the WTO. To take advantage of having representation in the green room, coalitions now host internal meetings where co-ordinators debrief their members on the discussions that occur within "closed consultations". This dissemination of information has improved the transparency of the negotiations, particularly important given that records of informal meetings are not kept, and hence, unlike official meetings, they cannot be followed without an actual presence in the discussions or an established line of communication.

While some aspects of the WTO's internal transparency have improved, certain challenges still remain. Indeed, since the conclusion of the July Package in 2004 much of the focus of consensus-building has shifted to small group discussions between the G-6 (the EU, US, Japan, Australia, India and Brazil) and the G-4 (the EU, US, India and Brazil), excluding the vast majority of developing countries and their coalitions.

The form of coalition-based representation in the WTO also raises important questions about accountability and the internal dynamics of coalitions. Historically, the divergent interests of members have tended to undermine the coherence of developing country groupings. Even where there is a strong common interest, this may not be enough on its own to secure joint-representation. In a system where one country bargains on behalf of a group, the critical question is whether states are able to regulate the behaviour of their co-ordinator to prevent the possibility of deviation or defection from the group's mandate.

In coalitions where the co-ordinating post is assigned on a rotational basis, members can sanction their leaders by relieving them of their positions. However, in coalitions where the co-ordinating post is fixed, this form of electoral accountability is less readily available. Aside from this, countries may be able to monitor their co-ordinator's behaviour when other members of the same coalition are also present in the green room, either in their individual capacity or as "Friends of the Chair".

In both types of coalitions, the co-ordinating delegation (whether fixed or not) often provides the technical expertise and political authority that many members depend upon.

While sharing resources can be beneficial, this situation also increases the possibility that members may be reluctant to challenge the authority of their co-ordinators. This dilemma raises issues about the trade-offs that states accept within joint-representation arrangements, whereby their “nationally-determined” positions maybe set aside in order to agree to elements of a common platform.

Priorities for Future Debate

Although the specific features of existing WTO coalitions may alter as the negotiations develop, coalitions appear likely to continue as the dominant means of building consensus, while ensuring that all members feel represented.

Coalition-based representation has significant benefits for developing countries and appears in practice to be a more workable adaptation than proposals for the formal restructuring of the WTO negotiating process. The way in which coalitions are included in the consensus-building process allows for flexibility; members remain free to determine the features of their coalition and alliances are able to change in response to shifts in the negotiations. By contrast, attempts to introduce formal country groupings, such as exist in the IMF, run the risk of reducing this responsiveness.

That said, it is important to recall that coalitions represent a response not only to the dynamics of consensus-based decision-making but also to the failings of the WTO’s formal governance system and the enduring capacity constraints of individual developing countries. For the WTO’s negotiation function to work in ways that enable developing countries to advance their interests, a range of organisational and substantive challenges must be debated, including options for unpacking the “single-undertaking” and managing the scope of the trade negotiating agenda.

In the absence of major structural reform of the WTO, the gradual shifts that have occurred in informal decision-making processes must be strengthened. For coalitions to become more effective and sustainable as platforms for joint-representation, the priorities for future debate include:

- Improving the negotiating capacity of coalitions

The lack of expertise and technical capacity within many developing country delegations often hinders the ability of coalitions to lobby for detailed positions in WTO negotiations. Therefore, greater attention needs to be directed towards how to build networks of information, policy analysis and outreach available to groupings. In instances where think-tanks and NGOs have targeted their support at coalitions, such as in TRIPS and Public Health discussions and on the issue of SP and SSM, the formulation of well-researched and coherent negotiating positions has been enhanced. Further gains could be forthcoming from replicating this engagement and using coalitions as a focal point to channel technical support. Efforts could also be made to bolster the capacity of regional secretariats that

service coalitions. However, developing countries will still have to think about how to strengthen the input of their domestic institutions in trade negotiations. Here, coalition processes that build greater policy linkages between Geneva-based delegations and their capitals could be encouraged.

- Strengthening internal coalition processes

The responsibility for co-ordinating coalitions places a large burden on the already limited resources available to developing country delegations. These constraints hinder the internal organisation of coalitions and their ability to be represented in the negotiations. To improve the effectiveness of groupings, additional financial and material resources could be devoted to support the post of co-ordinator through multilateral and regional programmes. Perhaps coalition members could allocate resources to their co-ordinator, either directly or through regional bodies. Such a system would place greater incentives on co-ordinators to be effective in order to secure contributions from their member states.

Additionally, in many groupings the position of co-ordinator has tended to rotate amongst only a handful of members due to the demanding nature of its responsibilities. This has made many coalition members dependent on the material resources and expertise of a few countries. Devoting more resources to the post of co-ordinator would have the benefit of enabling more developing countries to take on leadership positions in their respective groupings, thereby also improving the internal accountability of coalition-based representation. Similarly, there is a need to ensure coalition engagement in the negotiations is not hampered during the period of transition between co-ordinators. Establishing processes that facilitate greater continuity and predictability within groupings would certainly improve the effectiveness of coalitions.

- Supporting joint-representation of coalitions

The time constraints and pressures of multiple negotiations in the WTO that occur simultaneously have tended to undermine the lines of communication between coalition co-ordinators and their constituent members. For there to be meaningful joint-representation in the negotiations, the WTO Secretariat and Chairs of Negotiating Groups could do more to ensure that sufficient time is provided to allow coalitions to harmonise positions, especially during periods of intense deliberations.

(b) Arunabha Ghosh, Global Trade Governance Project, GEG, Oxford

Governing the WTO System: The Monitoring Function

Developing countries often complain about the lack of information and understanding while engaging in trade negotiations and rule implementation. One means of countering these information gaps is the Trade Policy Review Mechanism, which since 1989 has been the trade regime's most institutionalised and multilateral monitoring system. Julius Katz (former Deputy US Trade Representative and considered to be the "father" of the TPRM) argued that the review procedure was not limited to generating information but to improving trade policymaking as well: "Transparency was not a modest objective."

If so, has the TPRM served its intended purpose? As it nears a third decade, the TPRM must respond to new challenges and demands: calls for more analysis and expertise in trade policymaking; the limited participation of the WTO's poorest members in the review process; and the need to better link the reviews with domestic and international processes of policy change. In the context of the Doha Development Agenda in the current Round, the WTO's information system arguably warrants a greater development orientation, focusing on the needs of two-thirds of its membership.

Evolving Practice and Current Dynamics

Surveillance in trade evolved over four decades, shifting from ad hoc procedures to periodic reviews. It started with the GATT review session in 1954-55, then consultations on agriculture in 1959-62 after the Haberler Report was published; to issue-specific monitoring on textiles, BoP restrictions in the 1960s and 1970s; and post-Tokyo Round surveillance of non-tariff barriers. By the mid-1980s, surveillance took on greater periodicity to monitor the standstill and rollback commitments during the Uruguay Round. Finally, the TPRM was established in 1989 to ensure "greater transparency in, and understanding of, the trade policies and practices of contracting parties"; to enable "regular collective appreciation and evaluation" of policies; and to promote "improved adherence" with rules and commitments. The scope, frequency, reporting and reviewing responsibilities were all institutionalized in the trade regime.

Trade policy reviews are now a regular feature of the WTO. The growing activity of the TPRM has been accompanied by steady growth in the budget and staffing of the Secretariat's Trade Policies Review Division. Almost all countries have undergone a review at least once, with more than 230 reviews having been conducted. Moreover, less developed countries have received technical assistance since 2000 to conduct their own reviews: to date, 26 of the 32 LDC members have been reviewed. Another innovation has been the increasing use of regional reviews (so far, there have been four). There have also been procedural improvements in the TPRM aimed at more efficiency in the process.

Governance Challenges

Set against these positive developments, there is a need to evaluate the TPRM in light of the challenges that an increasingly complex trade regime gives rise to.

The Product

Reviews have become more frequent to cope with the growing membership of the WTO. Improved staff efficiency, better communication links with capitals, and the use of regional reviews have contributed to the rising frequency. But the TPRM has never been able to match the number necessary to maintain the cycle of reviews. For a majority of the WTO's membership reviews occur once in six years. If even this frequency is not maintained then the purpose of improving transparency in trade policy will be undermined.

Another implication is that, with resources and staff within the TPRD constantly stretched, the depth of analysis in the reports will tend to suffer. Every single member country's representative interviewed has called for more analytical research. Yet, members also remain wary about strengthening the mandate of the Secretariat to conduct more probing reviews. Although the Secretariat has editorial control, much of the information is supplied by governments; there is limited reliance on non-official data sources. If governments do not supply timely and up-to-date information, the product suffers.

The Process

The Trade Policy Review Body comprises all WTO Member states, giving developing countries equal rights and opportunities to review the policies of rich member states. Among other international economic institutions, this is a very different setup, compared to say the weighted voting systems in the IMF and the World Bank, which limit the voice of poor countries, or the OECD reviews in which developing countries cannot participate. Yet, the participation of a majority of the WTO's members is almost negligible. The top four trading powers almost always participate in review meetings. But even among the next sixteen, only a minority has participated in more than half of the meetings. Worse still, an average LDC has participated in three meetings; and there have been only four discussants from LDCs. The likelihood that an LDC will ask questions or raise a point is just 2 per cent.

There are a few possible reasons for these trends: review meetings clashing with other meetings; lack of permanent representation in Geneva; or LDCs's interest in maintaining preferences; and lack of technical expertise to identify one's own trade interests.

The Outcomes

The final challenge, by no means the least, is the outcome of the reviews. The TPRM was explicitly mandated not to function as a legal enforcement mechanism. Changes in policy, it was believed, would be the result of peer pressure. But peer pressure, by definition, works

best when either regime members are at similar levels of development or as a means for more powerful countries to pressure weaker ones. The TPRM, however, has no systematic procedure for following up after reviews have been completed. At the domestic level, there have been cases where the reviews have resulted in improved coordination among government agencies. But often there is no further review or discussion of policy changes that might be needed. Furthermore, governments have the prerogative to choose which NGOs and business associations to consult with during the preparation of the reports. If the consultations are limited in scope, there would be little external pressure for policy change once the reviews are completed.

At the international level, potentially countries can use information from TPRs for negotiations. In practice, they seldom rely on the reports for the kind of sophisticated analysis necessary to take informed positions in trade talks. So, even as the richest traders subject other countries to close scrutiny during review meetings (a form of peer pressure), developing countries have few avenues available in the opposite direction to demand any policy correction.

Implications for Developing Countries

Why does effective monitoring matter? In an organisation with more than 150 members, no country can adequately monitor the policy changes in each and every member state. But for developing countries, owing to their limited resources and technical capacity, these informational problems are magnified. The poorer a country is the greater are the marginal benefits of an effective multilateral surveillance system.

A related concern is that asymmetries in access to information and analysis might be widening not only between developing and developed countries, but between large and small developing countries as well. Information in the trade regime is gathered via various systems: self reporting (e.g. notifications); other reporting (research by countries on other members' policies); reporting by non-state actors (e.g. the role of international NGOs in the TRIPS and public health debates); and institutional reporting (primarily, the TPRM). But while Brazil, China and India build up their internal research capacities, for the poorest countries institutional reporting is the most reliable means of gaining information about and understanding of the trade policies of richer members.

A third implication is the potential use of information. Many negotiating coalitions continue to be constrained by limited technical expertise. An ideal surveillance system not only disseminates information and promotes compliance, but also engages in "regime evaluation". In this sense, the purpose of surveillance would extend to evaluating the welfare impact of trade rules. Such objective analysis would be useful as research and policy inputs in the negotiating positions that new coalitions adopt. After the bitter experience of not understanding the implications of new rules negotiated during the Uruguay Round, more informed negotiations during current and future trade rounds would strengthen the WTO's legitimacy.

Priorities for Future Debates

In light of the above discussion, there are four key priorities that future research and policy debate must centre on.

- Improving the content of reports

The calls for more analytical research have implications for the mandate and the resources available to the Secretariat: the ability to use non-official sources of information and greater editorial independence. On the Secretariat side, there is a need for a new kind of coordinating mechanism to drawing on staff with regional and sector-specific expertise from across WTO divisions. Additionally, some delegations stress the need to understand the implications of relatively new members (China, Saudi Arabia) or those expected to join in the future (Russia), whose policies have significant implications for the trade system. Perhaps, assigning desk officers for major trading powers would be a step in that direction.

- Strengthening the review process

At the domestic level, member states have to think about drawing in business groups and NGOs in national policy forums on trade policy. The review meetings in Geneva can benefit from procedural changes: external discussants to provide more neutral yet critical comments; ensuring review meetings do not clash with other meetings; and making high-level representation in meetings mandatory. The design of technical assistance might have to change to include a wider understanding of rules and flexibilities, so that representatives understand the implications of rich countries' policies for their own interests.

- Ensuring adequate follow up to reviews

Member states could use national trade policy forums to develop procedures that link TPRs more closely with the policymaking process. Interim national-level policy dialogues between two reviews can help in taking stock of changes and improvements in policies. The WTO, in turn, will have to think about: increasing the dissemination and visibility of the reports; and establishing more structured links with the Integrated Framework and technical assistance needs more generally. In negotiations, the coordinators of coalitions should establish processes to ensure that information from reviews feeds into a structured process of demanding policy change.

- Rethinking the aims and objectives of the TPRM

Many of the aforementioned proposals cannot be implemented within the current level of resources or mandate for the TPRM. The existing structure of reports and review meetings cannot generate the information that the regime needs for negotiations, implementation and enforcement. An expanded mandate would allow for the TPRM to work better for

developing countries by incorporating more analytical research on rich countries' policies as well as assessments of the development outcomes of the trade regime.

- (c) Dr Carolyn Deere, Director, Global Trade Governance Project, Global Economic Governance Programme (GEG), Oxford

Governing the WTO System: The Capacity-building Function

There is broad political consensus that developing countries should be assisted to maximize the potential gains of their participation in the WTO system. The rationale for trade-related technical assistance and capacity building (TACB) is to empower developing countries to engage more effectively in the multilateral trading system so that they reap a fair share of its potential economic and social rewards. In this respect, the demand from developing countries for trade-related capacity building and technical assistance focuses on four core priorities: building supply-side capacity to benefit from new international trade opportunities; supporting the institutional and physical infrastructure and human resources needed to implement WTO agreements; development-oriented legal and policy assistance to revise laws to meet WTO obligations; and supporting strengthened participation in WTO negotiations and decision-making processes.

Critically, TACB in the WTO system has a deeply political and legal context. Many of the obligations developing countries have under WTO Agreements are predicated on the commitment by developed countries to provide TACB. Further, as the outcomes of complex negotiations, the legitimacy of some WTO rules remains deeply contested as does the possible scope for the interpretation of their many ambiguities, loopholes and flexibilities. In this context, empowerment demands far more than enabling developing countries to simply comply with a given set of rules, but rather to ensure that the manner in which they comply advances their development objectives, taking advantage where relevant of the policy space that trade rules provide.

The WTO and Trade-related TACB

The WTO Secretariat is a central player with respect to the capacity-building function of the WTO system. Within the WTO Secretariat, TACB is coordinated by the Institute for Training and Technical Cooperation (ITTC), based on annual technical assistance and training plans (TA Plans), and overseen by the Committee on Trade and Development. The WTO Secretariat's budget for TACB has increased significantly, particularly since 2001. In 2007, the total cost of the TA plans was budgeted at Sfr30 million annually, of which Sfr24 million is covered by the voluntary contributions channelled by governments through the Doha Development Global Trust Fund (established in 2002) with the remaining Sfr6 million covered by the WTO's regular budget. The WTO's TACB focuses exclusively on technical assistance for trade policy and regulation, with a particular focus on trade education and training (which accounted for approximately 30% of its budget from 2002-2007).

While the WTO's TACB budget has grown over the past decade, it is just one of many actors involved in serving the capacity-building function of the WTO and its proportion of total trade-related TACB is small. The WTO does, however, have two further important TACB-related roles. First, it is a key participant in several joint multilateral initiatives, namely the Integrated Framework, the Joint Integrated Trade Assistance Programme (JITAP), the International Trade Centre and the OECD/WTO database on TACB. Second, the WTO Secretariat plays a lead role in advocating and catalyzing donor action on TACB. The WTO Secretariat and Director-General have been serving as the core champions for the Aid for Trade Initiative. In September 2007, the WTO Director-General led a pledging conference for the Enhanced Integrated Framework. The WTO Secretariat also serves as the information clearing-house for data on trade related assistance to the Cotton Sector in West and Central Africa. More recently, it has responsibility for gathering and making available information on the new Trade Facilitation Needs Assessment.

Beyond the multilateral donors already mentioned, the range of donors and providers providing trade-related TACB also includes regional organizations and development banks, other UN specialized and voluntary agencies, a range of bilateral government agencies and the non-government sector, including non-government organizations (NGOs), private consulting companies, academic centres, research institutions and industry groups.

Since 1995, both the scale and scope of trade-related TACB have expanded significantly, spurred in large part by the commitments made in 2001 to a Doha Development Agenda. For most of the past decade, discussion of trade-related TACB has concentrated on two core areas:

- Trade policy and regulation, including training trade officials, helping governments implement trade agreements, complying with rules and standards, and building negotiation capacity.
- Trade development, which includes providing support services for business, promoting financial and investment, trade promotion and conducting market analysis.

From 2001-2007, the total estimated amount spent on these two categories –trade policy and regulation, and trade development –was US\$13 billion. In addition, donors have made significant investments in the infrastructure necessary for trade such as transport, roads, ports, storage, communications and energy. The launch of the Aid for Trade Initiative has placed more emphasis on trade-related infrastructure development and added commitments to activities aimed at building productive supply-side capacity and supporting trade-related adjustment.

Existing and Ongoing Reforms

The core problems facing the majority of trade-related TACB are that it is too donor-driven and lacks local ownership. Over the past decade, an array of evaluations by donors

and independent experts has highlighted serious shortcomings in the design, quality and delivery of trade-related TACB that stem from this fact. The key challenges commonly referred to in the literature include: inadequate assessment and articulation of the needs of recipient countries; inadequate scale, predictability and continuity of funding; biased content of assistance and advice; inadequate evaluation and donor coordination; poor quality design and execution of assistance; ineffective TACB; too little local ownership; weak support for local capacity and excessive use of local consultants; and weak linkages to the broader development strategies of recipient countries.

The concerns have spurred numerous efforts by donors and recipients to better align TACB priorities with the trade and development needs of developing countries. This has included attempts to improve effective participation by developing countries in the planning and implementation of TACB at the global, regional and national level. To promote more demand-driven TACB, donors have committed themselves to stronger adherence to the principles of aid effectiveness embodied in the Paris Declaration; stronger linkages to development and poverty-reduction strategies; increased predictability; improved donor coordination; more evaluation; improved needs-assessments; and a greater focus on regional approaches.

There have also been specific reforms to the core multilateral TACB initiatives. The WTO Secretariat has adopted several measures to improve the quality of its TACB. The JITAP has also been reformed twice to respond better to the needs of developing countries in Africa. In addition, the limited success of the Integrated Framework has prompted governments, after several years of discussion, to take up recommendations for an Enhanced Integrated Framework (EIF) which is scheduled for launch in late 2007. The EIF envisages a more effective partnership between national stakeholders in developing countries, donors and IF agencies and the establishment of national implementation arrangements, which will support a national Focal Point.

Outstanding Governance Challenges

Despite efforts to improve the management and demand-driven nature of TACB, several important governance challenges remain: (1) donor control over resources and (2) weak national ownership.

2. Donor Control Over Resources

Gap between TACB needs and commitments

While there has been a large overall increases in TACB funding since 2002, TACB resources still fall short of that which developing countries need in order to harness the potential benefits of their participation in the WTO system. Since the launch of the Aid for Trade Initiative, several developed countries have pledged to increase trade-related development assistance. In 2006, the G-8 set a goal of US\$4 billion by 2010 but without any precision about the scope of activities included in that figure and how much this amount would reflect additional, new support to countries. The extent to which this and subsequent pledges by individual countries will actually represent increased spending on TACB is uncertain as is the prospect that governments will meet these targets. In particular, questions have arisen as to whether assistance for “trade-related” infrastructure will represent new resources or simply the relabelling of existing development assistance in that area. A further concern is that new support for trade-related development assistance ought not divert resources from other important development priorities.

Uneven donor commitment to multilateral TACB initiatives

Developed countries vary widely in the proportion of support they devote to multilateral TACB initiatives. Post-Doha, many countries boosted their participation in multilateral initiatives and programmes. By far the largest supporters of multilateral TACB are Switzerland, Sweden, Norway, the Netherlands and the UK. The United States and Japan, on the other hand, trail far behind. While the various multilateral initiatives devote considerable resources to conducting TACB needs-assessments and devising national TACB strategies, the proportion of TACB activities which donors themselves consider to be related to these multilateral priority-setting processes is disappointingly low. According to the OECD/WTO TACB database, activities that donors reported to the database as related to the Integrated Framework in 2005 totalled US\$131.7 million. In the same year, the total amount reported on TACB activities overall was US\$3.16 billion.

Unpredictable and inconsistent donor support

Funding for TACB is firmly under the control of donors and subject to the vagaries of their budget processes and changing trade and foreign policy priorities. Donor support for trade-related TACB fluctuates significantly from year to year. In some instances, steep fluctuations may indicate the provision in a single year of large funding for multi-year activities. Yet, a detailed review of summaries of the particular donor activities in countries reveals that most countries receive a great number of small one-off, short-duration projects without a multi-year framework. The lack of consistent and predictable funding limits the ability of recipient countries to advance systematic approaches to planning improved trade capacity.

Donor-driven priorities

While most donors state that developing countries should lead the design, orientation, focus and implementation of TACB, the reality is that most donors still allocate resources according to their own national priorities. As noted above, most governments still prefer to channel the bulk of their TACB through bilateral channels where they have the greatest possibility to align TACB with their own priorities. Even where funds are allocated to support multilateral initiatives such as the IF, donors still sometimes pursue an *à la carte* approach, choosing from a menu of needs to earmark support for those projects best aligned with their own priorities.

Given the contest over how developing countries implement their WTO obligations, it is not surprising that there are a vast range of donors that provide TACB with the hope of influencing the interpretation and implementation of WTO rules. Bilateral agencies frequently hire private consulting companies and industry organizations to deliver TACB that advances their interests in recipient countries. Many of these actors also independently provide advice using their own resources. In some cases, particularly in the case of the TRIPS Agreement, NGOs and scholars are also active providers of assistance. Amidst such competition among donors, particularly where the interpretation of WTO rules is contested, how does one define what constitutes “neutral” advice? While arguably more neutral than TACB from bilateral sources, critics rightly point out that purportedly “neutral” advice too often advances a simple compliance-oriented perspective on WTO Agreements. A further criticism is that “neutral” advice may fail to empower countries to approach the implementation of WTO commitments in ways that support their development objectives. In the case of the TRIPS Agreement, for example, studies have found that both the WTO and WIPO have failed to provide developing countries comprehensive advice about the range of flexibilities and options available to them in the TRIPS Agreement to tailor implementation to advance their development, and in particular, public health needs.

3. Weak National Ownership

Weak support for local capacity

Donors too often favour short-term, one-off or stand-alone TACB over long-term investments in durable trade policy processes and local institutions in developing countries. In addition, donors continue to use their own consultants, project managers and private sector to conduct needs assessments and implement TACB rather than to investment in developing country consultants, legal teams, NGOs, universities or think-tanks to carry out these tasks. The vast majority of TACB from bilateral and multilateral donors primarily targets government agencies, with too little support to local business organisations, national research institutes, think tanks or NGOs that may play a critical long-term role in assisting the formulation and implementation of national trade policy. The challenges are particularly stark in the case of training where the absorption capacity of governments is limited.

Difficulties managing multiple donors

At the national level, developing countries are faced with the task of managing TACB from the large number of donors that provide TACB. Sometimes governments face the added challenge of competition between various multilateral and bilateral donors. In addition, non-state donors, such as NGOs and industry groups, are also often present and advance their own particular interests with respect to the country's policies and activities.

The Catch 22: too little capacity to set TACB priorities

Developing country governments frequently lack the capacity to discern and articulate their own requirements for capacity building. At the international level, resource constraints mean that developing countries participate only marginally in some of the key multilateral decision-making processes on TACB, such as the Committee on Trade and Development's process for determining the WTO's TA Plans. At the national level, the scope for developing country governments to articulate TACB priorities and take advantage of available TACB is frequently limited by human resource constraints. TACB needs-assessments are thus still too often the work of external consultants dispatched to countries for several weeks with little emphasis on building durable processes of consultation or participation with governments or other stakeholders. While there has been considerable emphasis on linking TACB assessments to PRSPs and other development-planning processes, it is also important to note that these too are also widely-criticized in the development community as donor-dominated processes.

Priorities for Future Debate

For developing countries to extract maximum benefit from the trading system, the focus of TACB must be on empowering developing countries to challenge the existing balance of power in trade decision-making, to act independently with respect to domestic reforms, and to build their power in negotiations. Priorities for future debate include:

- Increasing support for TACB that builds durable processes, institutions, and capabilities within and outside governments

The empowerment of developing countries in trade demands support for long-term institutional capacity both within developing country governments and in the society at large. Developing country governments need to be able to draw systematically on independent research, advice and expertise from stakeholders within their country. With these goals in mind, TACB should focus greater attention on building domestic policymaking processes which involve coordination among the spectrum of relevant government agencies and consultation with necessary stakeholders in parliaments, the business sector, NGOs, academia and trade unions. To support local ownership and long-term improvements in capacity, a starting point must be to improve the quality of the needs assessments that aim to set the framework for TACB, including the EIF's diagnostic studies. There should

also be a diversification in the number of suppliers and recipients of assistance within developing countries, with priority given to those organizations with the greatest potential to provide independent and responsive advice unencumbered by bureaucratic constraints and donor-driven agendas.

- Strengthening development-oriented TACB

Given the deep divisions on the precise scope of WTO obligations and their development implications, the focus of TACB should be explicitly development-oriented rather than “neutral”. For TACB to serve its purpose of empowerment, the priority must be for technical assistance and training that helps countries identify their specific national interests in respect of WTO rules and negotiations and to evaluate the options for advancing their development objectives. If as argued above, the empowerment of developing countries calls for TACB that is development-oriented, there should be serious consideration given to re-allocating the WTO’s resources for TACB on trade regulation and policy to other actors. Such resources should still be administered multilaterally (not bilaterally) but through an international agency with an explicit development-oriented mandate to provide technical cooperation to developing countries, such as UNCTAD, UNDP or through a new independent agency created for this purpose. Importantly, the WTO Secretariat does still have an important role to play in the realm of TACB. It should continue to provide WTO Members basic information about WTO Agreements. Moreover, a more discrete role in the provision of TACB would make the WTO Secretariat a more credible and compelling advocate for increased and better quality TACB overall, including for greater support to multilateral TACB initiatives. In addition, the WTO could maintain its role of facilitator and administrator of the IF as envisaged by the Enhanced Integrated Framework.

- Improving independent monitoring and evaluation of TACB

The provision of TACB is a critical component of developed country commitments in WTO Agreements. The OECD/WTO Database represents an important step toward greater transparency of donor actions in this respect. Many donors fail, however, to provide full and timely information to the database and information often comes too late for it to be useful in preventing duplication. Increased efforts should be made to ensure that the information gathered in the database is analysed and disseminated in a useful form to delegations in Geneva. The database could, for example, be a useful source of information for an expanded Trade Policy Review process that would also monitor the extent to which developed countries meet their TACB commitments. A further option would be to charge a small independent agency with publishing information on the performance of each donor. Proposals for independent ex-poste and ex-ante peer evaluations of trade-related TACB should also be pursued. Here, the focus should be on the overall contribution of TACB projects to the goal of ensuring that countries put in place trade policies, institutions, and initiatives that advance their development.

4. Questions and comments by the audience

Negotiating Function

The panel discussion on the negotiating function of the WTO focused on the growth of coalitions in the trading system, their impact on developing country participation and practices of consensus-building, and the ongoing challenges faced by coalitions in the negotiations.

All the panellists agreed that over the past ten years developing country coalitions have proliferated – a phenomenon that has important implications for the trading system. In explaining the rise of coalition bargaining, Deputy Director-General Alejandro Jara suggested the increasing scope and binding nature of WTO trade regulation (as compared to the GATT), and the move towards greater economic liberalization meant that the multilateral trading system became far more important for developing countries. As the need to engage with the negotiations became more pressing, coalitions emerged as an effective way for developing countries to improve their bargaining capacity. Of the existing WTO coalitions, Ricardo Melendez-Ortiz noted that there are now over thirty-five in agriculture negotiations, eight in NAMA, twenty-five in services and thirteen that cut across issue-areas.

The benefits of coalition bargaining and its impact on participation in the WTO were discussed. Ambassador Valles argued that coalitions have played an important agenda-setting role, by ensuring issues of interest to developing countries are placed on the negotiating table. Ambassador Maruping emphasised that forming coalitions was imperative for least-developed countries due to their limited human resources, lack of technical expertise, and the insufficient support their delegations receive from national capitals. Pooling resources around a common agenda has given members of the LDC Group a “louder voice” in the WTO; for weak countries “there is some strength in numbers”.

Additionally, the panellists noted that coalitions have improved developing countries’ access to information in the trading system in two ways: by strengthening the research and analytical capacity of developing countries to develop proposals, and by enhancing the transparency of consultative processes within the WTO. Ambassador Maruping pointed out that since the collapse of the G-4 talks (between the EU, US, India and Brazil) in June 2007, the chairs of WTO negotiating committees have again sought to include the co-ordinators of developing country coalitions in small-group “Room E” discussions to build consensus in the multilateral process.

The ongoing challenges of coalition bargaining were also examined. Ambassador Valles argued that the negotiations have not matured to a level whereby coalitions act as secure platforms for “joint-representation”. As the Doha Round moves towards its conclusion and negotiating “trade-offs” intensify, panellists suggested countries would increasingly assert their own individual national interests, making it difficult for coalitions to maintain unity. Sheila Page raised questions about the role a few large developing countries will

play during this endgame given their growing participation in small informal groups, such as the G-4 and G-6.

Monitoring

The discussion on the Trade Policy Review Mechanism and monitoring in general focused on three key questions: what should the reviews be looking into in terms of trade policy and its impact; how should the reviews be conducted; and what should be done by way of following up on the reviews?

On the first, one panellist noted that the Trade Policies Review Division did not have a sufficient number of researchers to undertake in depth analysis of members' policies. It was further pointed out that asymmetries in information resulted also from gaps in the notification process. Without regular updates on the changes in members' policies, not only would information gaps persist but members would also not be able to defend their rights.

Another panellist argued that the TPRM should have a wider scope to probe the policies of developed countries more closely. This could be done, for one, by evaluating whether developed countries were fulfilling their responsibilities towards the poorest countries in the trade regime. Such evaluations would also look into the contribution of rich countries in negotiating fairer trade rules. In this context, another participant demanded that the performance of developed countries in technical assistance activities should be under scrutiny: whether they were delivering promised sums in a predictable and coordinated fashion and whether they were continuing to drive the capacity building agenda.

A further perspective on the content of the reviews drew on the question of the purpose of the WTO and the values it espoused. A panellist argued that the WTO should not only protect countries from each other, but should also protect countries from themselves. In other words, a normative approach to assessing trade policies need not focus merely on trade rules but the wider impact on sustainable development.

The discussion on the review process highlighted the need for improvements at both the country and the WTO levels. One participant suggested that there was a need to end the practice of having "negotiated reviews". Instead, he advocated a more participatory process that includes a wider set of stakeholders. Echoing this sentiment, another panellist emphasized that parliaments have a critical role in trade policymaking and should be more involved in influencing trade policies and also in monitoring their implementation and impacts.

The review meetings were criticized with one panellist pointing out that “ambassadors are sometimes too nice to each other.” He also pointed out that it was difficult for country representatives to digest all the information contained in the reports. Consequently, there was a need to encourage developing countries to ask more questions to clarify members’ policies. The suggestion for maintaining a roster of independent experts who would serve as discussants was also mooted. Finally, participants expressed that review meetings should be open and inclusive, with one suggesting that they could even be webcast.

As regards the last question – the outcome of the reviews – participants first acknowledged that the TPRs indeed had value in helping countries understand their policies, explain them to others and resist protectionist pressures at home. One panellist suggested increasing peer pressure among countries, giving the example of proposals to adopt a mandatory rule to notify during fisheries’ negotiations, with an underlying presumption that a country had breached trade rules if it failed to notify. Another said that the reviews could serve a constructive purpose by identifying best practices in various countries that could help members develop appropriate trade legislation. Finally, there was a need to find ways of linking the issues raised in the TPRs to the negotiation process.

Capacity-Building

The discussion of capacity-building touched on several themes. Faizel Ismail noted that the WTO Committee on Trade and Development’s first independent review of WTO capacity-building emphasized that the WTO Secretariat is good at providing TACB in some areas (such as information about trade agreements) but not in others (such as empowering developing countries to negotiate). He noted that information is a vital input for building analytical capacity and negotiating capacity but needs to be organized in a coherent way with others to ensure these goals are met. Faizel Ismail noted that the quantity of TACB is important, but equally important are who has control over the prioritization of the capacity building and how it is delivered. He highlighted that to ensure capacity-building is not another tool for the propaganda of some actors but properly responds to the needs of countries, TACB should be provided in a transparent way through a multilateral process.

Ambassador Maruping emphasized the importance of capacity-building for the poorest countries in the WTO system. He highlighted that in addition to the small number of representatives from developing countries, the quality of representatives and their ability to support ambassadors is also critical. He highlighted that many of the smaller delegations suffered from weak relationships with capitals and thus little back-up support for the broad scope of negotiating topics, particularly compared to developed country delegations which may have a group of people who specialize on each agenda item.

Alejandro Jara, speaking in his personal capacity, shared his view that the best way to train developing country negotiators was to engage them in negotiations. For countries with resource constraints, he argued that WTO Members should pay for them to have representation here in Geneva, for training and for building connections with capitals.

Ricardo Meléndez-Ortiz emphasized the need for TACB to support processes that developing countries have at home to identify interests, articulate needs and then to participate in negotiations. The emphasis should be on enabling participants outside governments, including business, academia, research centres and NGOs, to serve as durable source of trade policy advice to government. A specific, related goal should be to channel increased resources directly to independent researchers within such organizations to conduct trade-related research. He highlighted the importance of training trainers in countries and in academic researchers. In the WTO, he highlighted the move toward more TACB for adjustments needs as very important and supported moves to establish a multilateral monitoring system in the WTO that systematically reviews the relationship between the provision of the assistance and objectives. More generally, he noted that the capacity building discussion should be framed by broader discussions about the capabilities countries need to function in global markets and in the system. He emphasises that in the post-Doha setting, the challenges of addressing the needs of uneven partners would remain and may require different configurations of decision-making, including how negotiations and agenda-setting take place and the application of rules.

Harlem Désir reiterated the importance of considering parliaments as targets for capacity building to enhance their engagement in trade policymaking at the national and international level. He drew attention to the different practices of countries in this respect, and the efforts by the Inter-Parliamentary Union to build capacity across parliaments on trade capacity issues. He argued that the WTO had a role to play in disseminating information on some of the best practices that countries have regarding parliamentary engagement in their trade policymaking processes, and to set out some of the minimum practices for consideration. He argued for example that governments should be encouraged to report to parliaments and consult with them at regular intervals throughout the negotiations. He also argued that on issues such as public health, education, public services, and culture, parliamentarians can help promote greater coherence between policies at the national level and between international obligations. He highlighted proposals for the creation of a Parliamentary Assembly that has a recognized status at the WTO, noting that such a mechanism could help unblock some of the most difficult tensions in the trade negotiations by promoting dialogue and debate.

The capacity building discussion elicited several questions and comments from the floor. Sheila Page drew attention to efforts to improve the monitoring of aid, including proposals by OECD to change their WTO/OECD database and to develop a new monitoring system for donors and recipients at the WTO. She highlighted the problem of agenda-setting by donors and NGOs and called for deeper consideration of how you increase the support for countries without imposing on them. A participant from Niger highlighted the fundamental challenges facing non-Anglophone representatives of governments, parliaments, industry and civil society in the WTO context. He noted that the vast majority of documentation on international trade policy, including analysis by academics and NGOs, reinforces the capacity of those with English as their primary language to the detriment of others. More broadly on governance issues, he argued that the WTO among others players in the international

system fails to address fundamental political challenges such as insecurity, violence, conflict and drug trafficking in many developing countries. Participants also inquired as to the position of the WTO Secretariat on the idea of a Parliamentary Assembly and whether there had been systematic reviews of TACB from the perspective of LDCs.

5. Conclusions and way forward

The session delivered a rich discussion of several aspects of WTO governance and possible reforms. Several broad conclusions can be noted. First, the negotiating function of the WTO is moving towards a system very different from the one imagined during the Uruguay Round. As coalitions grow in number and influence, Faizel Ismail argued that research on these dynamics is valuable to ensuring greater developing country participation in the negotiations. All discussants encouraged scholars and practitioners to focus greater attention on how to strengthen coalitions, what kinds of groups have been effective, and how targeted technical assistance and capacity building could further support coalitions of weak states. Second, on the topic of the trade policy review, the session highlighted a range of challenges associated with the product, process and outcomes in the WTO's information system and set out a series of suggestions aimed at strengthening the mechanism for the benefit of poor countries and promoting sustainable development. Third, improvements in TACB will rely on developing country leadership to push for more effective TACB and national efforts to better articulate TACB needs and extract value from available TACB resources. Long-term governance priorities include greater attention to de-linking TACB resources from donor priorities and political pressures, promoting development-oriented advice, increasing the quantity and quality of TACB, and putting developing countries more firmly in the drivers' seat.

B. Harnessing Globalization: Unpacking the Concept, Organized by the National Centre of Competence in Research (NCCR) International Trade

Report written by Dr Manfred Elsig, World Trade Institute, Berne & Graduate Institute of International Studies, Geneva

Abstract

The principal goal of the session was to examine the role of ideas and guiding principles in regulating the world economy. There had always been “buzzwords” competing to describe key policies of the Bretton Woods Institutions (e.g. Washington Consensus, Embedded Liberalism). Yet, concepts are not solely used as a descriptive device, but also give guidance and serve as a justification for unfolding policies. This session strived to unpack the concept of Harnessing Globalization and to improve our understanding of how concepts, such as harnessing globalization, are utilized in debates and negotiations by various actors and diffuse within the system.

The session was guided by the following questions: What is the role of ideas in international politics? Who invented the concept of harnessing globalization, is it a European construct? How is the concept “harnessing globalization” understood? Is the concept limited to the WTO; how do other international economic institutions, e.g. World Bank/IMF/UNCTAD, etc “deal” with it? Is convergence or divergence in its use visible? How do developing countries interpret the concept, how is it different from notions, such as “policy space”? How do these concepts influence thinking about reforming the system generally?

The panellists tackled the above questions from various angles and developed particular viewpoints that set the stage for an engaged and interesting discussion.

1. Presentations by the panellists

- (a) Professor Sophie Meunier, Princeton University, USA

Managing Globalization? The European Union in International Trade Negotiations

Globalization scares many Europeans. The question that arose in Europe at the end of the 1990s was: Can anything be done to contain this threat and are there any specific policy actions that can “manage” globalization? Individually, national governments in Europe were not strong enough to take on globalization by themselves. But the feeling was widely shared that the European Union (EU) could be heard when it comes to shaping globalization – especially since economic liberalization has been such a fundamental part of the experience of European integration. After all, Europe has created and then managed the world’s most impressive variant of regionalism.

The term “managed globalization” penetrated the European discourse for the first time in September 1999, when Pascal Lamy introduced it in his hearings to the European Parliament as the ideological cornerstone of his future tenure as European Trade Commissioner. He rallied states with diverse trade interests around “managed globalization” – a notion vague enough to appeal to everyone, from individual member states to various social actors. In order to transform the doctrine into policy, the EU Commission’s Trade Directorate has developed a panoply of instruments to try to manage globalization through international trade negotiations. Some are about offensive management – making sure that globalization happens on European terms, with other countries conforming to Europe’s ways and standards. Other instruments help with defensive management – ensuring that the external challenges and pressures brought about by globalization have as little negative, disruptive effect on European citizens as possible.

Five instruments in particular have contributed to this European strategy of managing globalization through trade.

1. Building a set of constraining trade rules
2. Promoting multilateralism
3. Widening the definition of trade issues subject to rule-making
4. Exporting the EU model
5. Redistributing the benefits and the costs of globalization

The objective of managing globalization is a long-term objective. Even if the EU were to succeed in implementing all of its strategies, the payoffs would be delayed in the future. This is in contrast to more traditional trade policy objectives, such as the reduction of tariff barriers or export subsidies, which have an almost immediate effect. A central issue for European trade policy is that these long-term objectives are often in contradiction with the short-term objectives, when not simply undermining them.

These contradictions are multiple. With respect to the empowerment of the WTO, the doctrine of “managed globalization” stated that clear rules of the game must be established and the players must be constrained in a heavily regulated organization. But in fact, a central paradox is that the same global institutions the EU often seeks to strengthen have accelerated globalization as they manage it, and therefore have become the target of attacks and have lost political legitimacy.

A related contradiction concerns the EU support for expansion of WTO membership. As this membership expanded, the influence of the EU in the WTO negotiations diminished and more countries are now involved in playing a crucial role in WTO negotiations, often to the detriment of the EU position.

The EU support for multilateral negotiations and its quasi moratorium on other forms of trade agreements has proven costly and contradictory as well. The exclusive focus on multilateralism has left the EU with no other outside option, precisely at the time when the US and many countries in Asia started negotiating a flurry of bilateral deals.

Moreover, the multiplication of special regimes and specific institutional arrangements with some groups of countries is introducing confusion and conflicts between the various institutional commitments of the EU. Eventually, it could lead to formal conflicts of rules, with political consequences. How will these conflicts be solved, since there is no hierarchy in the international system? In the long run, these conflicts could weaken European efforts to manage globalization because they dilute the true worth of rules: if a decision is never final because it can be contested in another jurisdiction, then rules no longer have the same power.

Finally, it is not clear that the EU's efforts to devise special trade regimes in favour of the developing countries have paid off in terms of bargaining power in multilateral trade negotiations. From a rational perspective, one could understand the strategy of redistributing the benefits of globalization to the poorest countries as a way of creating allies in a multilateral system. But many times during the course of the Doha Round, the EU found itself accused and isolated.

In the face of the costs and contradictions involved in using international trade negotiations for the long-term goal of managing globalization, the Commission went through an overhaul of its trade policy doctrine in the fall of 2006 that culminated in the adoption of the "Global Europe" strategy. Instead of the loftier, but more remote goal of managing globalization, the immediate and primary goal of EU trade policy is now to create markets abroad for European companies. But even if the agenda of managed globalization no longer exists in rhetoric in the EU, it lives on, now in the WTO.

(b) Dr Heribert Dieter, German Institute for International and Security Affairs, Berlin and Member of the Warwick Commission

Harnessing Globalization and Diverging Views in Asia and America

When discussing the harnessing of globalization, the first issue to be considered is the scope of the endeavour. Harnessing globalization is aimed at addressing the unwanted effects of globalization whilst maintaining the positive effects, i.e. the economic dynamic that has contributed to improved living conditions for many people, in particular in Asian developing countries.

Of course, the next issue is to identify those effects of globalization that are unwanted. One should first of all ask whether trade liberalization as such is a negative development. Whilst some observers have been making such statements in the past, and amongst them Non-Governmental Organisations trying to support the poor, it is becoming increasingly evident that international trade can contribute to improving the living conditions of millions of people in developing countries. Whilst trade liberalization as such is not sufficient to warrant development, it is clear that a large number of countries have used the advantages of globalization to develop, but these countries have created an internal framework for

development. In particular, domestic governance issues are central to the ability of an economy to use the potential of international trade. Here, we can identify substantial divergence between the successful countries in Asia and the less successful ones in Africa.

In essence, countries that have benefited from a deeper division of labour have used globalization and have developed national measures to harness globalization. Looking at South Korea, China and Vietnam, some striking similarities are obvious. All three are successful in globalization and have managed to use it for their national development. South Korea, for example, before 1945 was a colony of Japan and was badly exploited. After World War II, per capita GDP was lower than in many African economies at the same time. Today, South Korea is the 12th largest economy and generates a per capita GDP of about 18,300 dollars (figures for 2006). Of course, South Korea did not blindly open up its economy. But the country did use trade to develop.

Another success story is China, which today is the world's factory. Soon, China will probably surpass Germany as the world's largest exporter. Of course, the country is facing major problems, for example the disastrous environmental situation. But China has managed to lift 400 million people out of absolute poverty, which of course is no small achievement. Without China's integration into the global economy it is difficult to envisage such an accomplishment. China, like South Korea, has not blindly opened its economy, however. First and foremost, China has continued to implement comprehensive restrictions on capital flows. How money cannot destabilise the Chinese economy and the savings of Chinese citizens cannot leave the country easily.

Most remarkable is the rise of Vietnam. When US forces left the country in 1975, they left a devastated country behind. The country suffered from a traumatic war, and a lot of people had either been killed or had fled the country. From about 1985, the country has shown a respectable revival. Trade, once again, has been an engine. Exports grew from about 500 million dollars in 1985 to 30,400 million in 2004. But trade has not grown for its own sake: In 1993, 61 per cent of the population lived below the poverty line, and today this figure has shrunk to 20 per cent. Vietnam – although with a per capita GDP of 620 dollar per year still a developing country – has very low infant mortality and a life expectancy of 70 years. All that was achieved without piling up significant foreign debt.

The three countries briefly looked at demonstrate that trade liberalization is not necessarily negative for developing countries. Of course, all three do show a range of economic, environmental and social problems. For example, China's record on income distribution is not very good at all. But all three have developed national measures for the harnessing of globalization.

At the same time, the mood appears to be changing in many OECD-countries. In the past, OECD economies were opening up and the negative consequences of trade liberalization were addressed with social policies. Liberalism was – to use John Ruggie’s term – embedded. But today, the weakening of the welfare state combined with greater competition from poorer countries weakens political support for globalization in OECD-countries.

According to a Gallup Poll, in 2006 only 26 per cent of Americans thought that globalization was a good thing for America. In Europe, the figure was 28 per cent. But in the Asia-Pacific, 51 per cent responded that globalization is good for their country, and a staggering 71 per cent of Africans saw their own country benefiting. The question arises why this happens. Why are Americans and Europeans more and more afraid of a trend that they help to shape after 1945?

As in Asia, domestic policies provide the answer. Since 2000, a whopping 96.6 per cent of Americans have experienced stagnation or falling real wages. Only 3.4 per cent saw their wages rise. Some observers blame globalization for this, but the main culprit sits in the White House. George W. Bush’s tax policies have resulted in lower taxes for the very rich, and this has been at the expense of (in any case weak) social spending. Put in perspective: Between 1960 and 2005, the top marginal tax rate in the USA declined from 91 to 35 per cent. American citizens are more and more exposed to the negative consequences of globalization, but their own government does not provide sufficient protection in the form of social policies. This is not a failure of globalization, but of national policies. In America, globalization has been abused as a scapegoat, whilst policies were implemented that made the rich even richer.

(c) Dr Robert Hamwey, Trade Negotiations and Commercial Diplomacy Branch/UNCTAD

More Policy Space for Better Results

In his presentation, Dr Hamwey contrasted the concept of harnessing globalization with the concept of policy space. He illustrated how domestic “endogenous” constraints and international “exogenous” constraints may significantly restrict a country’s access to national policy space for development.

Access to development enhancing policy options varies considerably among countries due to their own (endogenous) national constraints including inadequate financial, human, institutional and infrastructural resources needed to implement many desirable policies. At the same time, national policy formulation takes place against a rich backdrop of international agreements that have introduced a layer of (exogenous) international constraints on national policy choices. WTO examples include the Agreement on Agriculture which limits members’ national policies options to support agricultural producers and the Agreement on Subsidies and Countervailing Measures which restricts their ability to subsidise industry.

Although, under the application of most WTO provisions, a singular exogenous policy space is applied to all members, developing countries may not have sufficiently extended endogenous policy space to access much of the exogenous space allowed by WTO rules. As a result, their effective national policy space may be considerably smaller than that of developed countries. To level the playing field, the WTO thus includes enabling mechanisms that provide developing countries with enhanced policy space. For instance, Aid for Trade provides developing countries with external assistance to build their endogenous policy space, while S&DT provides them with flexibility needed to expand their exogenous policy space.

Dr Hamwey argued that additional policy space is needed for developing countries to enable them to implement national policies that support the development of domestic industries and greater diversification of their economies. In this context, he echoed the Doha mandate's call for WTO Members to strengthen S&DT provisions².

(d) Professor Cédric Dupont, Graduate Institute of International Studies, Geneva

Harnessing Globalization: Old wine (turned vinegar) in a new bottle?

Professor Dupont discussed the multi-faceted term Harness alluding to the multiple definitions of the verb “harness” (from the Harrap's Short):

1. Channel, control
2. Employ, exploit
3. Render useful, make productive

Clearly, the first use is the meaning that is favoured by those who want to limit globalization. The second meaning is embraced by the staunch believers of free trade and free mobility of capital. And the third meaning is dear to those who support the Aid for Trade initiative, or more generally want to facilitate the implementation of liberalization policies. In sum, thus, it is a term that is likely to please everyone, but unlikely to bring any consensus either in interpretation or in subsequent action.

Now, let us situate the term in context, particular in historical context. One can start with the perspective that we are simply dealing with old wine in a new bottle. The term reflects the classical “tension” between markets and authority, between “laissez-faire” and “dirigisme”. Referring to Karl Polanyi's Great Transformation, the term emerges as a consequence of a second “singular departure” with economic activity (globalization) isolated from its societal bedrock due to the combined effects of the so-called Washington consensus and of the so-called legalization of world politics.

² R. Hamwey, 2005, Expanding national policy space for development: Why the Multilateral Trading System must change, Working Paper No. 25, South Centre, Geneva.

The term reflects (although more implicitly) the problematic ordering of domestic and international levels of authority over economic policy. During the Gold Standard period, the domestic level of authority was subsumed to the international constraints. During the Interwar, international economic considerations were subsumed to national imperatives. Finally, the Bretton Woods architecture reflects the compromise of “embedded liberalism”, international economic multilateralism predicated upon domestic interventionism.

But there is also some novelty in the current use of the concept (new wine). First the concept comes out of new and divergent (re)discoveries. (Mostly) developed economies have re-discovered inequality (sharply asymmetric effects of adjustment due to globalization) and instability (recent example of the subprime crisis). Many developing countries have embraced liberalism, with its set of virtues but also costs. Second, in contrast to the reaction that followed the 19th century laissez-faire or the economic nationalism during the interwar, there has not been a fundamental rethinking of the ordering of domestic and international levels of authority: Financial and trade integration should continue; no explicit re-empowerment of states.

The bottom-line is that harnessing globalization is a concept that reflects (and cannot therefore remedy) deep divide between three groups of individuals:

1. Those who painfully rediscover instability and inequality in the North use it as a synonym for control, channel if not tame;
2. Those who discover (or try to push others to discover) the wealth creating effect of liberalism use it as a synonym for “render useful, make productive”; and
3. Those who are convinced liberals use it as a synonym of exploit (fully).

Furthermore, it is a concept that could taste like vinegar for those who host us today. Let us start by asking the question of who is behind the second singular departure that I mentioned earlier. Few would deny that (trade) economists and (trade) lawyers are among the prominent suspects. Then ask yourself who has been making up most of the staff in the WTO. Again no doubt that lawyers and economists are first in line. In that context, we could reflect on what it may mean if the director of WTO insists upon the use of the term “harnessing globalization”. If it is a signal that the WTO will from now on hire people with a different profile (from different social sciences and humanities) so as to “reconnect” globalization with its domestic societal bedrocks, then we should really applaud the invention and use of the term. But if it is simply the fashionable term in vogue, we should quickly forget about it once we walk away from the WTO Public Forum and be ready for the next new bottle to come.

2. Questions and comments by the audience

The discussion reflected the participants' personal ideas and concerns related to the concepts the panellists presented. Wide arrays of comments were collected from academics, lawyers, practitioners, journalists, trade union activists, and government officials. Comments tackled issues such as labour unions' understanding of "harnessing globalization", north-south trade relations in light of certain concepts, and how conceptual frameworks can be operationalized (e.g. policy space). The debate showed the various readings of concepts we apply regularly, but which often mean different things.

3. Conclusions and way forward

The session achieved its primary goal to sensitize participants to the role of concepts in international trade governance and engaging in a frank exchange of ideas. The great variety of interpretation witnessed across stakeholders and across regions has been a fascinating observation throughout the session, inspiring more thinking and academic work on the creation, use and impact of concepts such as harnessing globalization.

C. Global Trade Governance and the Role of the South: Theory and Practice in Enhancing the Development-Friendliness of the Doha Round, Part I and II, Organized by the South Centre and Research and Information Services for Developing Countries (RIS)

Report written by Vicente Paolo Yu III, Programme Coordinator, Global Governance for Development Programme, South Centre (Geneva) and Dr Nagesh Kumar, Director-General, Research and Information System for Developing Countries (RIS), New Delhi

Abstract

This two-part panel event, co-organized by the South Centre and by the Research and Information System for Developing Countries (RIS) provided the venue for an integrated discussion that linked academic and practitioner perspectives on how the rapidly changing context of global geopolitical and economic relations could be addressed through a more active role of the South in: (a) participating in global economic governance institutions such as the WTO; and (b) improving the ability of the WTO to facilitate Southern participation in its governance processes to improve the development-orientation of the ongoing negotiations. It was hoped that through this panel event, a better understanding of both the theory and practice of improving WTO governance mechanisms to enhance its ability to promote development outcomes will be obtained. The panellists and the discussion showed an increasing recognition of the way in which developing countries, through group action and coalition-building, have managed to improve their effectiveness in participating in WTO negotiations, and have also shown increased ability to promote their development interests into the core of the WTO's negotiating agenda.

Part I

The first part of the session was moderated by Vicente Paolo Yu, Coordinator, Global Governance for Development Programme, South Centre.

1. Presentations by the panellists

- (a) Dr Nagesh Kumar Director-General, RIS

Understanding the New Geopolitical and Economic Context for Global Governance: Perspectives from the South

Dr Kumar pointed out that there have been changes in the way that developing countries have been participating in the WTO – namely through the building of developing country coalitions and engaging in group-based action and negotiations. 2003 was a turning point in this regard. Prior to 2003, the old Quad (US, EU, Japan, Canada) dominated WTO decision-

making, which resulted in asymmetric burden-sharing of commitments in the Uruguay Round and the inclusion of Singapore issues as part of the WTO's work programme in 1996 despite the opposition of a number of developing countries. 2003 saw the emergence of developing country issue-based coalitions. In part, this could be traced to the emergence of Brazil, India, China and South Africa as "new powers" and their increased willingness to work together – e.g. on the sidelines of the G-8 meetings, the development of the IBSA forum. The entry of China as a WTO Member also provided additional impetus to developing country group solidarity. Also, the joint US-EU pressure on agriculture and Singapore issues and their attempt to steer the Cancun Ministerial text, despite clear resistance from a broad range of developing countries, prompted the latter to respond by forming stronger coalitions. By 2004, developing country coalitions were beginning to be recognized as key institutional actors. By the 2005 Hong Kong Ministerial and thereafter, the de facto role of developing country coalitions as negotiating vehicles for developing countries on various issues have become "institutionalized" through the de facto inclusion of key members of developing country coalitions as participants in smaller informal "Green Room"-type negotiating formations in the WTO (such as the FIPs, G-4, mini-ministerials, etc.). Developing country coalition building has resulted in developing countries effectively maximizing their veto power, although it still has not resulted in them becoming full and equal partners in the WTO's governance processes. The next stage in the evolution of developing country coalitions should be to set the agenda.

(b) HE Ambassador Dr Anthony Mothai Maruping, LDC Coordinator – Lesotho

Improving the WTO's Role as a Global Governance Institution: Practical Experiences on the Role of Developing Country Coalitions 1 (Regional or Bloc-Type Coalitions)

Ambassador Maruping started by stating that the LDC Group is one of the very well-defined groups in the WTO because membership in the group is based on a defined UN list. Developing country groups form because it is necessary in the context of the WTO's negotiating dynamics. Some of the causes for group formation include: (1) having common causes which form the basis of the group, thereby bringing them together; (2) to pool resources and have greater synergy with each other in the group; (3) need to have a louder voice. Using the Lilliputian analogy of "tying down the giant" from Gulliver's Travels, he said that group coalitions help weaker actors react to the actions of stronger actors. The problems of the LDC Group are as follows: (1) LDCs generally have very small missions, their support staff is very limited in both quantity and skills; (2) capital-based reinforcements do not match the level of capital-based support for developed country missions; (3) liaising with capitals is not so easy. These problems are shared not only by LDCs but also by small vulnerable economies. He then went on to discuss how LDC coordination is undertaken, starting with expert-level work, the designation of issue focal points, the conduct of retreats to work on positions and strengthen group solidarity, the definition of common position papers, obtaining technical support from IGOs such as the South Centre, UNCTAD, AITIC. He also pointed out that group coordinators often have to show leadership, be strategists,

obtain their own intelligence sources to fill in information gaps, be an organizer and spokesperson, and obtain substantive input and reinforcements from both capitals and support institutions.

(c) Dr Carolyn Deere, Director, Global Trade Governance Project, Oxford University

Enhancing Southern Participation in Global Economic Institutions, particularly the WTO: Proposals and Prospects for Integrated Approaches

Dr Deere pointed out in her presentation that developing countries have been seeking to improve developing country voice and participation in global economic governance institutions. They have also been creating their own institutions to try to enhance such voice. However, in the WTO, the literature over WTO reform has been often dominated by lawyers, economists, policy practitioners, and NGOs. Developing country scholarship is often lacking in terms of visibility. She also pointed out that there has been a broadening of the WTO's agenda to "trade and" issues. She stressed that developing countries continue to participate in the WTO because it helps them manage power asymmetries. Multilateralism is still the best option. On the issue of WTO reform, much of the discussion has been on the content with respect to development, decision-making, accountability to the public interest, and the maximization of coalitions.

(d) Dr Manfred Elsig, World Trade Institute, University of Bern

Improving the WTO's Governance Ability to Deliver on Development: Academic Proposals on Changes in Institutional Decision-Making Pathways

Dr Elsig next followed with a discussion of whether, in the context of institutional reform, the WTO is unique. He pointed out that such discussion often end up as a counter-factual exercise. He stressed that there is a big difference between institutional design (constitution) and institutional change (incremental). He expounded on the different views in the academe on how to approach institutional relations (pluralist, libertarian, social democrat, deliberative). He then suggested some elements of possible institutional changes in the WTO – e.g. voting is not the key, issue setting is important, coalitions need to move from defensive to offensive, a focus on national-level trade policy, and have further delegation to the DG, Secretariat and negotiating group chairs so that the process can move much faster.

Part II

The second part of the session was moderated by Dr Nagesh Kumar, Director-General, RIS.

- (a) Faizal Ismail, Head of Delegation to the WTO, NAMA 11 Coordinator – South Africa

Improving the WTO's Role as a Global Governance Institution: Practical Experiences on the Role of Developing Country Coalitions 2 (Issue-Based Coalitions)

In his presentation, Faizal Ismail gave a brief history of both the NAMA-11 and the G-20. He pointed out that these groups have been moving from a welfare perspective to a broader social perspective in terms of their approach to WTO negotiations. Many developing countries are now viewing the WTO's agenda as not only for the short-term but also for a future vision of what a fair and balanced multilateral trading system should be. He stressed that the NAMA-11 and G-20 groups began by focusing on their own group interests and then later on started taking on board the interests of other groups. Both the G-20 and NAMA-11 were defensive responses to pressures from developed countries on both agriculture and NAMA. India and Brazil were able to work together to develop a common approach in the agriculture negotiations. The G-20 has also started reaching out to other developing country groups, with the result of improved relationships between the G-20 and other groups (e.g. resulting in the G-110). There is now a high level of confidence between the G-20 and other groups with respect to agriculture issues in terms of looking for ways to balance both the offensive and defensive parts of developing countries' agenda in the agriculture negotiations. The NAMA-11 is a group that is focused on finding a formula on industrial goods tariff reductions that would be suited to the particular situation of developing countries. The NAMA-11 was also essentially the result of a defensive reaction to US and EU pressure. As with the G-20, the NAMA-11 has also had to grapple with the issue of reflecting the concerns of other developing country groups such as the SVEs, LDCs, and paragraph 6 countries.

- (b) Mayur Patel, Global Trade Governance Project, Oxford University

Improving the WTO's Role as a Global Governance Institution: Impact of Developing Country Participation on WTO Governance Outcomes

Mayur Patel stated that the group system has proliferated in the WTO and has become much more systematized. What is new in today's WTO coalitions is that: (i) the agenda and focus of collective action are clearer; (ii) the level of coordination has improved; (iii) public visibility is much higher; (iv) relationships with non-state actors have grown; and (v) levels of inter-coalition cooperation are also up. The effect of these on WTO decision-making has been clear – the old Quad no longer dominates, group coordinators are now often involved in exclusive informal negotiating meetings. Developing country coalition-building has had some impact already – not solely because of the market shares that they represent but

also because of their participation in negotiation processes – e.g. in TRIPS (African Group), NAMA (NAMA-11), agriculture (G20 and G33) – primarily with respect to agenda-setting. They have managed to get a seat at the table. This means that coalition building seems set to continue as the dominant means of bargaining for developing countries but the specific features are likely to change over time – e.g. as regional integration increases, the role of regional groups are also likely to increase and bloc-type coalitions may disappear. He concluded by stating that developing countries are now fundamentally changing the old ways of doing things, not just in the WTO but also elsewhere.

(c) Vicente Paolo Yu, Programme Coordinator – Global Governance for Development Programme, South Centre

Reflections on Improving Developing Country Participation in WTO Governance

In his presentation, Yu suggested that WTO governance and decision-making currently is characterized, as far as developing country participation is concerned, by (i) an ideational shift in the way that developing countries view the WTO, trade liberalization, and the role that these play in their development; and (ii) rational adaptation in the way that developing countries are now more strategic and focused on working together as groups. He pointed out that there has been a distinct change in the negotiating dynamics among WTO Members since the late 1990s. Developing countries are working together in cohesive groups or coalitions based on their self-identified interests in a much better and more coordinated way as compared to, for example, the way in which they interacted prior to the Seattle Ministerial Conference in 1999. The development of more cohesive regional, cross-regional, common characteristic, and issue-based purely developing country groupings in the run-up to the 2003 Cancun Ministerial Conference was followed up by more consistent efforts on the part of these coalitions to work together more closely and in a more coordinated fashion both internally and with other groups. The result has been a marked improvement in the extent of overall developing country participation in the WTO negotiations, albeit indirectly. And a stronger ability to influence WTO decision-making on the part of developing countries can be concluded from the fact that developing country issues relating to the need to have a strong development-oriented content now form part of the central negotiating agenda of the WTO.

2. Questions and comments by the audience

Part I

Issues that were raised in the discussion include if LDCs have been able to access exclusive informal meetings as a result of their group action; whether the WTO Secretariat could help fill in the information gap for delegations and developing country groups; why developing countries are not pro-active in using the DSU mechanism; what the challenges were in terms of designing an effective international architecture for trade; the relationship between RTAs and WTO; or the need for the accession process to be made easier for acceding countries.

The panellists pointed out that some countries would often cross-check information with other sources so as to ensure their reliability; and wanted stronger disciplines to be put in place for RTAs to be consistent with WTO norms. Finally, the panellists pointed out that there is a strong need for developing countries to continue to work together – individually, developing countries might not count for much but as groups, they can be effective.

Part II

The issues that were raised include if the use of coalitions by developing countries has created, as a reaction, greater formality in the selection of developing country participants in the informal processes of WTO negotiations; developed country coalitions compared with developing country only coalitions as well as mixed-constituency coalitions; if the fact that group coordinators are now in green rooms result in more thought being given to the selection of group coordinators; if having a secretariat would enable developing country coalitions to become more effective and less open to divide and conquer tactics; success of recently acceded members (RAMs) in the context of the negotiations; factors that lead to coalition formation, and whether coalitions have helped improve transparency in the sense of group members being able to monitor their coordinators.

In response to these questions, panellists responded by saying that because of overlapping memberships among many of the groups, there is a natural peer review mechanism in place. Other panellists stressed, that sovereignty continues to be very important such that group coordinators are not expected to represent their groups except by virtue of an explicit mandate on the basis of a commonly agreed position – i.e. unless otherwise mandated, coordinators are simply to coordinate and report back rather than represent. It was also pointed out that different groups have different capabilities and capacities, with the G-20 having a lot more technical capacity than a number of others.

3. Conclusions and way forward

In conclusion, the moderator suggested that developing countries have been able to rise above narrow national interests in order to work together more effectively. The discussions during the two-part panel event were able to bring out academic and practitioners' perspectives on the issue of how developing countries have been adapting and innovating in order to ensure that their perspectives and voices are better heard and reflected in the WTO negotiations and the possible outcomes of these negotiations. As a global governance institution, the WTO's decision-making and governance processes are of crucial importance in determining whether the WTO will be able to play an effective role in enhancing its institutional ability to contribute to the development of developing countries and enable them to maximize the benefits that can be obtained from engaging in globalization processes. This panel has been very useful in painting a clear picture of the way developing countries are using informal innovations in influencing WTO decision-making in the absence of formal changes in WTO governance processes.

D. Trade Stories, Trade Perceptions: Media Coverage and Public Views of Trade and Development, Organized by Panos London

Report written by Jon Barnes, PANOS LONDON

Abstract

The speakers at this panel, organized by Panos London³ addressed four questions relevant to trade policy governance and the challenge of strengthening media coverage of trade policy-making:

- *How do the media cover the Doha Development Agenda (DDA)? How are the challenges and problems reported? Whose views are reflected in reporting?*
- *How does coverage vary between countries, between the North and South, and between type and editorial position of media organisations?*
- *How can editors and journalists address the challenges of engaging public audiences on trade and development issues? What opportunities exist and how can they be exploited?*
- *Attracting and working with the media – what has been the experience of civil society, North and South?*

Media content and the challenges of strengthening coverage of trade and development

With the WTO's negotiations again in the balance, the first part of Panos London's panel discussed how the media had reported the so-called Doha Development Agenda, and whether this coverage was relevant to the greater public understanding of trade and development issues needed to strengthen the world trade body's governance. The panel drew on research carried out independently by master's students from the University of Copenhagen, Denmark. They had carried out a quantitative survey of how given financial and quality newspapers from a range of OECD and G20 countries had covered WTO ministerial conferences and other key meetings since the launch of the Doha talks.

As well as the strong factual presence of both "liberalization" and "development" narratives in the press, one of the key findings of this research was that the dominant paradigm for print media reporting of the Doha talks had been the "breakthrough" or "breakdown" of the negotiations. The panel noted that demand had certainly existed for coverage of this kind and that it had provided a topical peg. But several panel speakers and participants questioned whether such an approach retained sustainable newsworthiness, and whether it had proved effective in providing different audiences with the more diverse coverage

³ Panos London is part of the worldwide Panos network of independent NGOs working with the media to stimulate debate on global development issues (www.panos.org.uk). Panos London would welcome comments on the issues raised in this chapter. These can be sent to Panos London's globalization programme: globalization@panos.org.uk

they needed as trade represented an increasingly important part of economic activity and people's lives.

Some suggested that important trade stories were being missed – whether in between the supposedly key moments of the WTO negotiations or outside the narrow confines of the Doha talks. While one journalist speaker noted, for example, that coverage of trade in services had been marginal, despite the crucial commercial significance of the services sector, others claimed that coverage of the development issues at stake in the Doha talks had not been as strong and diverse as it should have been. Many key issues had remained relatively unexplored. This raised the question, in the words of one speaker, of whether there was a lack of media information or “too much information of a given type”.

Noting recent media coverage of supply chain and labour standards issues, or the importance of the WTO's dispute settlement mechanism, the panel considered briefly the types of story that might need to figure in the future, on developments both within the WTO and outside the world trade body. The panel noted the need for further research on media coverage of trade, both as a factor in public understanding and governance of policies on trade and development, and in terms of the practical opportunities and constraints facing relevant parts of the media.

Indeed, following the discussion of media content, the second part of the panel proceeded to discuss ideas for meeting the professional challenges of providing accessible media coverage of trade and development. The panel benefited from journalist speakers providing a representative range of media perspectives – two international news agency journalists (one Northern, the other Southern) as well as an African editor.

One of the main topics in the discussion was how stories could effectively combine attention to the complexity of international trade rules with stimulating coverage of how they related to national developments, particularly at the local level. Though there was agreement on the desirability of tackling both dimensions, some argued that, in practice, this was very difficult. Reporters would always be required at all levels to do justice to the developments and issues at stake in their respective locations, in line with the needs and interests of their particular audiences. Whatever the case, the panel agreed that the “mind-numbing technicalities” of trade rules needed to be demystified if their relevance of the issues was to be made clear and brought to life. A brief exchange was held on the feasibility of ideas for the media systems and strategies required to source and disseminate more local stories with local views.

A related aspect of this discussion was the range of information sources available to, and used by, journalists, and how this shaped coverage. A missing element, the panel agreed, was the inclusion of the views of different groups and communities affected – positively or negatively – by trade policy on the ground.

Finally, with public interest and audience demand ultimately shaping the media's outlook – to what extent were there public constituencies and media markets keen for greater and stronger coverage of trade and development stories? – the panel considered the role of trade policy actors in boosting public communication and engaging the media. This part of the discussion concentrated on the role of NGOs and civil society organisations, but also noted the visible increase in developing country governments' efforts to work with the media, as compared with when the Doha talks were launched in 2001.

Panel introduction – media coverage is vital to trade-policy governance and merits greater research and support

Moderating the session, Jon Barnes, head of Panos London's globalization programme, introduced the speakers and set out the importance of Panos London's panel in relation to the 2007 public Forum's thematic focus on global governance. The media, by their very nature, the moderator said, were important providers of information – and shapers of opinion – on the trade and development challenges at stake in policy-making. This alone made them a force to be recognised and supported in efforts to strengthen trade policy governance.

In session 1 of the public Forum ("A Governance Audit of the WTO: making global trade work for development"), the moderator noted, a speaker had said that without access to the necessary information, it was difficult for parliamentarians to fulfil their democratic responsibility of reviewing and contributing to their respective government's position in trade bodies such as the WTO. This assertion was equally valid in relation to the general public, Jon Barnes said. Without good information, the public would not be able to understand trade policies or engage with trade policy process effectively – through their parliamentary representatives, for example. This was to the detriment of the democratic functioning of a membership organisation such as the WTO. The media, along with other actors, were crucial providers of information and had the advantage of mass reach, in effect connecting the public with policy-making.

With trade representing an increasingly significant part of national economies, the moderator noted, it had become correspondingly important for people to receive information on the consequences for their daily lives. This had been shown in debates about TRIPS and access to essential medicines, GATS and access to services, and the link between the agriculture negotiations and food security, for example: Effective, independent media coverage, as well as providing information, was essential to the prospects of healthy public debate of such policy matters and thus, indirectly, to the representative depth of the policy-making process.

At the same time, reporting the complexities of trade and providing accessible media coverage for wider audiences was a challenge for the media, Jon Barnes pointed out, especially in the case of under-resourced and under-supported journalists in poorer developing countries.⁴

Building on the discussions and conclusions of Panos London's previous panel at the 2006 public Forum⁵, the aim of the 2007 session, the moderator explained, was to deepen particular aspects of this debate through the distinctive contributions of the speakers:

- The nature and types of media content on trade and development, drawing on a University of Copenhagen research project on the Doha negotiations (master's students Rune Saugmann Andersen and Lasse Skjoldan).
- Practical solutions for supporting and strengthening media coverage of trade and development, drawing on the media perspectives of a Southern journalist (John Kamau, Kenya), a Northern journalist (Warren Giles, Bloomberg News, Geneva) and an international journalist/media trainer (Dipankar de Sarkar, Indo-Asian News Service).
- Audience demand for media coverage, drawing on a civil society perspective (Amy Barry, Oxfam UK) of how trade policy actors could engage the media and help strengthen the level and range of coverage (including by creating public demand for greater and stronger information).

Introducing the first part of the panel, focused on analysis of media content, Jon Barnes concluded his introduction by noting how researchers had apparently paid little attention not only to the role of the media in trade decision-making (and the nature of coverage), but also the practical professional challenges facing journalists at different levels in covering and securing space for news and analysis on trade and development.⁶ More information and

4 These challenges were reviewed for outside comment in Panos London's 2006 working paper, Trade challenges, media challenges: Strengthening trade coverage beyond the headlines (http://www.wto.org/english/forums_e/public_forum_e/trade_challenges.pdf), based on the organisation's experience of supporting developing country journalists to cover the WTO's 2005 ministerial conference in Hong Kong and the 2006 collapse of the Doha talks (see www.panos.org.uk/trading-places).

5 "The role of the media in boosting public awareness and debate of trade policy-making", 2006 WTO Public Forum: What WTO for the XXIst Century, pp 47-61 (http://www.wto.org/english/res_e/booksp_e/public_forum06_e.pdf). The previous panel had recommended: a) opening vital WTO meetings, such as general council, trade policy review, dispute settlement and other sessions, to the media; b) clarifying and assessing any imbalances in developing country media representation in key WTO meetings such as ministerial conferences, with a view to developing and introducing practical ways of ensuring any such gaps can be overcome; c) encouraging WTO Members to include and support work with the media and journalists as part of strengthening national mechanisms for public consultation and communication on trade policy-making and its international representation; e) Creating a propitious climate for both state and non-state policy actors and stakeholders on trade and development to interact with the media and journalists; f) engaging media owners and editors on the public significance of trade policies so that greater editorial space and practical support for journalism on trade and development can be provided; and g) working with all relevant stakeholders to support programmes and provide resources to help under-resourced developing country media organisations and journalists in particular to develop their professional skills and knowledge on trade and development.

6 Panos London's globalization programme has analysed in some depth the constraints and opportunities facing coverage of poverty reduction. See its 2007 report, Making poverty the story: Time to involve the media in poverty reduction (available at www.panos.org.uk).

analysis was sorely needed on the media's role, the media's support needs and the interests of audiences. This was why the University of Copenhagen research project, in looking at media content, was particularly welcome. While Panos London had not been involved, it hoped that this research could be built on and would kick-start similar initiatives to explore the multiple strands of the media issue.

1. Presentations by the panellists

Part I: Presentations by researchers on media coverage of the WTO

(a) Lasse Skjoldan and Rune Saugmann Andersen, University of Copenhagen

Lasse Skjoldan provided an overview of the nature, content and methodological approach of the University of Copenhagen students' joint research project (entitled "The WTO Agenda and the Media Agenda").⁷ The aim of the research had been to gather basic information on media coverage in order to help start filling what seemed to be a large gap in the policy literature on trade. Due to be completed, the nine-month research project had involved:

- Content analysis of 800 print media articles reporting on four key WTO meetings since 2001 (the Doha, Cancun and Hong Kong ministerial conferences and the July 2006 "modalities meeting" in Geneva).
- Examination of news articles (rather than editorials or comment and analysis pieces less likely to display "objectivity") in order to establish a more "neutral" benchmark for judging coverage.
- Comparison of coverage provided by newspapers in two G20 countries (India and Argentina) and three OECD countries (United States, United Kingdom and Spain). Such a selection was intended to provide an insight into media perceptions of the trade negotiation interests of different countries and types of countries.
- Comparative analysis of coverage by one financial newspaper and two leading quality newspapers in each country.

Their content analysis, mainly of quantitative nature, had looked into:

- *Purpose*: what the media reported the main aim(s) of the Doha Development Agenda (DDA) talks to be.
- *Issues*: which issues were covered (most) by the press.
- *Problems*: which issues the print media reported to be the main problems in the DDA talks (defined as affecting different groups negatively or causing disagreement).

⁷ For further information on the project and its findings, send enquiries to manquizzer@gmail.com or runedyret@gmail.com.

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- *Responsibility*: who the media reported as responsible for causing such problems.
 - *Jeopardy*: who the media reported as threatened by problems in the talks.

The speaker gave a summary of the research conclusions relating to coverage of the first three points (main DDA purpose, issues and problems, as framed by the media). These conclusions were then elaborated in further detail by his colleague, Rune Saugmann Andersen.⁸

The main findings to emerge in the research were as follows:

Purpose of the DDA in reporting

As a factor in coverage

- The per centage of articles primarily concerned with reporting a purpose of the DDA – 60 per cent of articles at the time of the Doha ministerial – fell around the 2003 Cancun meeting, only to rise again in the run-up to the July 2006 Geneva meeting.
- By the time of the 2006 meeting, the per centage of articles concerned with purpose was higher than when the Doha talks were launched in 2001.

In terms of its presence in coverage by type of country and newspaper

- Concern with reporting a DDA purpose was much higher in the OECD countries (65 per cent of articles surveyed) than in the G20 countries studied (35 per cent).
- Leading quality newspapers reported significantly more on the purpose of the DDA than did the financial press. What did this reveal about the respective approach of each part of the press?

In terms of its reported policy aims

- It was noteworthy that the number of articles invoking the notion of “development for the poor” as a purpose, accounting overall for 40 per cent of articles, had increased over time. Some might consider this surprising. Though it might be logical for “development for the poor” to be prominent at the time of the launch of the DDA, one might have expected this focus in reporting to have faded over time. This was not the case; it had increased.
- The number of articles with trade liberalization as a stated purpose had remained stable and strong over time and across the G20 and OECD countries examined.
- Purposes such as “international unity” (e.g. in the face of terrorism) or relating

⁸ To view the researchers’ presentation slides, with charts providing further numerical information, see http://www.wto.org/english/forums_e/public_forum2007_e/session21_e.htm

to the environment had become marginal: By 2006 the focus on the DDA's purpose was almost exclusively on either trade liberalization, "development for the poor" or the gains/losses for the world economy.

Top five key themes

- The most common thematic focus in the newspaper coverage related to the substantive issues on the DDA negotiation agenda (eg agriculture, industrial goods and so on).
- A key narrative in coverage of the talks was whether there would be a "breakthrough" or a "breakdown". Stable between Doha and Cancun, this reporting approach intensified in the run-up to the 2005 Hong Kong ministerial conference and rose sharply before and during the July 2006 Geneva meeting.
- Government attitudes and behaviour in the negotiations was a steady feature of coverage across all the key WTO meetings surveyed and in both the G20 and OECD countries studied. But, as a prominent theme, it nevertheless represented a relatively smaller percentage of articles in comparison with the dominance of "negotiation issues" or "breakthrough/breakdown" in coverage. This might be surprising for some, given discourse highlighting the so-called "blame game".
- World system questions such as global economic growth or the role of trade in international security featured more strongly in the OECD countries, and had declined as a key theme since Doha and Cancun.
- Coverage of the WTO as an institution – for example, the transparency, accountability and effectiveness of its decision-making – had become the least prominent of the main themes, falling considerably after the Hong Kong summit.

Top five issues across the four summits

- Breakthrough or breakdown (a key feature of 45 per cent of articles at the July 2006 meeting) had become increasingly prominent with the passing of each deadline. This held for both OECD and G20 countries.
- Agriculture was also the other prominent issue in the coverage in all countries, although to quite varying degrees: Argentina was the country in which the agriculture issue was most salient – a somewhat unsurprising finding, given the G20 country's position as a leading agricultural exporter.
 - TRIPS and intellectual property were only among the top five issues in coverage in the United States.
 - Coverage of services liberalization did not feature among the top five issues in any country
- Coverage of governments' attitude and conduct in the negotiations was steady across time and across all countries.
- Coverage of ideology – is liberalization good or bad? – was much more prominent in the OECD newspapers, though this also featured in India where reports on whether the WTO was biased or not stood out as a top-five concern.

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- The NAMA talks on industrial goods were a prominent theme in both G20 and OECD countries.

Trends in pro- or anti-liberalization treatment of the top five issues

- The overall ratio of articles invoking liberalization to those invoking anti-liberalization had increased over time. With the exception of the Doha ministerial, the overall trend in coverage was progressively slanted in favour of liberalization in both the G20 and OECD countries studied, standing in 2006 at five “liberalization” articles for each article invoking “anti-liberalization” (5: 1).
- At the time of the Cancun ministerial in 2003, the positive ratio of G20 newspaper articles involving liberalization (5: 1) more than doubled that in the OECD countries (2: 1). Since then, however, the liberalization balance had swung in favour of the OECD countries.
- Of the key issues in coverage, “breakthrough” or “breakdown” stories in the OECD countries displayed a markedly higher “liberalization bias” (over 9: 1) than those of the G20 countries (just over 2: 1).
- Agriculture stories displayed a greater liberalization tendency in the G20, though this might be due to the choice of Argentina (a major exporter) as one of the two G20 countries studied.
- The one issue where “anti-liberalization” was most invoked in stories was TRIPS: This was the case in both G20 and OECD countries, indicating media reporting of intellectual property’s inclusion in the WTO as a highly problematic issue.

General trends: consolidation of a steady agenda

- Overall, the thematic agenda for print media coverage had been consolidated between 2001 and 2006, both in the G20 and OECD countries studied, focusing increasingly on the five top issues highlighted above. This was no doubt a reflection of the fact that fewer issues were now on the WTO negotiation agenda, but also that some concerns (such as international security) had apparently ebbed away as a focus for the media in its coverage of trade policy in the WTO.
- The main themes and issues on the press agenda, in both the G20 and OECD countries under study, had remained constant across the WTO meetings.
- One striking feature of the findings was the strong invocation of both “liberalization” and “development for the poor” in newspaper coverage. Simultaneously, “development for the poor” had been increasingly invoked by the print media as the purpose of the DDA, while their framing of the main themes and issues had been increasingly in “liberalization” terms.
- What did this last particular trend mean? It raised the question of whether the print media actually viewed trade liberalization as the best path to securing “development for the poor”.

(b) Comments, questions and debate on media coverage

Inviting comments and questions from the audience, Jon Barnes, the moderator, stressed the importance of noting the *quantitative* nature of the research that the University of Copenhagen speakers had presented. The researchers' numerical analysis referred to the factual presence of given concerns, themes or narratives in the press articles studied, not necessarily to the policy positions taken by them. Thus, while the emphasis had been to have a factual look at "What is on the agenda?" and "How is it on the agenda?", such research was also highly stimulating in that it provided *qualitative* insights and begged many qualitative questions.

Among the main comments, questions and exchanges were the following:

News vs comment articles and editorials

- A representative of ABN Amro bank, while recognising the reasons for omitting opinion pieces and editorials from the research, enquired about the percentage balance between such coverage and the news articles studied. Skjoldan estimated the balance to be roughly even. The importance of op-ed articles – and also exchanges on letters pages – was noted for their role in shaping views and facilitating debate.

Reporting the success or failure, and the rights and wrongs, of the DDA talks

- A representative of the Spanish diplomatic mission in Geneva welcomed the research, not only for its factual contribution but also for prompting further questions in the minds of the participants. For example, was press coverage focusing on "breakthrough" or "breakdown" a reflection of the success or failure of the WTO as an institution or of the respective rights and wrongs of the WTO's rich and poor member countries? What benchmarks should the media consider to judge such matters in coverage?

Breakthrough or breakdown

- A member of the WTO secretariat, commenting in a personal capacity, suggested that the research should look more into the dynamics of the negotiation process and how coverage between its different moments was linked. To a large extent it was not surprising that there should be a focus on "breakthrough" or "breakdown" in comparison with earlier stages of the negotiations when results were not expected: Similarly, he claimed, coverage of TRIPS, influenced by continuing public health concerns after Doha, could have been expected to fall once WTO Members had agreed a response in 2003. What was surprising, by contrast, was the apparent contradiction between the top-scoring percentage of articles dealing with breakthrough or breakdown and the relatively weaker

prominence of articles concerned with agriculture. Agriculture had been at the heart of critical difficulties in the negotiations.

- Rune Saugmann Andersen explained that this apparent contradiction was due to the weighting system that the researchers had used to categorise the articles, with the location and presentation of an article (eg on the front page) or the prominence of a given narrative (eg in a headline) affecting the rating. An article on breakthrough or breakdown displaying such features would score more highly in comparison with a less prominent article focusing heavily on agriculture as a negotiation touchstone.
- Speaker John Kamau of Kenya's Business Daily commented that he was not surprised that the media concern with breakthrough or breakdown was a dominant feature of coverage. Journalists needed news (a breakthrough would be news) and newspapers generally liked the controversy of a "bad story" (as provided in this case by "breakdown") to sell their stories. But this approach meant that positive stories or ones with novel angles were not covered.

Reporters, sources and media outlook

- The WTO secretariat member also stressed that it was important to distinguish between the words of the reporter and those of the people he or she quoted. This view was shared by panel speaker Warren Giles of Bloomberg News. He pointed out that reporters were often expected to quote sources or cover press conferences expressing views that they or their media organisations might not necessarily identify with. He added that the research's finding that the OECD press paid greater attention to the purpose of the DDA in comparison with its G20 counterparts might be due to the international nature and outlook of some of the newspapers concerned.
- Speaker John Kamau added that the journalist's job in Africa was often complicated by the conflicting views of different think tanks, many not always connected with national and local realities. In his view, there was a need for the media to use wider sources of information, as well as for stronger African think tanks to engage the domestic media. Many newsrooms relied on international news agencies for their information.

The weak coverage of services

- Warren Giles of Bloomberg News said he was struck by how insignificantly coverage of services liberalization issues had figured in the research findings presented. This, he said, was a very serious problem if, for example, one considered the major commercial importance of services in the world economy. But, he said, "I plead guilty as charged", pointing out that this subject, like many other trade topics, was a difficult one to write about attractively, and that innovative ways needed to be found to make it interesting for audiences.

“Liberalization” and “development for poor”: whose discourse, whose interests?

- Speaker Amy Barry of Oxfam UK encouraged debate about the research finding that the presence of both “liberalization” and “development for the poor” had been rising in press narratives. Did this actually mean that “liberalization” and “development for the poor” were interpreted by the media as going hand in hand? Such an association was a thorny one and further qualitative analysis was required.
- It was vital, for example, to dissect more specifically “development for the poor” narratives, Amy Barry said, as this discourse was commonly used by a wide range of policy actors to serve their own interests. NGOs were keen to invoke it because the DDA was supposed to be about development. Developing countries were keen to invoke it because it enabled them to demonstrate their commitment to negotiating in good faith. And the media were keen on it because it gave them a “moral story” containing winners and losers and black and white issues.
- A similar analytical approach, asserted Amy Barry, could also be taken to “liberalization”. European Union trade commissioner Peter Mandelson was happy to stand up and proclaim the benefits of liberalization for development, while at the same time insisting that further reform of the Common Agricultural Policy (CAP) was out of the question. He saw it as the “wrong” type of liberalization. Thus, while the researchers’ analysis of media coverage in anti- or pro-liberalization terms made sense – this dichotomy had been at the heart of policy controversies on trade – in other ways such polarisation was not very helpful. It was a distraction from nuance and complexity.
- Panel discussant Dipankar de Sarkar stressed the importance of linking such policy complexities to trends on the ground, and taking these into account in analysis of media coverage. In his view, the mainstream Indian press, for example, displayed a much stronger inclination towards liberalization than UK coverage. Yet one of the big dramatic stories in recent years in India had been rising farmer suicides, which, according to the campaigners, had been due to trade liberalization.

Closing part 1 of the panel, the moderator, Jon Barnes, noted that several of the comments from both the audience and the panel speakers had raised questions about reporting framed within the dominant “breakthrough or breakdown” paradigm. The media, he said, clearly needed topical pegs on which to hang stories. But, he asked, did this approach risk losing opportunities to cover new issues and angles, in between the key negotiation moments traditionally seen as primarily newsworthy? Perhaps a wider perspective to reporting would enable the media to scrutinise and explore more accessibly for the public the policy complexities highlighted by speaker Amy Barry or the dramatic food security stories referred to by Dipankar de Sarkar.

Part II: Strengthening reporting and working with the media

The moderator introduced the two questions to be dealt with in the second part of the panel (How can editors and journalists address the challenges of engaging public audiences on trade and development issues: what opportunities exist and how can they be exploited? Working with the media: what has been the experience of civil society, North and South?).

(a) John Kamau, associate editor, Business Daily, Nation Media Group, Kenya

Kenyan editor John Kamau said that the complexities of this challenge had been powerfully described for him by the director of a tea factory he had visited the week before the public Forum. She had asked: “Why is our tea not fetching the best money in the market? In the village they are blaming the brokers: They think money is getting lost to them. Why can’t we add value to our tea on the international market?”

What had struck him, John Kamau said, was the need to understand and explain the dynamics of markets and trade, as affected by issues such as tariffs. The tendency among reporters, he said, was to cover such an incident in isolation when it reflected issues and problems affecting the whole of Africa. “If farmers are in the dark, if factory managers are in dark, and if the media are in the dark, you can see the scale of the problem.”

The speaker went on to identify several challenges for the media that needed addressing in African countries such as Kenya.

Stronger domestic coverage

John Kamau said that one priority was the need for stronger home-grown coverage in Africa that could place strong local stories in wider context, thus making greater sense of international trade developments in bodies such as the WTO for domestic audiences. However, the African media often relied on wire copy from international agencies such as Associated Press, Reuters or AFP: Even though the copy often came with its own slant and lacked local feel, it would still be used to fill a gap in order to cover the WTO. There was a need, he said, for pan-African agencies capable of competing with the big international news organisations to provide strong local reports.

Stronger information sources

As well as a weak or mediated supply of information to Africa from locations where trade negotiations were being conducted, John Kamau asserted that local information sources were often weak. There was a lack of local think tanks and experts to approach for information, comment and quotes. A ministry might only have two or three reliable commentators. Government experts were not allowed to appear in the press, leading to the quoting of anonymous sources.

Stronger local “voice” and audience identification with coverage

For trade stories to resonate domestically, audiences needed to identify strongly with the coverage provided, seeing their own issues and voices reflected in reports. This was difficult with many international stories on trade, many of which had a top-down feel: John Kamau said his newspaper was trying to tackle globalization stories in novel ways, and was increasing its coverage of globalization issues such as trade. As an editor, for example, he was supporting journalists to visit villages so that stories could also be generated “from the bottom up”. His newspaper belonged to a media group with circulation in Eastern Africa and thus the potential of reaching a wider audience. For all the problems, there were many opportunities in Kenya.

Covering the multiple strands of the issues at stake

One such opportunity was covering social justice issues. In the 1970s and 1980s the focus had been on the struggle of African nations against neo-colonialism. Now it was the context of globalization. Journalists, through the power of information, had a key role to play in putting the issues at stake in trade on the public’s radar screen. Without such coverage, the wider public would not be able to understand what was happening.

But the implications of negotiations such as those held in the WTO, John Kamau said, had yet to be properly captured by many developing country media. Negotiations tended to be covered for their surface drama rather than underlying substance, as exemplified by the “breakthrough or breakdown” paradigm discussed in the first part of the panel. Journalists needed to get to analytical grips with the multiple strands of the issues, including by exploring their manifestation at the grassroots. The coverage of such stories offered the potential of much greater impact than those based solely on distant developments in Geneva. On return to Kenya, he would be covering a deforestation story, as farmers cut down trees for a factory struggling to cope with rising fuel prices.

Professional challenges

As an editor recruiting reporters, John Kamau stressed the importance of systems and strategies to develop journalists’ expertise. Trade and the WTO was one of the trickiest stories to cover, on account of its technical complexities and jargon: “Tariffs, NAMA... if you send a new reporter to cover the WTO I can guarantee that they will not come back with a story, because it’s complicated.” Many reporters, he said, came straight from graduate school. The curricula of journalism schools were out of date and needed to be overhauled if journalism students were to emerge with an understanding of globalization issues and a practical ability to craft stories around them.

John Kamau said the time had come for a new approach, as persisting with the same methods while expecting different results did not make sense: He made the following proposals for strengthening journalism on trade and development:

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- Support the multiple analysis of trade issues and bring them to life through grassroots stories
 - Recruit those with expertise on trade, who can follow WTO issues, make jargon and complex terms intelligible and thus shape public opinion
 - Promote and support specialised news services in which editors can commission articles from the grassroots
 - Engage lecturers at schools of journalism in developing countries to focus on trade issues

Before introducing the second media speaker, the panel moderator noted that it was important to consider how both coverage and audience interests might change in response to trade issues emerging on the public agenda. It had often been claimed that coverage of trade and development would not be of strong interest to audiences. Yet recent print media coverage in the UK, for example, had indicated that coverage of trade and development could be prominent and accessible. He pointed to stories on labour conditions in clothing supply chains linked to UK supermarkets and retail companies. These had made the front pages of, for example, the Guardian and Sunday Times newspapers. Meanwhile, the Financial Times had published an interesting full-page article on the Special Product and Special Safeguard Mechanism proposals in the WTO, following a visit to the Philippines of its world trade editor.

(b) Warren Giles, Journalist, Bloomberg News Geneva

Warren Giles welcomed the contributions that had been made at the panel but took issue with given assertions. He also questioned the value of particular aspects of the existing reporting agenda on trade and whether they were sustainable.

Information supply and the dominant reporting agenda

Warren Giles said the problem was not so much the lack of information on trade, but the surfeit of information of a given type, as highlighted by the research findings on reporting of the DDA. “Things have not changed since 2001: We are writing the same things. ‘Lamy upbeat on prospects for WTO deal.’ Such a headline could have been written at any time since September 2005 and, by changing the name, at any time since 2001,” he said.

The speaker said he had written many such articles himself and acknowledged that considerable demand had indeed existed for them. Newspapers such as the Financial Times or the International Herald Tribune continued to publish them frequently. But, he contested, such coverage had become a political sport in its own right, and that the time had come to pick up other stories and cover the issues differently. “I am amazed that people still read any story leading with the words ‘Doha Round’,” he said.

Time for new types of stories

Warren Giles stressed the importance of distinguishing between Doha stories and trade stories. Unless there was indeed a “breakthrough” or a “breakdown”, there was in his view little mileage in covering the former.

He suggested that reports looking into flying cut flowers halfway across the world or container ships containing harmful bacteria, for example, might be more compelling. The WTO did not provide that kind of material, unless one stepped outside the narrow parameters of the Doha negotiations. The WTO’s dispute settlement system, for example, offered potential stories of far greater significance than static reports of the WTO director-general’s latest prognosis for the Doha talks. Dispute settlement stories had winners and losers and sanctions, and money was at stake. The implications for soap manufacturers in Scotland, ball-bearing manufacturers in Ohio, Swedish Harley-Davidson riders or sugar producers from Mauritius would yield much more readable material for stories.

The best trade stories, Warren Giles claimed, were often those that did not even mention the WTO, or, if they did, mentioned the trade body in the last paragraph. He agreed that journalists should be writing more diverse trade stories of the kind that John Kamau, the journalist speaker from Kenya, had talked about.

Location, location!

The speaker emphasised, however, that there were limits to what journalists could be expected to report from their respective locations. It was no more feasible to expect a journalist writing from Geneva to cover Kenyan farmers’ concerns about tea prices than it was to expect a Kenyan journalist to convey the detail of the negotiations in Geneva. He recognised that it was obviously desirable for both types of journalists to get as close as possible to the issues at stake in another location and to take them into account in their respective reports. But proper understanding and coverage were difficult at a distance, and that is why the media had local, national and international reporters.

Editorial values and audience interest and demand

Warren Giles went on to stress that there was often a divide between what expert audiences – such as those attending the panel – expected from media coverage and what journalists could or should realistically provide. He argued that journalists should not write exclusively for such audiences, which, in the case of the Doha talks, had become a select group. They would ask him why he had not covered this or that detail or angle, without taking into account what could be accommodated in a 400-word article, which in any case could be considered a reasonable length in the face of the various pressures on editorial space. “I’ve been commissioned to write 500 words in the morning, down to 300 words by the afternoon and 100 words when the report came out. The space had been cut for a whiskey advertisement.”

Warren Giles said it was impossible to squeeze a lifetime’s knowledge on trade into 300 words – a minute of speech or a single page of A4 text. In any case, he contended, stories had to be written for audiences that went beyond experts: A journalist had to assume “zero knowledge, zero interest” and get to the point. “If you can’t explain your life and make it interesting in 10 seconds in a bar, it’s not a story. We should bear this in mind on the WTO.”

The speaker concluded by applauding John Kamau’s intervention highlighting the need for African journalists to enjoy greater access to information and for stronger outlets for commissioned local stories, including his vision of pan-African news agencies providing more diverse coverage. At the same time, he entertained serious doubts about the practical feasibility of such a proposal. News agencies were very expensive operations to run and he wondered whether a high enough level of local stories could be generated of interest and need to the agencies’ audiences. He said he was reminded of the words of the travel writer Bill Bryson, who had argued that the only trick to writing was to produce something people were willing to pay money to read. Someone, ultimately, had to pay for the coverage. He questioned whether such agencies would work.

(c) Amy Barry, Deputy Head of Media, Oxfam, UK

Attracting and working with the media: the experience of civil society, North and South

Amy Barry explained that she was speaking from the perspective of Oxfam and on the basis of her experience as an NGO communicator with this organisation.

For Oxfam, she said, the media were primarily a target. They could be allies – or even enemies – but first and foremost the media were seen as a tool to get voices heard in an effort (hopefully) to influence negotiations, given their impact on poor people. Human examples were therefore important when trying to get the media to cover trade issues.

Mutual needs

Amy Barry stressed the need for realism in work with the media, which, to a considerable extent, was a “business transaction”. Oxfam worked with the media and sought to use them – but the organisation was also used by them. The media wanted information and Oxfam could provide it. They also wanted a range of viewpoints – Oxfam could be one of these. And of course, the media liked controversy – Oxfam could help fuel this (when considered worthwhile and appropriate to do so).

Many journalists also relied on Oxfam, which was backed by a team of well-equipped policy advisers, to help explain the complex issues. This support was less necessary in Geneva, but it was certainly required in other situations where journalists had to multi-task and cover a wide range of subjects – particularly in developing countries where many

journalists might not be as well trained or have access to the same level of resources or sources of information as Northern journalists.

Mutual interests?

Generally, the speaker said she had had enjoyed positive experiences with journalists, and the feedback she and her colleagues had received from the journalists Oxfam had worked with was mostly good. In some cases, however, journalists regarded civil society organisations (CSOs) as “troublemakers, rabble-rousers, people determined to be in opposition for opposition’s sake, who are disruptive and anti-economic growth”. Sometimes, civil society organisations could be tarred by the brush of a single group behaving irresponsibly. But it was also the case that commercial and political interests could compromise the independence of the media and how they portrayed civil society’s views. One often had to ask who was influencing the media agenda, and who owned newspapers and paid editors’ salaries. In Peru, for example, media links with business interests hostile to opposition to mining operations, she alleged, had affected the reporting of criticisms of environmental and labour rights problems.

Recognising media values and promoting coverage of trade

Amy Barry said it was nevertheless important for civil society organisations to understand the media if they wanted to attract their attention. Oxfam had a team of media professionals – many of them ex journalists or public relations professionals – in Oxford, Washington, Lima, Nairobi, Madrid – who were dedicated to getting the organisation’s campaigns and issues into the media. They in turn were backed by policy advisers working on the detailed issues relevant to policy processes such as the WTO or Economic Partnership Agreements (EPAs). For this reason, the capacity of Oxfam to get its voice heard by the press was obviously far higher than smaller CSOs with fewer resources and a less recognised brand.

At the same time, she said, it was not always easy to secure strong coverage of trade. Trade was a complicated subject, and the appetite of non-specialist journalists was often limited. Oxfam, which was constantly thinking about how to strengthen promotion of trade and development coverage, suggested the following key values:

- *Relevance* – to people’s lives, to the news agenda, to the story the journalist was writing, to the reader, listener or viewer
- *Facts* – how to back-up what the organisation was saying, and whether there was relevant evidence
- *Stories with people in them* – audiences were more interested in people than negotiating texts. What did the issues at stake mean for the man on the street – or the woman in the paddy field?

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- *Simplify the issues* – the need to focus on a single issue such as agricultural dumping or cotton. This could be a risky strategy as the topic could gain undue significance as a result. But it enabled the negotiations to be shown in clear brush strokes rather than in detailed minutiae, which led people to disengage.

The challenge of stronger local and national media relations capacity

Oxfam, Amy Barry said, did not always want to be the focus of quotes. It believed it was important for others' voices to be heard, even if the organisation did not fully agree with them. For the world to change, and existing power structures to be shifted, a strong civil society voice was essential. Oxfam was working with smaller organisations to support their ability to communicate, to work with the media. It was working with developing country trade delegations to nurture their understanding of how to work with journalists, particularly in the North.

On trade, Oxfam believed it was vital for those affected by the negotiations to have a voice, and that the stakeholders from developing countries – be they negotiators, businesspeople or legislators – should have as much of a right to be heard as Peter Mandelson and Pascal Lamy. Oxfam worked with other organisations – particularly in the South but also in coalitions and allies in the North – to help them get their opinions and concerns covered by the press. It was also training partners and allies in the South, in recognition of the fact that local partners and organisations might be seen by journalists as having more credibility to speak on local and national issues than Oxfam, which was perceived as an international or Northern organisation.

In Amy Barry's experience, however, it was harder for smaller organisations to get coverage, particularly in the mainstream Northern press, due to the increasing professionalisation of the media relations world. It was a skill, just like being a trade negotiator (though perhaps a little easier), and journalists were not always tolerant of people who were learning. Those seeking to engage the media needed to be able to tell a story, to break down complex information, to demonstrate the impact of trade policies, to deal in facts, to give sound-bites, and to respond on deadline. Sometimes, smaller civil society organisations, and developing country delegates did not fully recognise such needs.

Some of the challenges facing smaller NGOs, particularly in the South, were the same as those facing developing country journalists: they had limited resources to travel to the big conferences, were not granted visas or lacked access to information. The WTO was still a relatively new subject in some countries and regions such as Africa, for example, and it was important to continue to build expertise on it.

(d) Dipankar de Sarkar, European Bureau Chief, Indo-Asian News Service

Comments and debate on the media challenges

The panel's media discussant, Dipankar de Sarkar, a London-based international journalist, said that, as a developing country journalist working for a news agency, he agreed with aspects of what both speakers John Kamau and Warren Giles had said.

Dipankar de Sarkar said that a crucial issue was not only the question of whether information existed, but also where it came from and whose perspective was provided in coverage. In India (where coverage was not necessarily confined to the WTO) trade liberalization was a hot story. But the information given was often that of government ministers, so one's prism was immediately narrowed. It was from a national policy perspective. Trade was treated somewhat unquestioningly along similar lines to foreign policy. But this was probably also the case in Kenya and other African countries, as well as in the OECD.

Dipankar de Sarkar then invited comments on experiences of working with the media, given the importance of public interest and demand in shaping the possible media agenda. The following points were made by panel participants and speakers in response to the presentations and comments made:

Combining the global with the local in reporting

Keith Rockwell, the WTO's Director of Information and Media Relations, said that both John Kamau and Warren Giles were right. In order for audiences to understand why Kenyan farmers did not receive good prices for tea, reporters needed to understand tariff escalation. In order for them to understand why Kenya's cut flower exports had surged to US\$700-800 million a year, reporters needed to be familiar with WTO's sanitary and phytosanitary standards agreement (SPS).

Keith Rockwell said it was vital to take into account the trade-rule context in writing a story on the ground. But this was a major challenge, he recognised – one that had been recently demonstrated by a regional workshop on SPS held in Tanzania by the WTO. The "mind-numbing" nature of the SPS had made it difficult to attract the media, but there had been a story there for journalists to pick up: how Kenyan horticulture organisations, for example, had reduced pesticide residues to levels acceptable under US and EU standards and quintupled their exports. The problem was that it was not always possible for international journalists such as Warren Giles to see the local detail that a national journalist such as John Kamau might pick up, and vice versa.

Panel speaker Amy Barry said that coverage of the WTO negotiations was crucial in that their consequences had a major impact on poor people, and that was why her organisation was working on them. Oxfam's approach, in its media relations work, was to bridge coverage of the technical issues with human stories. But this led to the challenge of finding credible,

representative voices. The temptation, particularly in working with the Northern media and when under media pressure, was to fall back on stereotypical examples and on readily available spokespersons. There was often a lack of time to provide local people for interview who could describe the wider dimensions of the issues affecting them.

Rising media capacity of developing country governments and NGO communication

WTO media relations director Keith Rockwell also noted that while coverage of the development dimension had been due to the work of Oxfam and other NGOs, the rise of developing country governments' work with the media was a phenomenon to be recognised. This started at the Cancun ministerial, where a G20 press conference had "burst the walls". Hong Kong had seen 118 press conferences. In 2001 strong media visibility for a minister from a country such as Mali would have been inconceivable, he claimed. Now the country's minister often appeared before the international media to explain his position.

Comparing Doha with Hong Kong, there had been a sharp reduction in quotes from NGOs, Keith Rockwell said. This was not because what the NGOs were saying was any less important. It was a reflection of the fact that ministers were making their own statements, and that most journalists preferred to report what ministers had to say rather than NGOs. He added that headlines would be created by the WTO director-general being able to speak on issues such as dispute settlement.

Information sources and "voice"

Panel speaker Warren Giles advocated the importance of quoting people on record, and said this was a practice worth defending. He was not convinced of the journalistic worth of reporting non-attributable "corridor quotes". If people did not want to put their name to something they had said, it was probably not worth reporting.

He noted that while journalists relied on NGOs, think tanks and other organisations with interesting viewpoints substantial points to make, those without a say in coverage were often people on the ground. This, he agreed, was where the kind of reporting advocated by John Kamau was highly relevant. He shared Keith Rockwell's views on the need to combine trade-rule context with local content, but insisted that this could not always be satisfactorily done from a single location.

A Swiss freelance journalist added that the media were not the only source of information for people on trade, and that bodies such as farmers' organisations had an important role to play. He noted too that other forms of communication on trade included the coverage provided by specialist trade journals, and the work of trade and fair trade organisations, including events such as international trade fairs.

Questions of trade, questions of media approach

A Kenyan MP alleged that the media often preferred sensationalist coverage of political statements rather than reporting important issues such as tea or coffee prices. This, he said, was a disincentive for policy actors to engage the media on issues such as trade. It was unlikely to make the headlines.

He also questioned the extent to which the media were exploring key issues relevant to the WTO effectively, claiming that important matters remained unanswered for the public. Why, for example, had the Doha talks, with their purported focus on development, failed to make a breakthrough? What were the reasons for the industrial countries' insistence on retaining protectionist barriers? Why had the prices for basic commodities such as tea and coffee been in decline, while the prices of some goods imported from the rich countries had trebled? What did all of this say about playing by WTO rules?

2. Conclusions and way forward

Given the ambitious range of issues covered by the panel, there was little time to identify or discuss formal recommendations. However, among the key points emerging as possible proposals relevant to the WTO were the following:

- Support further research on media coverage of trade, both as an important factor in public understanding and the governance of policies on trade and development, and in terms of the practical opportunities and constraints facing relevant parts of the media.
- Provide greater resources for media development programmes in under-resourced developing countries, including media development programmes and initiatives, stronger journalist training and audience research, as well as opportunities for editors and journalists to enhance their expertise on trade and development (for example, as an essential part of coverage of business and economics).
- Encourage more diverse and accessible media reporting of trade and development, both within WTO policy processes and outside, highlighting neglected issues and emerging developments and their public interest implications for audiences.
- Strengthen efforts to engage the media, providing a greater range of information to journalists so that they can diversify their sources and contacts and include the views of groups and communities hitherto under-represented in coverage of trade policy.
- Enhance the media relations skills of all trade policy actors so that they can better understand media values and journalists' needs in covering stories.
- Boost public communication and debate on trade and development policies at all levels, so that public interest in stronger media coverage can be nurtured and increased.

E. The role of Social Standards in Promoting Fair Trade, Organized by the Friedrich-Ebert-Stiftung (FES)

Report written by Yvonne Theemann, Friedrich-Ebert-Stiftung (FES)

Abstract

In recent years, social standards have been widely discussed on international, national and local levels. Their need and impact has been addressed not only by trade unions and non governmental organizations (NGOs) but also by governments, international organizations and enterprises. The G8 Summit 2007 in Heiligendamm is a prominent example for the recognition of social standards in a globalized world. It says unmistakably that “open markets need social inclusion.” The heads of governments agreed “on the active promotion of social standards, of corporate social responsibility, and on the need to strengthen social security systems in emerging economies and developing countries”.

The importance of social standards will continue to increase in the following years. Therefore, social standards should no longer been recognized as an antagonist of economic growth. Instead, the effective implementation of social standards has the ability to provide a breeding ground for substantial growth.

In this regard, the objectives of this session were: First, to give an overview of the vast variety of instruments and mechanisms which do exist to promote and implement social standards, second to estimate the benefits for growth if social standards are successfully recognized and thirdly which role social standards should play in the multinational trading system.

The panellists were representatives of four players engaged in the promotion of social standards on completely different levels. The opening statement and moderation was provided by Steffen Grammling, Program Officer for Trade and Development of the Geneva Office of the German Friedrich-Ebert-Stiftung (FES).

1. Presentations by the panellists

- (a) Steffen Grammling, Program Officer for Trade and Development, Geneva Office of the Friedrich-Ebert-Stiftung (FES), Geneva, Switzerland

Steffen Grammling reminded in his introductory words of the need for a social dimension of globalization. “Globalization has not delivered yet for the poorest and something has to be changed in the global governance system”. Therefore the “jobless growth” dilemma has to be overcome and instruments have to be found to increase employment opportunities. One key factor that contributes to “decent employment” would be the effective implementation of social standards and in particular the Core Labour Standards. Grammling stated that

“economically, the short-term costs of their implementation are often lower than the long-term gains” as the worker productivity, competitiveness and the social peace would increase. “Thus, it should be in the self-interest of any country to implement them”. But necessary legislation and effective and independent monitoring systems are needed.

Although bilateral trade and investment agreements especially of the US and the EU already imply labour clauses many developing countries express their reservations against the linkage of social standards in trade agreements as a protectionist instrument.

He then addressed another point which is of crucial importance for the effectiveness of all these legal provisions: the problem of a huge implementation gap between international obligations, national law and monitoring. In the phase of implementation, mechanisms have to be identified to evaluate the instruments goal-orientated. For Gramling a great challenge exists at three levels: coherence at international level, political will, good governance and capacity at national level and responsible behaviour and an enlightened long-term self-interest of enterprises. “The last point is of crucial importance because the power of multinational enterprises has increased enormously through the establishment of global production chains”. Even though the public enforcement of social standards is not part of a success story, a variety of voluntary instruments emerged with different levels of commitments.

(b) Cleopatra Doumbia-Henry, Director of the International Labour Standards Department, International Labour Organisation (ILO), Geneva, Switzerland

Cleopatra Doumbia-Henry gave a short overview of the history of the International Labour Organisation (ILO). The ILO was already established in 1919. It is the oldest organisation of the UN-System and the only international institution which survived the Second World War. The ILO was created to promote social justice. 193 conventions have since then been adopted, some in the character of guidelines others are legally binding instruments.

The ILO differs between three types of its main instruments: The eight Fundamental Conventions, the four Core Labour Standards and the Priority Conventions including the area of labour inspections. They underline the importance of the social dimension in a globalized world. Doumbia-Henry highlighted that the labour inspections as an instrument are taking place in industries and agriculture. She also reminded of the almost universal ratification of the fundamental conventions although important actors such as China and the United States for example did not sign all conventions.

Doumbia-Henry emphasized that the four ILO Core Labour Standards are a “minimum set of labour standards in the globalized world of employment”. They include freedom of association and the effective recognition of the right to collective bargaining, the elimination of all forms of forced or compulsory labour, the effective abolition of child labour, and the elimination of discrimination in respect of employment and occupation. The Core Labour

Standards have to be respected by states regardless of whether they have ratified the relevant conventions or not. They are adopted simply by membership of the ILO.

The ILO Constitution of 1919 and its declaration of Philadelphia from 1945 already say unambiguously that “first, labour is not a commodity and second that the actions taken by one country should not undermine the social progress of another country” as Doumbia-Henry put it in her own words. She continued in stating that labour “is not a race to the bottom factor in the sense of competitiveness”.

She then outlined the monitoring system of the ILO “which is the best in the United Nations System”. It provides, *inter alia*, survey of the independent experts of the Committee of Experts on the application of Convention and Recommendation, the tripartite discussion on conferences and a complaint based mechanisms. During the regular supervisory process for example, member states of the ILO have to submit reports on a regular basis to present its measures undertaken in law and practice to fulfil any of the eight fundamental and four priority conventions. Respecting the tripartite structure of the ILO, the governments have to send a copy to employers and workers’ groups who have both the possibility to comment on those reports.

Concerning the question on how the ILO should respond to the challenges of globalization institutionally today, she referred to the report of the World Commission on Social Dimension of Globalization from 2004 in citing: “(...) fairer economic rules are not enough. They must also respect the international framework for agreed fundamental human rights and measures of social justice.” And the preamble of the ILO declares “While economic growth is a prerequisite for social progress, it can not by itself guarantee social progress”. For Doumbia-Henry the globalized world should be concerned about minimum occupational and health standards, minimum on social and security standards, fair wages and other working conditions.

The ILO has a strong interest in seeing the international labour standards included in the mechanisms of the world’s economic system.

Doumbia-Henry looked at the development on how the international social standards are used. A growing number of multinational and bilateral agreements refer to them. They get more and more integrated in Corporate Social Responsibility (CSR) frameworks. Another example is the one of the European Union. The EU has linked in its new Generalised System of Preferences (GSP-plus) tariff preferences and development assistance to the ratification and implementation of the eight ILO fundamental conventions amongst others. The EU GSP “is the system of preferential trading arrangements through which the European Union extends preferential access to its markets to developing countries”. All those conventions have to be ratified until 31 of December 2008 (Council Regulation No.980/ 2005, Article 9).

Even the International Finance Corporation (IFC) has adopted recently in their Performance Standards the ILO fundamental conventions. The Performance Standards define “clients’ roles and responsibilities for managing their projects and the requirements for receiving and retaining IFC support”. And the Asia Development Bank (ADB) has published in 2006 together with the ILO a Core Labour Standards Handbook. “These examples underline the relevance of the ILO institution today”, Doumbia-Henry said. But looking at the World Bank, in her view a lot of things still need to be done.

In conclusion she listed a number of trade agreements wherein references have made to the international labour standards in recent times: the North American Free Trade Agreement (NAFTA), the Southern Common Market (MERCOSUR) and the Central American Free Trade Agreement (CAFTA). She would appreciate to see a continuation of this development but also warned: “one needs to look carefully to the real impact of these trade agreements, of their labour content in free trade agreements”.

(c) Veronica Nilsson, Senior Policy Advisor, Trade Union Advisory Committee (TUAC), Paris, France

Veronica Nilsson said perspicuously what people sometimes like to forget is that the OECD Guidelines for Multinational Enterprises are governmental. “Even though the guidelines are not legally binding for companies they are legally binding for governments”, she estimated. Nevertheless, business as well as civil society was involved in the negotiations about the Guidelines. More and more countries adopt them even outside the OECD world, thirty OECD and ten non-OECD countries currently including Argentina, Brazil, Chile, Estonia and Israel.

The Guidelines are government recommendations to good cooperation behaviour. In most aspects they imply company behaviour and encourage sub-contractors explicitly to implement the Guidelines. “Their major advantage is that the Guidelines do not only apply to companies operating in countries of origin but apply to companies’ activities world wide”, Nilsson said.

To underline the governmental character of the Guidelines, Nilsson referred to the National Contact Points (NCP). They have to be set up by governments that acceded to the Guidelines. The NCPs are dealing with the promotion and implementation of the Guidelines. Due to the fact that NCPs are mostly related to Trade Ministries, Nilsson criticized that all relevant ministries should be involved. Some NCPs would even be tripartite like in the Scandinavian Countries and in France. National Contact Points are “a forum for discussion and mediation and not a way of sanctions”, Nilsson pointed out.

In the next part of her speech, Nilsson drew the attention to cases brought up by trade unions at the Annual Meeting of National Contact Points in June this year. Reporting on these cases she provided an insight into various kinds of violations and indignities workers are faced with worldwide. Since 2001, trade unions have raised about 90 cases, NGOs 60

cases in addition. Most of the cases raised by trade unions referred to the infringement of the right to freedom of association.

She gave the example of a case which was first brought to the Montenegro National Contact Point but after the Belgium Company did not accept its proposal to re-employ the Montenegrin workers concerned, the case was then brought to the Belgium NCP and succeeded. Another example is a complaint against the Chemical Company BAYER which was brought to the German Contact Point. BAYER Philippines had established their own trade union and after the enrolment some of those workers belonging to another and independent union, the Employees Union of Bayer Philippines (EUBP), have been fired. The statement by the German Contact Point which is published on their website contains financial offers by BAYER Philippines to EUBP “in the interest of further cooperation in the spirit of trust”. Nilsson estimated that “the Guidelines can be used to solve the problems on the ground” even so not all of them have been successful.

Relating to the important question on when Trade Unions should raise cases, Nilsson stated that the circumstances are most important. “Trade Unions should be clear of their goals and what we want to achieve”, she added. To raise cases would not cost a lot of money but a lot of time.

In the future the Guidelines should be used to strengthen the dialogue with companies, who are often not aware of them. An increasing number of trade and investment agreements take into account labour issues. The Guidelines need to be referred to in these agreements, in states’ export credits to make them more binding, more recognized and more accepted.

(d) Auret van Heerden, President, Fair Labour Association

“Can standards make trade fairer? Yes”, asked and responded Auret van Heerden. “Yes, if they were enforced”, he added. In his view globalization has a strategic possibility to obviate labour standards. And this is not only made by companies. “It is very, very hard to list countries that are enforcing the labour laws”, he said. Sometimes it happens unofficial, sometimes it happens official. Sri Lanka as an example did not enforce pension and other social protection systems in the sense of competitiveness. This is an argument which is often brought forward by governments. “But companies are shutting up, people are left behind, jobless and pensionless”, he emphasized and with this situation the state has to deal with alone.

One of the most important issues van Heerden raised afterwards was the issue of responsibility. “We take responsibility for social labour conditions everywhere in the world regardless of ownership or control” he demurred and continued in saying that multinational companies liked to fold their arms. Giving them an account of concussive circumstances people are working in, you would have heard sentences like the following: “We had no idea that this was going on!” or “We don’t own this factory”. Especially the latter point is crucial as the thousands of small factories which are producing millions of products have

never been in the possession of companies like Nike. Nike and all the others are only brand names. And the brand is their only effort, which they seek to protect.

A meeting in the White House to which the then-president Bill Clinton of the United States invited brought about a rebound. Industries, trade unions, human rights organisations and the labour department came together, started a discussion and created a “White House Task Force” which lasted four years. The result or more the respond was put in one sentence by van Heerden. “Whatever you find, you have to fix”. From this time on multinational companies have to take responsibility for their business and for their reputation. They have “a duty to know” as he said. Today about five per cent of the 750 factors which are manufacturing for Nike are visited by inspectors each year. Nike has therefore to be extremely confined on their internal complaint system. They do not know when and where the inspectors will arrive at. But they know that the results of these inspections are being published. “We believe transparency is the only way to ensure that the companies are walking the walk”, van Heerden emphasized.

Why should or why are multinational companies engaged in ameliorating the working conditions of employees respecting the Core Labour Standards? van Heerden gave two reasons. First due to consumer pressure, publicity and transparency reasons and second precisely because of insurance as it is a very good protectionist system. Thus, in the words of van Heerden “we do have the ability to harness the resources of multinational companies.”

But is it not a very controversial approach? “You are saying that a public good like health safety and legal work places which is no longer been delivered by public agencies will now be delivered by private actors, the multinational companies”, van Heerden declared.

Recognising some promising progress, there are still too many workers without access to any kind of social standards. A lot of multinational companies have no interest in implementing them, they still see no necessity. A lot of countries recognise them as protectionism of more industrialised countries. China for example is not paying minimum wages for seventy per cent of their workers. “This is an unfair competition”, van Heerden remarks.

Thus he requested “go and get your governments to do more to understand that compromising the workers future is not a way for getting sustainable competitiveness”. And concerning the multinational companies he concluded, “they have to tell the buyers what they are doing to insure that labour standards are respected”.

(e) Claribel David, Vice-President, International Fair Trade Association

Claribel David started with the words that she is not only the vice-president of the International Fair Trade Association but that she is a small craft producer, too. Talking about fair trade, this is more than essential information. But what is Fair Trade? “Fair Trade is an alternative way of doing business”, David explained. It is a trading system

that seeks greater equity in international trade and contributes to social development by offering better working conditions.

Fair Trade is dealing with respect of social and ecological development especially in the south. It is also a market with twenty five per cent of growth for the last seven years and two billion Euros of total revenue.

She did not forget to mention a famous supporter for Fair Trade: “Pascal Lamy once told that at home he eats fair trade labelled bananas”. Today, 80,000 supermarkets and 3,000 one world shops offer Fair Trade products, 7.5 million people are gaining from Fair Trade with a fast growing base in the North and in the South. The customers know their capacity to influence the economy. But still, “Fair Trade is only 0.1 per cent of world trade”, David pointed out. The Fair Trade Label is a nongovernmental monitoring system granting licenses and a guarantee for consumers. It is an independent guarantee which teaches us in the words of EU Commissioner for Trade, Peter Mandelson whom David cited “that consumers are not left outside”.

David listed the nine key principles of her organisation which have to be respected by Fair Trade labelled Organisations. Creating opportunities for economically disadvantaged producers, transparency and accountability, capacity building, promoting Fair Trade, payment of a fair price, gender equity, working conditions, child labour and the environment. Thus the United Nations Declaration on Human Rights and the ILO Conventions are fully recognised. “All these principles stand for trade justice”, she added.

The history of Fair Trade started with selling crafts in the late 1940s in the US and about ten years later in Europe; but was still in its infancy. In 1969 the first “The World Shop” opened its doors in the Netherlands. These shops are playing a crucial role also in regard of awareness-raising. Over the time more and more people in the North as well as in the South got involved in supporting disadvantaged producers. Already in 1968 at the second conference of the United Nations Conference on Trade and Development (UNCTAD) in Delhi, the developing countries called for “Trade not Aid”. “This approach put the emphasis on the establishment of equitable trade relations with the South”, David highlighted, “in stead of seeing the North appropriate all the benefits and only returning a small part of these benefits in the form of development aid”.

In the end David addressed the international institutions like the United Nations, the World Bank and the WTO to recognise and support Fair Trade “its principals, its standards and practices as developed and defined by the Fair Trade movement”. These organisations should strengthen their cooperation with social partners like NGOs, trade unions, consumer organisations, producers and companies. “To conclude”, she said, “every one of us here are consumers and we have the power to influence that social, development and ecological criteria are respected”.

2. Questions and comments by the audience

During the discussion several interventions on different issues were made by the audience. One speaker focused on the gender perspective of Fair Trade and wanted to know who is benefiting most from the Fair Trade system. She also asked if Fair Trade is limited only to goods. David reacted on these questions in highlighting that about 60 to 70 per cent of the workers belonging to Fair Trade cooperatives are women. These cooperatives are in their majority small scaled enterprises. As most of these women were working in the informal sector before, Fair Trade addresses the needs of those specific marginalized sectors of society. David added that Fair Trade labelled products are mostly agriculture products and craft but that in the field of tourism more labelled services are provided.

The sense of Corporate Social Responsibility (CSR) was addressed by another speaker. He articulated serious doubts on whether CSRs are nothing more than window-dressing. In his point of view there is also a gap between the role consumers could play and consumers are playing as for most the price remains the essential criteria. Ethical issues would be margin to the nowhere. It was Nilsson who reacted to this question in reminding on the disapproval trade unions have yet with CSRs. The main point of criticism would be the voluntary character of these mechanisms which trade unions would never respect. Only enforceable regulations can really ensure that social responsibility is respected and implemented by companies. Nilsson continued in saying that if workers were really allowed to set up trade unions, they would not need these CSR. And most of the CSRs were especially in the beginning not based on ILO standards. Nevertheless, she mentioned that about 60 to 70 international framework agreements which have been negotiated between multinational companies and global union federations respect Core Labour Standards. Those agreements would be really a commitment by companies.

Auret van Heerden added to this question that most CSR frameworks are not integrated in their business model, as this would mean to renew the way of doing business.

Another speaker questioned whether one can trust the WTO Singapore Declaration or not as little action has taken place since its adoption more than ten years ago. He also reminded on the fact that many private and public organisations deal with labour standards except the WTO. The Singapore Declaration of the first Ministerial Meeting of the then newly established WTO was the first official document in the multilateral trading system that referred to labour standards. It states that “we [the Member states of the WTO] renew our commitment to the observance of internationally recognized core labour standards”, but continues to underline that “the (...) ILO is the competent body to set and deal with these standards (...)”. Dombia-Henry answered this question first on outlining that political will is needed to achieve those agreements. Regarding the different competencies of ministries inside the governmental structure of one country, it is a matter of coherence to take into consideration, that the same government is reacting quite different in its position in the ILO and in the WTO. She added that very small steps have started to be taken between the

secretariats of the ILO and the WTO by mentioning the joint ILO/WTO publication on trade and employment, which was launched in February 2007.

The same speaker raised another point. He stated that the WTO in not integrating the labour standards in its work runs the risk of undermining its legitimacy once more as on the level of bilateral agreements governments do agree to implement the standards in these agreements, whereas on the level of the multinational trading system they do not.

One representative of a company asked van Heerden if the Fair Labour Association is checking CSR-standards also of those companies who are not members of this organisation. He added that he actually did not know whether or not his own company's standards are complying with the OECD or all the other standards which were discussed on the panel.

Another speaker wanted to know which countries really have implemented the OECD Guidelines in their trade and investment agreements. It was Nilsson who responded on this question, that the only one she knows is the one between the EU and Chile not being sure if others do exist or not.

3. Conclusions and way forward

To overcome the dilemma of the current globalization in not delivering a real social dimension, the social standards have to be strengthened in different ways in order to contribute to this goal.

First, those legally binding instruments which already exist have to be implemented effectively by governments and enterprises. Thus, an increase of independent monitoring systems is needed. Second, despite legally binding instruments the effects of soft-politics as dialogue between enterprises, trade unions and governments should not be underestimated. Soft-politics can not substitute legally binding instruments but they are an indispensable way to establish mutual trust and political will. Third, transparency is essential on all levels. It is important for every relevant actor to have the ability to know what is who doing where and when. Fourth, everybody has to play its role to take responsibility, governments, enterprises, producers, trade unions, consumers and international organisations. Mechanisms have to be established which evaluate whether these responsibilities are respected or not. Finally, which impact will have the recognition of social standards by bilateral agreements for the multilateral trading system? If the WTO and its Members do not want to erode these developments, they should consider the social standards in their framework and try to identify which role social standards could play in their policy.

In a globalized world, no clear separation between policies is possible as every policy has an impact on another. Globalization is a complex system, but not to recognise it as such, makes it in the long run even more complicated.

F. Rebalancing Trade with Global Norms, Organized by the Institute for Agriculture and Trade Policy (IATP) and the Center for International Environmental Law (CIEL)

Report written by the Institute for Agriculture and Trade Policy (IATP) and the Center for International Environmental Law (CIEL)

Abstract

The panel looked at trade and investment on the one hand and global norms such as environment, human rights and labour on the other. The former, having evolved outside the UN system, is having an increasingly negative effect on the environment, human rights and employment. For example, many organizations have been documenting the effect of agricultural surges including the Food and Agriculture Organisation (FAO), ActionAid International, the Foodfirst International Action Network (FIAN), the Ecumenical Advocacy Alliance (EAA), and Rights and Democracy.

1. Presentations by the panellists

- (a) Carin Smaller, Institute for Agriculture and Trade Policy (IATP)

Carin Smaller provided an introduction to the subject. The speaker explained the substantive imbalance in the multilateral system whereby trade and investment rules are either inhibiting or, at times, directly in conflict with social and environmental norms, such as those enshrined in the UN Convention on Human Rights or in multilateral environmental agreements. She noted that the aim of the session was to explore new approaches and mechanisms to rebalance the norms developed by the WTO with multilateral obligations to realize human rights and other global norms that are enshrined in the UN system.

- (b) Caroline Dommen, Director, 3D -> Trade – Human Rights – Equitable Economy

Using different UN instruments to raise concerns about the impact of economic globalization on peoples' livelihoods

The first presenter, Caroline Dommen started by stating the importance of being sure what kinds of tensions we are speaking of: are we talking of the way that more international trade (and harsher competition between countries to produce cheaply) is incompatible with human rights? Are we talking about the way trade rules affect human rights? Or the way that trade-related rules, such as on intellectual property (IP) affect human rights? She noted the importance of two major policy issues: process and policy space. With respect to process, Dommen focused on the way that trade rules are often negotiated and implemented in ways that are non-transparent and with little public participation, contrary to human rights principles.

Indeed the rights to information and participation are protected in a number of international legally-binding instruments, including in article 13 of the Convention on the Rights of the Child (CRC) and article 25 of the International Covenant on Civil and Political Rights (ICCPR).

Dommen also addressed the issue of prior assessment of the impact of trade policies, pointing out that a number of legal instruments require this, including the Covenant on the Elimination of Discrimination Against Women (CEDAW) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Particularly relevant is the fact that human rights requires that the likely impact on different groups of a country's population be considered, including for instance, vulnerable groups such as women, indigenous groups or children. Human rights impact assessments have been carried out in several countries and may serve as a very useful model.

Dommen noted that there are international and domestic laws and processes for insisting that there be broader participation in trade negotiations and for demanding prior assessment of planned trade rules or measures. Yet these have not really been used to address the problems posed by trade rules.

Dommen described an example of how trade-related rules could affect policy space and some human rights responses: stringent IP rights regimes can affect the right to health through making it harder to access medicines. She described some of the human rights mechanisms that had been harnessed to seek to avoid the problem, for instance, groups of non-governmental organizations (NGOs) in European Free Trade Agreement (EFTA) countries and in Thailand submitted requests to the Special Rapporteur on the right to health to ask him to intervene with the relevant governments, involved in negotiating a trade agreement, to ensure that the trade agreement did not include high IP provisions that would make the price of medicines higher. These are avenues that should be followed vigorously because of their moral and legal value⁹.

Dommen concluded by saying that there are clear rules and processes on human rights and labour rights and these need to be used. Governments need to be more aware of the agreements which they have signed and what their human rights obligations are.

⁹ See for instance, 3D and FORUM-ASIA, *Practical Guide to the WTO*, 2004, available at www.3dthree.org/en/complement.php?IDcomplement=36 and 3D and Sur, *Guía Práctica sobre la OMC y otros Acuerdos Comerciales*, 2006, available at www.3dthree.org/es/complement.php?IDcomplement=36

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- (c) Dalindyabo Shabalala, Director, Intellectual Property and Sustainable Development Project, Center for International Environmental Law (CIEL)

Promoting access to medicines and the right to health in the trade regime

The second presenter, Dalindyabo Shabalala spoke on the conflict between trade norms and access to medicines. He started by saying that the public health debate may appear to be over for many people but it is not and there is a need to see why. He spoke of trade related IP norms, the norms they conflict with and the Doha Declaration on Public Health.

With regards to trade related IP norms, Shabalala noted that it was important to look at the Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement. He described the relevant provisions under the general rules and specific patent rules were discussed. He then examined how these IP rules conflict with public health. Shabalala noted that patents create monopolies intended to maintain high prices, whereas governments have an obligation to meet basic health needs and life-saving health needs under the right to health. With respect to pharmaceuticals, IP policies are intended to achieve the production of medicines, using market methodologies, so that they can save lives and be used by all who need them. However, when there are no such markets, poor people cannot pay for drugs.

Shabalala stressed that under TRIPS, the balance favours the sacrifice of present access for potential future drugs. Policy choices that have been developed to support TRIPS are based on the assumption that sacrifices must be made today (expensive drugs that millions of HIV sufferers cannot afford) for gains tomorrow (ensuring that money to pay for private research will go to developing drugs that save lives in the future). The choice is supposedly between some lives saved today for more lives saved in the future or, in the absence of “reduced incentives”, more access today but no more medicines in the future. However, Shabalala argued that this is a false trade-off. Market based research goes where the market is, i.e. the diseases of the poor (e.g. malaria) are neglected in favour of those of the rich (high blood pressure). WHO neglected diseases list is clear. Little or no private research goes into diseases of the poor and marginal because there is no market to provide incentives.

Under Trade-related IP norms, compulsory licenses (Art 31) and exceptions (Art 30) have been severely curtailed and continue to be so in regional and bilateral agreements. Shabalala emphasized that though IP is a policy tool it is clear that it is failing to deliver medicines at an affordable price. What then is the relationship between the policy tool and the fundamental goal it is meant to fulfil i.e. the right to health? The IP and public health issue was a direct challenge to the rationale and structure of the TRIPS Agreement. Thus, how did the WTO framework respond to this public health challenge?

Shabalala outlined the response of the WTO framework. In 2001, there was the Doha Declaration on Public Health. The declaration took an interpretive approach to the TRIPS Agreement under Paragraph 4: “We agree that the TRIPS Agreement does not and should not prevent members from taking measures to protect public health. Accordingly,

while reiterating our commitment to the TRIPS Agreement, we affirm that the Agreement can and should be interpreted and implemented in a manner supportive of WTO Members' right to protect public health and, in particular, to promote access to medicines for all." The only mention of the right to health is the government's right to protect public health rather than its obligation to do the same.

Shabalala noted that Paragraph 5 provides no further guidance on resolving the conflict with Public Health. He noted that the paragraph does state that customary rules of interpretation of international rules apply in interpreting the objectives and purpose. It also contains further stronger language recognizing, for purposes of compulsory licensing, the freedom of states to determine, for themselves when a national emergency arises, particularly noting that public health crises are included.

Paragraph 6 does seem to acknowledge that TRIPS is a structural obstacle to achieving public health goals for some countries thus, the need for an amendment to ensure access for least developed countries. Can guidance be found from the dispute settlement mechanism of the WTO? Shabalala pointed out that there has been no legal conflict brought to dispute settlement. Rather, there have been disputes at the political level in national arena. He pointed to other possibilities such as using principles of interpretation like the Vienna Convention, as well as customary rules of interpretation. Moreover, concepts of mutual supportiveness and hierarchy of norms could be used. However, he noted that WTO panel decisions in other areas were not encouraging in this regard.

Shabalala concluded by addressing the issue of renegotiation. This is based on the fact that TRIPS is in conflict with other agreements. He recommended the use of methods such as the inclusion of saving clauses and cross-references to other relevant agreements.

(d) Daniel Mittler, Political Advisor to Greenpeace International

WTO and the environment: real conflict rather than avenue to saving the climate

Daniel Mittler argued that the environmental field showed that there was no progress in the relationship between WTO rules and other norms or sets of law. While Pascal Lamy and others like to point to some environmentally positive dispute settlement rulings – such as on dolphins and asbestos – they do not represent a trend. Rather, the ruling in the US/Canada/Argentina – EU dispute on genetically modified mechanisms 2006 showed that the WTO is ill equipped to deal with environmental disputes. It took longer than in any previous dispute to arrive at a ruling – and the ruling was very negative for environmental law.¹⁰ The ruling simply chose to ignore the one internationally binding agreement on trade in genetically modified organisms, the Biosafety Protocol. Mittler described this as “sickening arrogance” and argued that any talk of the “mutual supportiveness” of trade and environmental law was misleading. In fact, he called it “Orwellian”, as it suggests harmony

¹⁰ See: <http://www.greenpeace.org/raw/content/international/press/reports/genetic-engineering-and-the-wto.pdf>

where indeed there is conflict. Furthermore, he pointed to the WTO having much stronger implementation and compliance mechanisms than (most) environmental agreements; WTO rules are hence, by default stronger than environmental rules. He therefore, supported calls for “safeguard clauses”. The WTO should actively state that it accepts the primacy of Multilateral Environmental Agreements on environmental matters (including trade related ones).

Mittler supported calls for impact assessment of trade rules on people’s livelihoods and the environment, but pointed out that impact assessments only make sense if their results are taken seriously in the policy process. He pointed to a critical Sustainability Impact Assessment of forest sector trade liberalization funded by the European Union¹¹ and said that this assessment was not worth the paper it was printed on as it had no impact on the very aggressive pro-liberalization stance of the EU in the Non-Agricultural Market Access (NAMA) negotiations (which include forests and fisheries). He also pointed to the fact, that an analysis of published, official government data for the fisheries sector showed unequivocally, that trade liberalization in fisheries will have devastating consequences for poor communities dependent on fish for food as well as on the marine environment.¹² So while Pascal Lamy and the WTO try to argue that the WTO is a positive force for fisheries due to the vague hope that harmful fishery subsidies might be constrained as part of any Doha Round agreement, the reality is that the overall impact of WTO trade liberalization on fish stocks around the world will be disastrous.

Mittler sees a similar attempt of WTO greenwashing in the current glut of arguments that trade liberalization can save the climate (there were several panels at this year’s WTO Forum making this point). He said that the hope that climate change could be averted through trade liberalization was simply absurd. The current reality was, rather, that increasing trade flows were leading to increased emissions, especially in the transport sector. He specifically dismissed the idea that a rapid liberalization of “environmental goods and services” could play a major role in climate mitigation. There were too many problems with that approach – including the continuing wrangle over a proper definition of an “environmental good”¹³ and the distinct danger that damaging technologies (such as electronic waste or incinerators) could be disingenuously be defined as “environmental”. He also pointed out that emissions needed to be cut now; given the current glacial pace of the Doha Round, the climate would be badly served, if saving it depended on a revival of the Doha Round. Mittler argued that while, indeed, a rapid diffusion of, for example, renewable technologies was desirable, other mechanisms, such as a Clean Technology Deployment Fund under the Kyoto Protocol, were more likely to deliver this than the WTO. He also pointed out that an overall impact assessment of the WTO regime and the Doha Round proposal on the climate should be executed. He was certain it would show the aggregate impact and would be negative. He called for the WTO to accept that climate decisions will be taken under the

11 See: <http://www.sia-trade.org/wto/Phase3B/Reports/ForestFR19June05.pdf>.

12 See: <http://www.greenpeace.org/raw/content/international/press/reports/trading-away-our-oceans.pdf>.

13 See presentation by Tobias Reichert at WTO Forum session 31, in this volume.

United Nations Framework Convention on Climate Change (UNFCCC) and the Kyoto Protocol and supported a “safeguard clause” to this effect.

2. Questions and comments by the audience

At least one person from the floor questioned the value of impact assessments where the assessment either does not reach the decisions makers or the decision-makers do not use the findings to change their decision, as in the case of the European Union’s Sustainability Impact Assessments (SIAs). The speaker pointed to the Universal Declaration of Human Rights (UDHR) and the need for policy-makers to adhere to this basic set of norms.

Other comments addressed how to modify the imbalance. Some concern was expressed that there are different legal systems, different players and the WTO has what seems to be a more powerful dispute settlement system than the human rights system. With respect to climate change, others pointed to the need for the Kyoto protocol to be imported into trade agreements. Another comment acknowledged the power of the WTO dispute settlement. Channelling all global disputes to the trade system is a problem. There is a need for more compliance mechanisms like in the Convention on Biological Diversity (CBD).

Another participant noted that there is a new treaty coming on the abolition of extreme poverty and that the WTO should be invited to participate in this agreement.

The participant also noted that the WTO is not in line with the UDHR and that the WTO needs to publicly endorse the UDHR. The speaker noted that the WTO is at least allowing such a Forum and this shows that they are listening.

The responses from the panellists pointed out that WTO dispute settlement is surely strong but that the human rights conventions also have strong mechanisms, the difference being the political will of States – States use the WTO dispute settlement system, thus showing their willingness to keep it strong, whereas they don’t use the human rights dispute settlement system.

On the issue of power, one panellist stressed that the power of the dispute settlement body of the WTO was not given to them, but that it was claimed through jurisprudence. They could have taken the minimalist approach and said it’s not within their jurisdiction to entertain cases with human rights consequences. Although it’s very important to work towards making other legal fields strong, it’s equally important for the appellate body of the WTO to change their jurisprudence.

The need to exercise public pressure was also raised by one of the panellists. Stricter compliance mechanisms in other agreements are important. The Kyoto Protocol which does have relatively strict compliance mechanisms could be an example for other environmental agreements. Dispute settlement has to be moved out of the WTO with regards to environmental issues and there is a need to look at how to strengthen dispute settlement mechanisms outside

the WTO system. The International Court of Justice or the Permanent Court of Arbitration were argued to be more appropriate bodies to entertain environmental issues.¹⁴

3. Conclusions and way forward

The session had a strong human rights focus and was the only one at the WTO Forum dealing specifically with human rights issues. The discussion was closed by noting that the ultimate role of governments in the WTO is ensuring coherence at the national level which includes accountability.

Several recommendations were made including:

- The WTO should endorse the UDHR in all its trade negotiations and human rights activists should work towards achieving this;
- Human rights impact assessments should be undertaken before entering into trade agreements;
- The dispute settlement body of the WTO should entertain only those cases that are within its jurisdiction; for,
- There needs to be more use of the existing strong compliance and dispute settlement mechanisms that the human rights treaties provide;
- Trade liberalization will not deliver environmental benefits nor save the climate.

¹⁴ See: http://www.foeeurope.org/publications/2005/alternatives_wto.pdf

G. **How Can Globalization Work for Workers?, Organized by the International Trade Union Confederation (ITUC)**

Report written by Esther Busser, International Trade Union Confederation (ITUC)

Abstract

Trade liberalization does not automatically lead to benefits for the whole population in countries that undertake such liberalization. Many people are worse off after liberalization measures – often those that are already in a weaker position – and not just in the short term but over longer periods of time. Workers may suffer worse working conditions, employment prospects and respect for their rights.

The session looked at how trade and globalization benefits are distributed and in particular how the distribution of these benefits can be made more equal. The session provided some practical examples of the consequences of unequal distribution, policies to achieve a more equal distribution of benefits, as well as best practices that can encourage governments to take up these distributional challenges.

It also drew on the ILO-WTO joint report in order to consider the optimal policies to maximise the benefits and minimise the costs, and considered also the interaction between the WTO and other institutions.

Questions that were addressed by the panel are:

- *What can be said about the current state of distribution of benefits of trade?*
- *Where are the obstacles to a fairer distribution of benefits from trade?*
- *What ideas, policies and good practices are needed to build a more equal and sustainable system?*
- *How can policies, such as trade, labour and social policies, reinforce and complement each other in attaining the overall objective of sustainable development (i.e. raising standards of living and ensuring full employment and a large and steadily growing volume of real income and effective demand?)*

The main conclusions were that trade and technology have led to increased inequality at levels that are not sustainable and that inhibit growth. Redistribution policies are therefore needed, as well as improved policy coherence between trade, labour and other policies, improved skills levels, and social protection for all workers. Inequalities also require the strengthening of trade unions and respect for trade union rights, with a task for the WTO in particular when it comes to violations in export related production. Experience from the Philippines shows increased growth which has however resulted in lower real wages, less quality of employment and local factory closures. The Danish experience on the contrary shows a response to globalization which has been beneficial for the majority of the people, mainly because of the importance of tripartism in the country, strong trade unions, a high level of unionisation and a high level of investment in skills and education, and social protection.

1. Presentations by the panellists

(a) Carin Smaller, Institute for Agriculture and Trade Policy

Carin Smaller chaired the session and made a few introductory remarks. She referred to a quote by the Indian Professor Amit Bhaduri in his paper on Joblessness: “We aim to export more. Countries seek to be more price competitive often by cutting labour costs. This leads to depression of the domestic market and the internal market shrinks. Exports can increase but living standards can be on the decline. The question therefore is how to secure full and decent employment in a situation where labour supply by far outweighs demand, where multinationals have enormous power to set prices and where labour markets have come under pressure.”

(b) James Howard, Director, Economic and Social Policy, International Trade Union Confederation (ITUC)

James Howard started with the key message that there is a need for government intervention to get an equal and fair outcome of trade and globalization, and that market forces alone will not be able to deliver decent work. It is therefore important to put the WTO in a broader international context. On the one hand, there is the bilateral agenda in which many of the WTO Members are engaged, which includes WTO plus issues that were not taken up in the WTO, and which will have severe impacts on workers and employment. These bilaterals will therefore be an important area of focus for the trade unions to ensure a strong protection of workers' rights in these agreements.

On the other hand, there are a number of important spheres and meetings at the multilateral level that are part of this broader picture of globalization and decent work. These are, first of all, climate change and the climate summit in Bali in December and the possible impacts of climate change on employment. This meeting should also focus on the promotion of green jobs, the restructuring of production and adjustment for workers. Secondly, there is the Commission on Social Development meeting on Decent Work in February with a remit to discuss including Decent Work in all bodies of the UN. Thirdly, the UNCTAD XII Conference in Ghana in April 2008 which focuses on trade and development should also consider trade and employment issues. Fourthly, there is the International Labour Conference at the ILO in June next year focusing on a strengthening of the ILO capacities in a globalized world and its relation with other organisations such as the WTO. And finally the Finance for Development meeting later in 2008, which should look at how the IMF and World Bank could play a better and more constructive part in the international system and be more sensitive to other UN agencies. In short, the WTO cannot function in a vacuum but needs to have a broader focus and reach.

With regard to the WTO and the Doha Round the trade union movement has mainly focused on GATS and NAMA. Although there is less attention for GATS at the moment, it is an area that has caused a great deal of concern in the past, in particular because of

the distributional impact, the access to services for the poor, and the protection of public services and public sector workers. Currently, NAMA is a major concern and priority for the trade unions. However, no impacts of NAMA proposals on employment have been properly assessed despite some tentative assessments by UNCTAD and the South Centre, which have shown substantial decline in output and employment, and it has been very discouraging to see that governments have not paid more attention to these impacts. NAMA will impact both on employment and policy space in developing countries, even when high coefficients are used as ITUC simulations for different sectors have shown. A coefficient between 19 and 23 would have major impacts on employment and workers, both in the short term and longer term. The ITUC has built a strong campaign against the current NAMA proposals and a resolution was adopted at the ITUC General Council in June, which calls for action by affiliates. This call has resulted in lobbying from many trade unions from the EU, US and Japan in support of their developing country counterparts for higher coefficients and more flexibilities.

The final part of the intervention focused on longer term institutional reform in the WTO. It is clear that trade and trade liberalization impact on the level and quality of employment, as shown by the ILO-WTO report on trade and employment. For the last 10 years the ITUC has prepared reports on core labour standards, coinciding with the Trade Policy Reviews at the WTO, which provide a description of violations of core labour standards in export industries, and which should therefore be discussed in the WTO with an aim to find solutions that end such violations. He provided a number of examples of such violations in Bangladesh, Kenya, Nicaragua, Malaysia, Guinea, Philippines, Korea, Nigeria, Colombia and other countries, especially affecting women.

Paragraph 56 of the Hong Kong Ministerial Declaration provides a mandate for further work with the ILO in this area and should therefore be given an active interpretation. There should be a space in the WTO where social and employment issues can be raised legitimately without concerns of protectionism, for example in a committee or work programme on trade and decent work, but also in existing committees and meetings.

(c) Rolph van der Hoeven, Director of the Policy Coherence Group, Integration and Statistics Department at the ILO

The intervention from the speaker mainly focused on the ILO-WTO report on trade and employment that was published earlier in 2007. He started by saying that trade and employment are related and trade leads to job shifting in all sectors. This makes reallocation between jobs easier, but a much wider range of jobs are at risk and therefore makes it more difficult for policy-makers to address these shifts.

The ILO-WTO report notes that trade leads to an increase in average wages although there is little evidence for this. However, this is based on averages and does not mean that all workers' wages are likely to rise, which depends very much on the country. With regard to inequality this is on the increase in many but not all countries (around 70% of

the countries), both in developed and developing countries. And 80% of the population lives in countries where inequality is increasing. Technology has been the main driver of this growing inequality and it has resulted in capital owners being better off, many (but not all) skilled workers being better off, but low skilled workers being worse off. Trade and technological change do however go hand in hand, and both have resulted in increased inequality in industrialised countries as well as most major developing countries, including China and India. In general, trade increases competition amongst workers which results in a loss of bargaining power of workers due to technological change and due to stronger position of capital. Due to globalization the bargaining power has shifted from workers to capital.

He further noted that trade policy interacts with other policies like labour market policy, distribution policy, education policy and others. Policy coherence can therefore optimise the outcomes.

In the case of trade liberalization and the role of labour policies it is important to insure workers against adverse events. There is constant reallocation of resources and this has to be accompanied by more security. Although there might be a trade-off, it is likely to be very small. In developed countries we find social protection systems, trade adjustment schemes and active labour market policies that are used during transition periods. The US has more trade adjustment schemes, whereas in Europe there is a global social security system in the case of job losses. This is the only system that can hold if all jobs can be affected by globalization. So a better general social security system would be preferable over a targeted social system. Such social protection and adjustment schemes are however lacking in developing countries. The question is whether we need an international adjustment scheme? And how should it be financed?

The ILO-WTO report further notes that Freedom of Association and Collective Bargaining do not reduce competitiveness and that these are more likely to increase productivity. So there is no trade off between core labour standards and competitiveness.

With regard to the informal economy (an unprotected labour market) there is no conclusive evidence on the impact of trade on the informal economy. This very much depends on the growth rate of the economy, with slow growth often resulting in the same level of the informal economy and high growth leading to a reduced informal economy. The ILO and WTO will continue joint research on the issue of trade and the impact on the informal economy workers in developing countries.

Redistribution policies can be useful to counter the increasing inequality. The big political question is how to redistribute from mobile winners (capital) to immobile losers (unskilled workers). So there is a need to find international systems for redistribution. Although little inequality can inhibit growth, high inequality also affects growth, due to incentive traps, erosion of social cohesion, social conflict and uncertainties of property rights. The curve that shows the relation between inequality and growth shows that in the

current situation we are going down on the curve, which means that there is too much inequality, which inhibits growth. So redistributive policies can not only bring more social cohesion but also increase growth.

Education is important but education should not just be seen as the solution and there is a need to get the macro policy framework right as well. This requires amongst others financial market stability and a solid supply response in developing countries.

(d) Ariel Castro, Director for Education, Trade Union Congress of the Philippines (TUCP)

Ariel Castro started by saying that although trade raises overall income and welfare, it is generally felt that globalization has been negative for workers, and that the effects on workers have been severe in many cases. The GDP in the Philippines has increased over the last five years but these gains have failed to translate into real gains for a big majority of Filipinos. Some industries have experienced growth but others have lagged behind. The garments industry has been affected by the end of quotas in 2005, construction, mining and manufacturing outside economic zones have lagged behind, and only export oriented manufacturing (electronics) has seen a remarkable growth although this is also slowing down now. Those gains in production have, however, not been translated in increases in real wages. Real wages have actually gone down through the years and the distribution of property and income remains hugely skewed. Levels of unemployment are high, around 10-11% and the level of underemployment is high as well. FDI in the Philippines has slowed down. Some multinationals have closed down production and are now importing and trading without necessarily contributing to lower prices. Local companies have a hard time to compete and many have closed down. In agriculture the competition with subsidised products is affecting local production. The quality of employment has also deteriorated and new employment is concentrated in contract work, home-based work, and informal arrangements where wages and working conditions are less remunerative and where unions and collective bargaining do not exist. Women and young people have been disproportionately affected. Working conditions have been deteriorated and violations of labour standards have increased. Much of the economy relies on remittances, however, migrant workers are often maltreated, disadvantaged, harassed and abused. Labour legislation does apply in economic zones but enforcement has been lacking and union organising has been difficult due to intimidation, harassments and dismissals.

The TUCP has responded to this situation in several ways. They have pushed for labour law amendments to improve the situation of workers. They have educated workers, including on the effects of globalization and labour market interventions. There has been an intensification of organising. Corporate Codes of Conduct, OECD guidelines and the ILO Declaration have been used in organising multinational suppliers and subcontractors. The TUCP works with several other groups such as informal workers, migrant workers etc. There is also work among social partners and with the National Anti-Poverty Commission (NAPC).

One concern for the TUCP, related to the WTO, are the NAMA negotiations. The TUCP has been active with other trade unions from NAMA 11 countries in the NAMA 11 trade union group. This group calls for tariff reductions to take into account tariff lines that are sensitive to current and future employment and for a broader and more strategic approach that allows for an active industrial development policy.

Concerning regional integration the TUCP and the ASEAN Trade Union Council seeks establishment of an ASEAN Economic and Social Committee as well as the adoption of the ASEAN Social Charter.

Finally, there is a need for a framework of multilateral trade rules that respects other multilateral obligations and supports sustainable development for all people. This framework should step away from pursuing short term commercial interests. Trade unions should engage in debates around this and a closer working relationship between the ILO and WTO is needed to ensure that trade union and other human rights are not undermined in trade agreements. Global core standards need to be promoted with global enforcement mechanisms. Local actions need support at the international level as a social dimension is only achieved with coordinated work transcending borders. And finally, transparency of trade negotiations is needed.

(e) Marie-Louise Knuppert, Confederal Secretary, LO Denmark (the national trade union centre in Denmark)

Marie-Louise Knuppert shared the Danish experience in its response to globalization. In Denmark the focus has been on mitigating the negative effects of globalization and the market economy. Globalization can lead to growth and better living conditions of workers but there is a need to be proactive and for a proactive redistribution of wealth. An open economy only works if it is free and fair, and if there is an acceptance of the international division of labour. Denmark can compete on knowledge, design, quality, and innovation, not on wages and working conditions. Even in the case of job losses at the lower skill end, there will be the creation of new jobs but there is a need for higher skills. Some of the preconditions for the approach that was taken by the Danish unions are to create security for members and to involve trade unions in social development.

In Denmark, 80% of the workers are organized and employers also have a very high organisation rate. Collective bargaining agreements have a very wide coverage and there are also tripartite agreements on health and safety. What is important however is a reliable and legitimate trade union. An important basis for the Danish model is tripartism and the role that the trade union plays to influence the development of the society. It is important to maintain this tripartite system where trade unions are equal partners.

Lifelong learning is an important part of the Danish model, as well as investment in human resources such as training and skills because these bring security. Security is a very important basis in Denmark. A survey among trade union members showed that 85% of

them want the trade union to equip its members with training. And a recent collective agreement provides for a fund that pays for two weeks per year of training for workers.

Labour market policies are based on unemployment benefits and training (with free education) and lately there has been employee driven innovation. Danish workers are the most innovative in the world.

The flexicurity system in Denmark is based on flexibility on the one hand and security on the other. There is a flexible labour market, but with an important social safety net. Collective agreements cover the unemployed as well. This results in a quick adaptation to changed labour market conditions. There is a regulated labour market in the case of dismissals while competitiveness is maintained.

Trade unions are part of the society in Denmark and have an obligation to the whole society and the Danish welfare system. They contribute to an inclusive society with tripartism as the basis.

2. Questions and comments by the audience

The presentations were followed by a number of comments and questions. It was felt that the ILO-WTO report was important but that it also showed the lack of adequate evidence and data and that many questions remain, which is preoccupying. The important difference between the ILO and WTO is that the ILO is tripartite, whereas the WTO is intergovernmental. Therefore it would be better to deal with globalization and all its aspects in the ILO. It would be preferable to deal with trade unions and employers as an institutionalised and structured body rather than with different groups and it would also be preferable to further strengthen the ILO.

With regard to flexicurity, it depends on each country whether it will work or not but strong social dialogue is required for this. In most of the world there are low levels of unionisation so flexicurity will not work because there will be too much pressure on the flexibility aspect only.

The WTO has a possibility to have an influence on governments with respect to core labour standards. The social clause proposal failed to be adopted in the 1990s but as a minimum the ILO Declaration should be included in all agreements and there should be social security protection for migrant workers or service providers. There is also a need for social dialogue, policy coherence and strengthening of trade unions. The Danish example is not representative of Europe in general and in large parts of Europe globalization has not been accepted.

The WTO preamble refers to the strengthening of the interests of people worldwide but a number of questions arise on how one can reconcile free trade with the interests of workers if workers are opposed to globalization. China is competitive but there is no Decent

Work in China which is another contradiction. Capitalists look for increased gains and for flexible labour laws but how can one reconcile the need for FDI with the enforcement of core labour standards?

With respect to migration many developing country workers migrate to developed countries and bring home substantial amounts of remittances, but at the same time much of this migration takes place illegally and it causes displacement and tensions. Developed country governments should therefore rather open up their labour markets for regular migration.

Although globalization is a fact and no country can close itself off, there is no free movement of people today, and there is an increase of racism and xenophobia in Europe but also in other countries, including developing countries. The “social” balance of globalization has not been positive.

The reduction in poverty has mainly taken place in China and India, not in Africa and Latin America. The rights of the majority of the population, the rights of workers, are at stake. There is a need for coherence at the national level and international level, but there is also the need for another WTO, which integrates the fundamental norms. The ILO has to remain and its tripartism is an important value.

Many FTAs do include investment provisions and also “no lowering of social standards” clauses in relation to investment. Denmark has been able to solve problems at the national level, but not all countries might have that option and solutions at international level might be required.

There are many non-trade factors behind inequalities such as technical changes and other policies, but also trade policies. Policy sequencing is therefore important. Trade policy and liberalization should be used as a fine tuning instrument to realise full employment. An example of this are the proposals on Special Products and a Special Safeguard Mechanism which are actually a paradigm shift to offer protection to subsistence farmers. More examples could be found on how trade policy can be used and the importance of policy space.

One intervention focused on whether the ILO-WTO report dealt with trade and impact on culture and cultural aspects as many of the WTO agreements do have a huge impact on culture, creative industries and workers in these industries often at the lower end of the income scale.

The panel responded to some of the interventions. Howard responded that EU negotiating mandates do indeed include some preambular and other language on labour standards, but stressed that it is important that such provisions be actionable. There are important effects of China on core labour standards in other WTO Members such as South Africa and Mexico which is an issue that needs to be discussed in the WTO. There is also a need for more reports between the ILO and WTO, many more issues need to be addressed, in particular the issue of core labour standards.

Castro responded that there is a need for policy coherence at the national level. At the moment trade negotiations only take place with the engagement of the trade department, this has to change and the TUCP has to push for this. It is difficult to include workers' rights in FTAs. Many agreements do include labour and decent work provisions (such as with the EU and New Zealand) but many others do not. The TUCP will continue to pressure for the inclusion of core labour standards and Decent Work. With regard to migrant workers there is a need to make full and productive use of worker remittances, which are now mainly used for consumption and to have a better social protection of migrant workers. To this end there is a need for cooperation agreements and a coordinated response by trade unions in the sending and receiving countries.

Knuppert responded that Denmark does inform European colleagues about the Danish model. It is important to understand that skills are considered to be the best security in Denmark, and policies are directed towards this. With regard to investors, the largest investor in Denmark is a retirement fund, owned by employers and workers. There is no investment abroad by this fund if no Decent Work is respected. And finally Somavia's policy to mainstream Decent Work in the UN system has been an important step forward.

Van der Hoeven responded that in terms of migration there is now remigration to India and China, linked to increased salary levels. Globalization asks for stronger nation states and for more regulations and international coordination of macro economic and social policy in order to keep growth going. Growth has been low over the last 20-25 years but more growth requires coherence on macro economic and financial policies at the international level. So coherence at the national and international levels are both important and this has to be put on the political agenda.

3. Conclusions and way forward

The main conclusions were that the benefits of trade have not been distributed equally and that trade and technology have been the main causes of the growing inequalities. Inequality has become very high and current levels actually inhibit growth. There are ways to address this inequality, in particular through redistribution policies, skills development and education, policy coherence, social protection schemes, respect for core labour standards and decent work. Current NAMA proposals would further increase inequality, especially for low skilled workers.

The experience in the Philippines shows growth but the gains in production have not been translated in increases in real wages. Real wages have actually gone down, levels of unemployment are high, many local companies have closed down, and the quality of employment has deteriorated with new employment being concentrated in contract work, home-based work, and informal arrangements where wages and working conditions are less remunerative and where unions and collective bargaining do not exist.

Although in Denmark the response to globalization has been rather positive, most countries do not have the same characteristics in particular the high unionisation rate, established tripartism and high skills levels.

Although Freedom of Association and Collective Bargaining do not reduce competitiveness and are more likely to increase productivity, trade has also increased competition amongst workers which has resulted in a loss of bargaining power of workers. In particular violations of core labour standards related to production for exports need therefore to be addressed in the WTO.

And finally the role of governments is important and needs to be strengthened. Policy sequencing and policy design are important. Trade liberalization should be used as a fine tuning instrument to realise full employment. At the same time macro policies and policy coherence will be important to address the decent employment challenge.

Some key proposals to take forward are:

- The importance of investment in skills and lifelong learning;
- The need to discuss the design of redistribution policies at an international level;
- The creation of an international adjustment fund that addresses employment effects of trade liberalization and globalization. It would be preferable though to have a general social security system rather than a targeted adjustment scheme, as it can be difficult to identify trade related adjustment;
- The need for the WTO to engage more with other organisations and to be more responsive to impacts of trade on productive and decent employment;
- The need for the WTO to address labour standards violations related to trade and production for exports;
- Discussions in the WTO should allow for these issues to be raised, either in regular meetings or in a special committee; and
- The importance of social dialogue and tripartism in the ILO, which should be used to discuss trade policies, and which shows the importance of the involvement of different stakeholders in policymaking, including trade policies.

H. **The Role of Innovation and Technological Change in Harnessing Globalization: Challenges and Opportunities, Organized by the Organisation for Economic Co-Operation and Development (OECD)**

Report written by the Organisation for Economic Co-operation and Development (OECD)

Abstract

The OECD session argued that innovation and globalization are mutually reinforcing and can bring huge benefits if we manage to use technology for promoting the greater good. Innovation allows a freer, faster flow of people, ideas and new technologies, driving globalization. Globalization, in turn, opens up competition in global markets, spurring countries to become increasingly innovative in order to compete. Having more people engaging in science and innovation can help strengthen productivity and income growth, and thus reduce poverty. This can help to address major global problems such as climate change, energy security, water and health.

But some countries are more innovative than others. Why? What policies help to spawn innovation? What to do about the “losers”? What can be done at the national and international level to help developing countries become more involved? To what extent can innovation sharpen the gap between rich and poor within countries?

The global drive for innovation depends on international flows of knowledge through trade, foreign direct investment, people and ideas. The session sought to identify some of the barriers to the exchange of knowledge, as well as the characteristics of an environment favourable to innovation.

1. Presentations by the panellists

The session was moderated by Warren Giles, Journalist, Bloomberg News.

(a) Dirk Pilat, Head of the Science and Technology Policy Division, OECD

Dirk Pilat explained the interaction of globalization and innovation and stressed the importance of openness in order to benefit from new technologies for the greater good of humankind. Openness, he argued, is driving success as it allows ideas and knowledge to flow across borders so that they can be used for innovation. Openness is also forcing firms to improve performance and become more innovative. The OECD is helping countries move in the direction of stronger innovation through its peer reviews and work with developing countries in Asia, South America and Africa.

Globalization is a force for change. The world economies are more open thanks to liberalization of international trade and technological changes; countries must adjust to

the change. This is where innovation comes in as innovation helps countries compete and move up the value chain. Governments need to invest more in people through education and training to support innovation and to prepare them for finding new jobs. They also need to develop a good environment for business to engage and invest in innovation. The new global landscape for innovation implies that there are new opportunities for countries to exploit, new ways of thinking and doing things.

(b) HE Mario Matus, Ambassador, Permanent Representative of Chile to the WTO

Ambassador Matus said that Chile is completely globalized, but as far as being innovative, the response is a mixed one. Around eighty per cent of Chile's GDP is derived from trade, imports plus exports, the most important ones being seafood (salmon), mineral (copper), forestry, fruit and vegetables. The World Economic Forum rates Chile 39th in the world as far as innovation is concerned. Chile's development has been based on natural resources, and that is not enough. Chile needs to generate human capital and knowledge. Trade has been the driving force of the economy and growth, with good results. There has been a reduction of poverty; only 13 % of the population is now below the poverty line. The bottleneck is in the field of education; Chile must invest more. Chile is in the process of designing a national innovation strategy. The goal is to increase to 2.5% from the current 0.68% the amount of GDP spent on research.

(c) Dr Xuan Li, Lead Economist & Acting Coordinator, Innovation and Access to Knowledge Programme, South Centre

Dr Xuan Li said that innovation is important both for developed and developing countries, but being innovative is a real challenge to southern countries. Intellectual Property (IP) policies have a strong impact on them. The IP standards are higher and finding the optimal IP policy is difficult. There are patents for processes and patents for products. Most developing countries have yet to implement the 2005 TRIPS agreement. The greater enforcement of the TRIPS regulations is a barrier to innovation in developing countries. India has more patents for pharmaceuticals than China, and the prices for medication are lower. In China, investment is more commercial, and is not necessarily accompanied by innovation or transfer of technology.

(d) Andreas Ebert, Regional Technology Officer for Central & Southern Europe, Microsoft Europe

Andreas Ebert spoke of the process of change brought about by technology in services, products, and agricultural products. Microsoft has 800,000 partners around the world and collaborates with them to make sure that Information and Communication Technologies (ICT) users are taking advantage of innovation. Innovation is founded on education, scientific research, openness (for foreign talent and technology), and incentives, like open capital markets and IP, which, in fact, can be an incentive or an inhibitor. Innovation is risky, and venture capital can and should be used as a vehicle to drive inventions into reality.

There are three ICT business models: i) consulting-based, ii) product-based, iii) advertising-based. There is competition between all of them. All of them focus on the importance of small and medium-sized enterprises (SMEs) which can also participate in the global economy. One billion people use ICT in the world, which means that five to six billion people are not taking advantage of ICT. Microsoft is trying to promote ICT among the 2 billion people with less disposable income than in the established markets, who do not yet use ICT, but that still leaves three billion people at the bottom of the pyramid with very limited income who do not use ICT. There is a market for ICT for a long time to come and the opportunity to leverage ICT for socio-economic change and growth.

2. Questions and comments by the audience

Warren Giles asked Pilat where China stood on innovation at present. Pilat responded that according to a recent OECD report on China and innovation, there are not many real Chinese enterprises involved in innovation. There are many foreign firms, but China itself is not doing a lot of basic research.

Ambassador Matus was asked about the role of government in promoting innovation. Should government step back? The Ambassador responded that the Chilean government “does not pick sectors” to promote. The private sector should decide what to do, what to produce and where to invest. Thirty years ago there were 600 state-owned companies in Chile; now there are less than 30. Today, the owner of the company is not important; he seeks profit, whether his name is Smith, Gonzales, or Choi. What is necessary is to welcome and protect FDI while at the same time maintaining the capacity to regulate. The outcome of this policy, it seems, is that Chile exports basic, raw materials. The reality, however, is that the country exports far more than that. For example, Chile export apples, but for every dollar spent on Chilean apples in New York, only 10 cents corresponds to the actual value of the apple; the other 90% represent services. So Chile is exporting services more than goods. This is also true of wine, salmon, and other commodities.

In response to a question from the moderator, Dr Li said that piracy data is greatly exaggerated in the United States and in the European Union. If the data were correct, Chinese GDP would be about ten times what it is. There is a need for better understanding of methodology and the sources of data used in calculating piracy rates in developing countries. This is important in the light of issues of adequacy of enforcement based on such data.

Gilles asked Ebert what his biggest worry was. He responded that it is the challenge in coming up with relevant products that customers want to use. The ICT market is highly competitive and companies have to be innovative in order to produce products that are relevant to users.

In response to a question from the floor regarding Low Income Countries (LICs), Dirk Pilat responded that international trade is not enough to bring these countries up to speed.

“You can’t build innovation capacity from nothing. There has to be a foundation.” In India, for example, the use of mobile phones is wide-spread, so people can use phones to communicate with banks where they can obtain loans.

Ebert added that there is a human dimension to the problem of LICs. There is an obligation to transfer knowledge. He cited a UN project which gives access to scientific publications for free to academic institutions in LICs. It is also important to share locally (in those LIC countries) developed knowledge so that different entities are not working on the same thing in parallel, but rather build on the work of each other, accelerating progress.

Ambassador Matus agreed that helping the poorest countries in the world is a moral and ethical issue. We need global policies; countries can’t do it alone; we need good governance to have good policies.

Dr Li pointed out that ICT can actually limit local capacity. She suggested two ways of helping LICs: increase human capacity and financial capacity.

Ebert was asked about the recent finding of the European Court in a competition case involving Microsoft and windows media interoperability. He explained that the original case came up in 1998, when Google was in its infancy, and that the situation has since changed significantly. Microsoft does not yet know what impact the case will have on the entire industry, but it does give clearer guidance on how we, the industry, see the market in the future. When companies are very successful, they can create a “natural monopoly”, like Apple Ipod and iTunes, he explained.

A question from the floor pointed to the paradox between intellectual property, IP, which is designed to make money and Internet Protocol, IP, which doesn’t. On the one hand, the inventors of the Worldwide Web made no money from their ideas, while others, like Google built on the idea of others to make all kinds of money. Also, is India a technological superpower because of globalization and deregulation, or because IBM kicked them out of the country?

Dr Li responded that the institutional framework in India is responsible for the technological success, rather than the fact that India is well integrated into the world.

Ebert disagreed with the premise that only a few companies benefit when there is a new idea. Google came up with a new business model and brought added value to the Worldwide Web. Any new product or service needs to be relevant to a lot of people, or it won’t be picked up. Google provides a platform for businesses to advertise. The young generation uses technology in a different way from that of adults. They get valuable information from websites and chat rooms and monetize this via advertising. The money follows the place where people are spending their time.

Pilat offered a further explanation of the Indian phenomenon by pointing out that people study abroad and then come back home bringing new ideas and new networks.

A member of the audience asked if knowledge is the basis for innovation, or are there innovative systems that create knowledge?

This reminded Pilat of a saying in Finland that research is turning money into knowledge, while knowledge is turning innovation into money.

Ebert said that libraries used to be the place for storing knowledge, but now innovation allows a faster turnaround and knowledge can be had almost instantaneously. He mentioned that European libraries are looking into new technologies like full text search to locate books faster and with lower cataloguing effort.

There is value attached to knowledge, otherwise you can't build up an economy. The knowledge-based market place is made up of intangibles. The option that governments have is in deciding how to treat knowledge. Some consider it to be a public good and prone free access to it – A Vision of a knowledge society. At the other extreme, there are those who feel that every piece of knowledge should have a price, with the vision of a pure knowledge economy. Each country will position itself at some point between the two extremes.

Dr Li took the view that society must offer incentives in return for knowledge, but also has an obligation to make knowledge available. It is a matter of degree.

Warren Giles asked if the gap is closing between educated people.

Ambassador Matus stressed the need for competition in the area of knowledge. The “least bad” education in Chile is to be found in private schools. The government has money to invest in education, but is not sure how to spend it. Some of the ideas is to promote competition among public schools to produce better outputs.

Chile needs to continue growing. For that purposes stable rules are needed. The WTO is the global trade institution that generates rules worldwide. Therefore, if there is a failure in the Doha Round, WTO will lose credibility. The end result will be a weaker world trading system and consequently, less certainty for small countries in terms of rules and disciplines.

Ebert suggested that patents are an emotional issue which can be seen as a boon or a barrier. In the context of ICT, intangibles, companies need to build capacity to know what constitutes innovation and what does not. Microsoft tries to help small companies to protect their innovation, and is willing to pay more because it needs these ideas. There is a peer review system in software patents in the United States to try to remove barriers so that smaller companies can protect their ideas as well.

Warren Giles asked if government policy distinguishes between smaller and larger companies.

Pilat agreed that small companies are important for innovation and large companies benefit from their ideas, but they encounter barriers to their growth and creativity. They benefit from venture capital, and good regulation can help them, too. In Europe, there is a lack of venture capital, and a fear of failure that does not exist in the US, for example.

Dr Li pointed out that Switzerland differentiates between smaller and bigger companies in the area of biotechnology, and Switzerland holds the 2nd place in Europe in this field. It has narrowed down the scope of the patent to provide competitiveness for SMEs and give smaller companies more space for creativity. They get special breaks.

Ebert explained that Microsoft buys more intellectual property than it sells. Some could argue, that Microsoft would benefit from fewer patents, but if you look at the company's assets, their value is based on intangibles (IPR) created and accumulated over the years. The revenue in pure patent selling is small in comparison.

For instance, Microsoft is investing in R&D to allow computers to understand human speech. This would benefit people with disabilities, but also the billion's people who are illiterate and include them in the digital economy.

A question from the floor raised the issue of how large companies, with their heavy structures, management training and knowledge, can compete with small companies known to be more innovative.

Pilat suggested that large and small companies are complementary. The large companies are less in need of ideas because they know how to commercialise their products, although this is not so true in Europe.

Ebert called this dilemma "the sustainability of knowledge advantage" and said that it takes "soft" skills to create what customers want, and some companies are not investing as heavily as they should in that area.

Dr Li said that size is not an issue for Chinese companies. Most of them are government-owned companies. They face more competition as the government pulls back. What matters more is how the market works.

3. Conclusions and way forward

To close the discussion, Giles asked each panellist to propose two practical suggestions on how to improve innovation.

According to Pilat, no one size fits all; what matters is the overall environment for business. Governments need to provide education and training, and promote excellence wherever it exists. Policies must be consistent. Secondly, it is crucial to build links between business and science – something that is lacking in Europe. Sometimes science is not doing what business needs. Business needs to be autonomous and to have choices.

Ambassador Matus agreed that there is no sure-fire recipe for innovation. The size of the country is a crucial factor. When the developed world has a problem with the rules, they change them. Chile and other small countries have to abide by the existing rules. Chile chose to trust human beings and opened up to investment. Chile used to import food, now it is not only a net food exporter producer, but a major exporter one in the southern hemisphere. Notwithstanding these good results, the government should invest more in research. In order to have sustained policies favourable to innovation, there has to be long terms perspective through a true democracy. Nowadays, knowledge is a public good.

Dr Li felt that companies should have the means to better understand their situation in the local context and in the context of their various stakeholders. To maintain long-term competitiveness they need to be able to assess the impact of both upstream and downstream considerations and devise strategies accordingly. They need more wide-ranging impact assessment that would give them a better balanced view of their situation, but this type of assessment does not exist in developing nor in developed countries.

Ebert said that developing countries need more support and fewer barriers. There is also a need for more choice: choice for innovators to choose business models, for consumers to choose products, to go beyond classical education because soft skills are necessary. Society must find ways to inspire people and encourage creativity. Different skills are needed: Coming up with new software requires creativity; writing new software requires engineering skills; testing new software falls in the domain of science. Finally, speed in decision-making is a competitive advantage. Do our societies know how to deal with this?

The OECD session achieved its objective of increasing the body of understanding of the role of innovation in promoting the greater good of all, and ways to go about promoting innovation.

It discussed the importance of openness to foreign investment, products, talent and ideas; it discussed the importance of creating a propitious policy environment where innovation can flourish; it discussed the importance of competition in stimulating innovation and allowing more choices, but also the importance of cooperation between science and industry, as well as between businesses, large and small, to benefit from complementarities and keep new ideas circulating for the benefit and further inspiration of all.

The conclusion of the session is that much more can be done to encourage innovation, particularly in developing countries. There is a moral obligation to build the innovation capacity of developing countries; international institutions, such as the OECD through its analyses and policy advice backed up by statistics, and the WTO with its ability to negotiate global rules on trade agreed upon by both developing and developed countries, large and small, should play a greater role in helping the developing world become more involved in globalization and more innovative.

I. **Capitals and the Global Economic Commons, Organized by the Global Business Dialogue (GBD)**

Report written by R. K. Morris, Global Business Dialogue (GBD)¹⁵

Abstract

The Global Business Dialogue (GBD), based in Washington, is an association devoted to advancing and illuminating the global discussion of trade and investment issues. The public fora offered by the World Trade Organization are themselves especially important to that larger process. GBD is grateful to the WTO for organizing these very special events. We understand their principal purpose to be one of affording non-governmental organizations – organizations reflecting environmental, development, business and other concerns – an opportunity to present their views to WTO officials, delegates from WTO Member economies and their NGO colleagues, and at the same time to learn how others see the same issues.

Like its predecessor, this year's Forum was held against the backdrop of the negotiations in the Doha Development Agenda, and, inevitably, many of the discussions turned to the status of and outlook for these negotiations. This was certainly the case with respect to the final, GBD-organized session, as will be seen below. No one knows how or when these negotiations will end. We are convinced, however, that, if there is a positive conclusion to the Doha Round in the near term, the 2007 Public Forum will have made a contribution to that result. It will have done so, first, by underscoring issues, such as the proposed new disciplines on fish subsidies, where progress is almost wholly dependent on the WTO negotiations, and, second, by giving the private sector participants at the Forum a chance to judge for themselves the intensity and seriousness of purpose that characterized the work on the Round in October 2007.

Overview of the session

Morris set the stage for the discussion and explained the initial goal for the panel. This was the desire to try to examine the aspirations of individual WTO Members and the processes of the WTO, its rules, its dispute settlement procedures, and the Doha Round negotiations. Wenk from the US Chamber of Commerce talked about the strong interest of the United States and US business in having an effective, well functioning WTO system and in seeing the Doha Development Agenda brought to a successful conclusion. He also discussed concerns that have surfaced in the US political arena vis-à-vis the stated objectives of other WTO Members within the Doha Round.

¹⁵ The final responsibility for this summary rests with the author and with the Global Business Dialogue rather than with the presenters.

Parlin's starting point was the state of play in the Doha Round and the many sharp contrasts that differentiate this round from the Uruguay Round, which was completed in 1994. In the process of looking at those differences, Parlin touched on the mechanism by which the interests of different countries – the United States, the European Union, the developing countries, and, as a special case, China – are advanced or defended in a WTO setting.

1. Presentations by the panellists

- (a) R. K. Morris, founder and president of the Global Business Dialogue served as the moderator and introduced the subject

Introduction

The title of the session was Capitals and the Global Economic Commons, which was meant to be derivative from the larger theme question for the 2007 WTO Forum, namely, “How Can the WTO Help Harness Globalization?”

The underlying assumption behind the panel was that, for the foreseeable future, the essential instruments of global governance will continue to be nation states. Morris said he used the term “nation state” loosely, including both super-entities like the European Union and non-sovereign entities like Hong Kong, both of which are WTO Members. If that underlying assumption is correct, then the job of the WTO has to do with facilitating the interactions of nation states rather than directing them or controlling them. Yet if one looks even at the dispute settlement system of the WTO, there are times, Morris said, when at least some observers wonder if perhaps the WTO is not attempting to harness more than it can.

In any case, if nation states are the basic units of the discussion, it is worth asking: What are the aspirations, economic goals, and attitudes of some of the major players? In the first instances, is it always desirable for citizens of particular countries to speak for those countries? On the other hand, it is also true that each country is looking over its shoulder, trying to make sense of what it sees as the aspirations of others. In both Brussels and Washington, for example, the question of China's goals can sometimes appear to be as important as the goals of the European Union and the United States.

With those thoughts as a framework, Morris then turned to the first panellist for his comments.

(b) Christopher Wenk¹⁶, Senior Director for International Policy at the US Chamber of Commerce¹⁷

Christopher Wenk began with the statement that the US Chamber of Commerce “is deeply committed to ensuring the successful conclusion of the Doha Round.” He said such an outcome would “greatly benefit the United States and countries around the world.”

He pointed out that trade in goods and services is equal to roughly 27 per cent of America’s GDP, and that America has reaped significant economic benefits from the Uruguay Round, whose provisions began to go into effect in 1995. He quoted this passage from the 2007 Economic Report of the President:

“Advancing free and fair trade in multilateral, regional, and bilateral negotiations will help to ensure that America continues to derive benefits from international trade.”

Wenk said, “The bottom line is that the United States *does* see trade in its economic interests, although there are certainly some who don’t feel the same way.”

Ambivalence on The Hill

The clearly stated pro-trade policies of the Bush Administration notwithstanding, there is ambivalence in Congress about the value of further trade liberalization to the American economy and the American people. Even in Congress, though, the default position is still a pro-trade one. That was exemplified by the fact that, on May 10th of this year, the Democratic leadership in Congress reached an agreement, an understanding with the Bush Administration, on a process for moving forward with the four bilateral free trade agreements on which negotiations have been completed. In the absence of a breakthrough in the Doha Round, it is these four agreements that are the testing ground for Congressional views on trade.

Regarding the May 10 agreement, Wenk said, “It is notable that many Democratic Members of Congress were not happy that [their] party leaders agreed to go along with the Bush Administration on moving any trade agreements, even though [as a result] they were able to win concessions they had long sought,” with respect to labour and the environment.

He said he expected Congress would take up the US free trade agreement with Peru “sometime this fall,” and seemed to feel that it would pass. He explained that the trade discussion in Washington is more complicated today than it was in May. To begin, the Democratic leadership subsequently said they wanted legislation on Trade Adjustment

¹⁶ Christopher Wenk’s background includes work on international trade issues at the National Association of Manufacturers, in the Congress of the United States, and at the Delegation of the European Commission in Washington.

¹⁷ The US Chamber of Commerce is the world’s largest business federation, representing more than three million businesses and organizations.

Assistance – a program for workers deemed harmed by trade – to be considered before any of the pending free trade agreements. Moreover, though the agreement with Peru will be taken up this fall, “it is uncertain which if any of these other agreements will come up for a vote this year or next,” Wenk said.

Wenk put considerable stress on the economic and strategic importance to the United States of two of the four agreements. “It would send an alarming signal to the world,” he said, “if Congress were to ‘take a pass’ on the pending trade agreements with Colombia and Korea.”

Doha Chicken-Congressional Egg

If Congressional politics for the Doha Round are less complicated than for the pending free trade agreements, it is probably because members see a Doha agreement as far less imminent. The most immediate issue the Doha Round presents for Congress is that of Trade Promotion Authority or TPA. That is the current name for the arrangement – now expired – under which Congress authorizes the President to negotiate trade agreements and at the same time promises to provide an up-or-down, no-amendments vote on any covered agreement within a definite period of time.

Wenk cited a remark recently by the top Republican on the Senate Finance Committee, Senate Charles Grassley of Iowa, which speaks directly to the situation. As Senator Grassley explained:

“It is a chicken-and-egg situation. We have democratic leaders in Congress that say: When there is some sort of a breakthrough on Doha, we will do something on TPA. And then you have people around the world saying: ‘Why should we do something on Doha if the President doesn’t get TPA?’”

Wenk observed that, with respect to the Doha Round, there is a chicken-and-egg situation in both Washington and Geneva. He pointed out that Congress has over the years expressed strong and consistent support for the World Trade Organization.

For example, under US law, Congress has the opportunity once every five years to vote on whether the United States should continue its membership in the WTO. The last such vote occurred in June 2005, and 338 of the 435 House members voted to keep the US in the WTO as did 86 of America’s 100 Senators. In the Senate case, there was no one on the other side.

Cotton and the US Senate

This is not to suggest that developments in Geneva are not being watched closely in Congress. They are, and senators and representatives are not always pleased with what they see. Wenk told the WTO Forum that, less than a month earlier, on September 20, ten

farm-state Senators sent a letter to the US Trade Representative, expressing concern over the cotton provisions in the Doha Round draft text on agriculture, submitted by Ambassador Crawford Falconer of New Zealand in July.

The Senate letter contained this passage:

“If the cotton text in the Falconer paper does not change significantly, we will have no other choice but to vote against the Doha Agreement should it come before us for debate. Furthermore, if the Administration fails to address our concerns, support for TPA in the future will be severely compromised.”

Doha: Does Business Care?

Wenk said he hears that question a lot, and he answered it with an emphatic: Yes. “The Chamber is a founding member of the American Business Coalition for Doha (ABCDoha),” he said.

“Business groups in the United States, including mine, are very supportive of the Doha Round and have been working together in that regard since Doha was launched,” in November 2001, Wenk said.

He acknowledged, however, that there is frustration in the US business community “over the slow pace ...[and] also the fact that the Round has, to date, been focused almost exclusively on agriculture.” He pointed out that manufactured goods represent 75 per cent of global merchandise trade and “services represent about two-thirds of world GBD.” And he reminded the group of this observation made by President Bush at the APEC meeting last month in Sydney, Australia:

“No single country can make Doha a success, but it is possible for a handful of countries that are unwilling to make the necessary contributions to bring Doha to a halt.”

In conclusion, Wenk said: “It’s time to stop making excuses and start making deals.”

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- (c) Christopher Parlin¹⁸, member of the law firm of Miller & Chevalier in Washington, D.C.

Briefing from a Doha pessimist

One of the very first speakers at the 2007 WTO Public Forum was the president of Finland, President Tarja Halonen. She made a reference at the beginning of her speech to a 1969 Monty Python skit about a dead parrot. Parlin incorporated President Halonen's reference into his presentation.

The full skit can be seen on YouTube. It has three characters. John Cleese plays a customer who, having purchased what he believed to be a live parrot sometime earlier, tries to return what he is convinced is a dead one. The shop owner, played by Michael Palin, argues that the bird is alive. The third character and central figure is the parrot. He has no lines.

At one point, Cleese the customer, having demonstrated the lifelessness of the bird with dramatic abuse argues, without benefit of "h's":

"E's passed on! This parrot is no more! He has ceased to be! 'E's expired and gone to meet 'is maker! 'E's a stiff! Bereft of life, 'e rests in peace! If you hadn't nailed 'im to the perch 'e'd be pushing up the daisies! 'Is metabolic processes are now 'istory! 'E's off the twig! 'E's kicked the bucket, 'e's shuffled off 'is mortal coil, run down the curtain and joined the bleedin' choir invisible!! THIS IS AN EX-PARROT!!"

President Halonen said that, in her opinion, the parrot, that is the Doha Round, is not dead. Parlin kept the metaphor going throughout his presentation but reserved judgement until the end. The core of his remarks was a list of challenges for the Round, most of which either were not present or not present to the same degree in the ultimately successful, 1994 Uruguay Round, which established the World Trade Organization.

Ten such concerns follow here, roughly though not precisely as Parlin presented them:

1) *Governance, Members, and the Secretariat*

At the outset of his presentation, Parlin said he agreed that, for the foreseeable future, "nation states will continue to be the underlying and essential instruments of global governance." Therefore, he said, the job of the WTO will be "to facilitate interaction among the sovereign members rather than to seek to direct or control." He added that the Doha Round should not be

¹⁸ Christopher Parlin is an expert on WTO negotiations and dispute resolution; Parlin was the first private attorney to prepare and argue a Member's case before a WTO panel and Appellate Body. Prior to entering private practice, Parlin served for eighteen years with the Office of the US Trade Representative, years which included work as the Legal Adviser to the US Mission in Geneva and later as the principal advisor to then-US Trade Representative Michael Kantor on the conclusion of the Uruguay Round.

seen as an end in itself. It will succeed, he said, “only if it achieves the trade related priorities of the 150 members who are now negotiating.”

2) *The Tyranny of Numbers*

Parlin asked the audience to imagine a table, a matrix, with the WTO’s roughly 150 [now 151] members arrayed along one axis and the approximately 1,000 issues of the round on the other. That would mean 150,000 boxes. “We operate in a system with a culture of consensus,” he said, “which means that in each and every one of those boxes there has to be either a plus or a neutral.”

Parlin then pointed out that, even with more pragmatic assumptions, the number of elements of convergence necessary just among the key countries is still quite large. Assuming a universe of only 20 major players and 20 big issues, “That is still 400 boxes,” he said.

3) *The Legacy of Grievance, The Promise of Development*

As successful as the Uruguay Round was from a number of perspectives, there is no question but that many developing countries firmly believe that the results favoured the rich, developed world.

“This annoyance, this feeling of ‘never again,’ is to my way of thinking unfortunately coupled with a rather mushy, a less-than-solid understanding of what ‘development’ means in the context of the Doha Development Agenda,” Parlin said. In the absence of a clear, shared understanding of what “development” means the insistence on “appropriate development” in the Doha Round has itself become a drag on the negotiations, he said.

4) *The Inclusion of Non-Trade Issues*

Parlin drew attention to the various non-trade issues that have become a part of the discussion about the round as well as, in some instances, part of the round itself. Issues of labour, the environment, and human rights only begin the list. After noting that “the trade bureaucrats...remain in control of the trade negotiations,” he said, “There is not yet a mutual recognition of the respective roles and weights to be given to the non-trade concerns.”

5) *FTAs, etc.*

“Only Mongolia among the existing WTO Members has no FTA arrangement of any kind,” Parlin said. All of the others do. “The question has to be,” he said, “Are they [FTAs]...complementary to the multilateral process ... or do they take away energy,” making a Doha success harder to achieve? Parlin only asked this question; he did not answer it. It is, however, not the kind of question that can be answered wholly one way or the other.

6) *The Role of Agriculture*

“The central focus on agriculture in this round has been, and will remain, likely paralytic” to overall success in the Round, Parlin said. He said he appreciated the importance of agriculture “emotionally, culturally, and diplomatically.” But, he said, “as long as it [is] the issue to which all others can and are being held hostage,” it poses a problem for the round overall and explains in part why one has not seen stronger business support for the current round.

7) *The Push from Business*

During the Uruguay Round, Parlin was the legal representative at the US Mission in Geneva. He said he was visited then by numerous business representatives, not just from the United States but from many countries. These were companies that wanted the Uruguay Round proposals on intellectual property protection, services, market access, and dispute settlement to become legal realities.

“Where is that groundswell of business related support” for the Doha Round? he asked. He said he had not seen it. “It is easy enough to sign the letter,” Parlin said, “but where is the time, the effort of the chairman of the board? Of the vice presidents...?”

8) *The Role of the United States*

“Traditionally the United States has been the driving force, the engine of multilateral negotiations,” Parlin said. In the past, he said, the United States had been willing to make concessions for the good of the system. He did not address the issue of whether others wanted the United States to do that today. He merely observed that “politically the United States is incapable of playing that role now.”

And no one else has filled America’s shoes in that regard. There is, Parlin said, “no evidence that anybody or any group has stepped forward to play that key role of locomotive. And a train without a locomotive is not likely to be terribly successful.”

9) *The Nightmare Dispute*

Turning to WTO disputes, Parlin said the WTO and its members have been lucky so far. Nothing in the dispute settlement area has really posed a threat to the system overall. Losing parties have been unhappy, to be sure, but the decisions to date have not put WTO rulings so at odds with national aspirations as to have generated serious political repercussions.

“The FSC case, the GMO case, the shrimp turtle case ...had the potential to create such problems,” Parlin said, but they did not. “But what about the Airbus-Boeing case and others like it?” he asked. Such a case, Parlin

suggested, could inject new, politically charged issues into WTO, making it even more difficult for major players to make the concessions that will be needed to convert Doha from a negotiation to an agreement.

10) *The China Problem*

Sooner or later almost every conversation about the WTO comes around to China and China's tremendous success within the current system. Parlin acknowledged as much. The difficulty now, he said, is that most of the other WTO Members feel they need to think long and hard about the implications of any changes in the WTO – from tariff cuts to services offers – “for China's tremendous economic ability” and their own competitiveness in a changed world. The China factor too, Parlin said, is having a paralytic effect on the Doha Round.

Conclusion

“That,” Parlin said, after listing these difficulties, “is why I am a pessimist.” Then he asked: “But why is the parrot not dead?” For him, the answer lies in the fact that “trade liberalization does provide the greatest potential for the advancement of the livelihood of the greatest number of the world's people.”

He concluded: “There is always hope, despite the political difficulties, that [that] reality will come through... Politicians can at times be leaders. If they become leaders, we've got hope. Otherwise the parrot is dead.”

2. Questions and comments by the audience

A lively question-and-answer session followed the presentations described above. We will not attempt to fully reproduce that here, especially since certain themes emerged several times in the course of the discussion. What follows below is a short summary of some of the responses to three of the topics raised:

1. *Climate Change*

Several questions raised the issue of climate change and its relationship to the WTO. Wenk said he thought it remarkable that there were five sessions on Climate Change at the 2007 Forum and drew attention to the elements of the negotiations with specific environmental proposals, such as the proposal for duty-free treatment for environmental goods.

Parlin said: “There is an increasing recognition that there are some other issues – climate change, I happen to believe is one of them – that are infinitely more important to the human being as a species and as a member of the constituency of Earth [than trade] – and we have to figure out how to interrelate trade related issues with these other much more significant factors.”

Morris, admitted to some scepticism with respect to some climate change arguments but, he said, his concern with having climate change loom large in the WTO was for the WTO itself. Big issues, like climate change, often lead to negotiations that have more political than practical significance, he said. “One needs to be careful,” he said, “that when you go outside the mandate [of the WTO and the Doha Round] you don’t lose the very jewel of the WTO,” namely, the understanding by WTO Members that they have negotiated, and are negotiating, detailed commercial agreements in which each member will be held to the fine print of whatever it signs up to.

2. *Energy Services and Brazil*

The idea was put forward that perhaps a new offer on energy services from Brazil might prove a beneficial dynamic to the negotiations. Wenk said he thought it unlikely that such an offer would be forthcoming in the near terms, as Brazil is thoroughly occupied with the Agriculture and NAMA components of the negotiations, and there have been no indications of a major initiative of that kind out of the services negotiations.

3. *The Role of Business*

The issue of how various business communities, especially the US business community, are responding to the challenges of the Doha Round got quite a bit of attention in the general session. It brought out different observations from different panellists:

Parlin recalled the challenges he faced as an official in the Clinton Administration tasked with explaining the benefits of the last round, the Uruguay Round to the public. People would listen to him and say: “Parlin, what you said is all well and good, but a) I, b) my brother, c) the guy next door has just lost his job.” This led him to underscore the importance of a social safety net for those adversely affected by trade and for those in business, as well as government, to be helpful in ameliorating the difficulties trade engenders.

Wenk emphasized anew the fact that his organization, the US Chamber of Commerce, along with the other major US business organizations, is working hard in support of the Round. He pointed out that this work includes cooperation with the 105 American Chambers of Commerce in countries around the world. He also noted, though, that business would not stop its drive for more liberal trade in the event that the Doha Round stalls or fails. “If Doha fails,” he said, “my organization is going to continue pressing the US government to negotiate other free trade agreements ...”

Morris noted that, at least for US business, the situation was complicated at the moment by the fact that it is not clear that the Doha Round is going to be finished in the near term, thereby making the decision to push hard for its conclusion seem premature. It is also complicated by the rebalancing architecture of the Doha Round. This has made some firms more defensive and less enthusiastic than they had been when new elements, such as the protections for intellectual property rights, were being put in place. Even so, Morris said, if a deal is concluded, it will have strong business support.



II. COHERENCE

A. **WTO Dispute Settlement – Its Impact on The Multilateral Trading System and its Role in A Globalized World, Organized by the Appellate Body Secretariat**

Report written by Alan Yanovich and Aya Khalaf, WTO Appellate Body Secretariat

Abstract

The session examined three main themes: (i) the role of the dispute settlement system within the WTO; (ii) the relationship between dispute settlement and negotiations; and (iii) the relationship between the WTO and its dispute settlement system and other areas of international law and adjudication mechanisms.

Professor Giorgio Sacerdoti opened the session with a brief description of the WTO dispute settlement system. Ambassador Bruce Gosper focused on the relationship between the negotiations and dispute settlement in the WTO. He pointed out that because of the effectiveness of the dispute settlement system, WTO Members today review negotiated texts more carefully and are less willing to opt for constructive ambiguity. Nevertheless, although Members aspire to have a precise text, realistically there will always be some ambiguity. Professor Merit E. Janow discussed different benchmarks that could be used to evaluate the effectiveness of the WTO dispute settlement system and then discussed some of the challenges that lie ahead for the system. She concluded with a discussion of different approaches to defining the concept of sovereignty and how this is reflected in the structure and operation of the WTO dispute settlement system. Professor Georges Abi-Saab described the evolution of GATT/WTO dispute settlement from a mechanism that was closer to the mediation model to a system that is more judicial in nature. He then examined the relationship of WTO law with other areas of international law, explaining that the WTO dispute settlement system is not a self-contained regime because it is expressly required to rely on international customary rules of treaty interpretation and sometimes must rely on international law to resolve procedural issues not expressly regulated in the DSU, for instance on evidentiary matters. Reliance on other substantive rules of international law, however, is less frequent and may be more controversial. Professor Joel Trachtman submitted that if the WTO treaty is seen as an incomplete contract in the sense that it does not specify each detail, panels and the Appellate Body could be viewed as agents or trustees acting for the collective membership. He explained that, in his view, the incoherence between norms of international law is the result of the failure of treaty negotiators to specify how different international law rules relate to each other and the fact that only some treaties provide for mandatory dispute settlement and remedies. Professor Trachtman concluded by saying that it is important to recognize that the WTO dispute settlement system has been left to resolve these incoherencies and that the Appellate Body has done a “heroic” job despite having inadequate tools.

1. Presentations by the panellists

(a) Professor Giorgio Sacerdoti, Chairman of the Appellate Body

In his introductory remarks as the session's Chair, Professor Sacerdoti referred to the importance of the dispute settlement system within the WTO, and the increasing attention given to the system by governments, NGOs, academia, the public, and the press. He noted that the dispute settlement system had historically received little attention, in part because of the rules of confidentiality that are typical of certain forms of international arbitration, which were adopted by the GATT Contracting Parties at the time the system was set up. Although panel and Appellate Body reports are easily accessible today and the WTO website is very informative, Professor Sacerdoti observed that the dispute settlement system is quite technical, as are other international judicial and quasi-judicial fora. The technical nature may make it difficult for outside observers, who are not familiar with similar mechanisms, to understand how the system operates.

Professor Sacerdoti outlined some of the topics that would be discussed during the session. One of these topics is the role of the dispute settlement system within the WTO. In this regard, he explained that at the end of the Uruguay Round, Members decided that with so many agreements, so many undertakings and understandings, it was necessary to have an effective dispute settlement system that would provide security and predictability. Professor Sacerdoti noted that the dispute settlement system has attracted attention beyond the multilateral trading system. In fact, since it is very articulated, it may serve as one model, among others, for judicial and quasi-judicial systems in other organizations. Professor Sacerdoti pointed out that the session would also discuss the relationship between the dispute settlement system and other parts of the international legal system, such as the relationship between trade issues and the environment. He added that over the past twelve years a substantial body of case law has been developed and a solid jurisprudence is now available which may be of guidance in the course of further negotiations.

After outlining some of the topics that would be discussed during the session, Professor Sacerdoti briefly described the WTO dispute settlement process. He explained that the process starts with bilateral consultations between the government raising an issue and the government accused of violating WTO obligations. If a mutually agreed solution is not reached, a panel is established with experts chosen ad hoc for the specific dispute, under a certain time-frame and respecting the rules of due process. At the end of the panel phase, either the panel report is adopted by the Dispute Settlement Body (the "DSB") or the parties challenge it before the Appellate Body. The Appellate Body is composed of seven Members, from different geographical backgrounds, who are experts in law and trade matters, and chosen by the membership for a four-year mandate, renewable once. The Appellate Body report is then provided to the DSB, and becomes binding upon adoption by the membership using the negative consensus rule. Finally, there is the compliance and implementation phase, which is uncommon in other international settings, and in which the party that has to comply indicates the manner and the time-frame in which it intends to do so. This phase

is under the multilateral surveillance of the Members and of the DSB. If implementation is unsatisfactory, the panel may be reconvened to determine compliance. A Member who fails to comply with the panel decision may face trade countermeasures, in the sense of deprivation of WTO benefits. Professor Sacerdoti noted that this has happened rarely; the mere existence of this possibility operates as an inducement towards voluntary compliance.

(b) HE Bruce Gosper, Ambassador and Permanent Representative of Australia to the WTO and Chairman of the WTO Dispute Settlement Body

In his presentation, Ambassador Gosper discussed the impact of the WTO dispute settlement system on the other functions of the WTO. In particular, he said he would address the issue from the perspective of a negotiator, and more specifically, with two questions in mind: “Can I effectively secure my rights which I have negotiated at times with great pain through this system? And, can all WTO Members do the same?”

Ambassador Gosper described the ways in which the dispute settlement system affects the negotiations. Unlike other international processes, the “WTO has teeth”. Thus, Members are more aware now than they were at the time of the Uruguay Round that, while constructive ambiguity in treaty drafting may help them get a consensus today, it may also cost them a lot in lawyers’ fees “down the track”. The second way in which the dispute settlement system influences the negotiations is more direct. As the Appellate Body clarifies and confirms the interpretation of specific provisions in the WTO agreements, Members react in the negotiations, taking into account these findings in their decisions. Ambassador Gosper added that the negotiations will also have an influence on the dispute settlement system. Thus, it is important to keep in mind how the overall progress of the negotiations will affect the dispute settlement system.

Looking more specifically at the impact of dispute settlement on the negotiations, Ambassador Gosper explained that, even though dispute settlement under the GATT was less formal, it nevertheless greatly influenced the negotiations during the Uruguay Round. John Weekes, former Chair of the WTO General Council and former Canadian Ambassador to the WTO, has noted that the impact of the GATT dispute settlement mechanism was substantial during the Uruguay Round. Weekes illustrated this point by referring to a number of cases including the *EEC – Oilseeds* disputes, which he said contributed importantly to the inclusion of disciplines on domestic agricultural support in the Uruguay Round agreements; the *Canada – FIRA* panel, which had a major impact on the negotiation of the *TRIMs Agreement*; and the *Japan – Agricultural Products I* panel, which contributed to the conversion of quantitative restrictions on agricultural imports into tariffs (tariffication), again another important systemic advance in the architecture of trade disciplines.¹⁹ The past twelve years have also been very important. For example, the *US – Upland Cotton* and

¹⁹ J. Weekes, “The External Dynamics of the Dispute Settlement Understanding: An Initial Analysis of its Impact on Trade Relations and Trade Negotiations” in J. Lacarte and J. Granados (eds), *Inter-Governmental Trade Dispute Settlement: Multilateral and Regional Approaches* (Cameron May, 2004), 75.

the *EC – Export Subsidies on Sugar* cases have had profound effects on policy reform and on the negotiating environment.

Next, Ambassador Gosper referred to the Consultative Board Report²⁰, which considered that the operation of the dispute settlement system has been a great success, especially the increased participation of developing countries, the fact that less than half of the complaints advanced beyond the consultation stage, and the growing body of jurisprudence emerging from panel and Appellate Body reports. Given the general sense of satisfaction expressed by governments and non-governmental observers, the Consultative Board confirmed that “to do no harm” should be the underlying principle in the consideration of any proposal for reform or evolution of the system.

Ambassador Gosper recalled a point he had made earlier that, because of the effectiveness of the dispute settlement system, Members today are less willing to accept constructive ambiguity in the negotiated text. He added that negotiators must not only carefully examine the jurisprudence emerging from the Appellate Body to be confident about their current rights and obligations, but they must also consider how the Appellate Body and panels will approach the task of interpreting new provisions. More and more lawyers are getting involved in the negotiations and Members are more carefully examining the texts that are put forward in order to avoid future disputes on the actual meaning of unclear or even silent texts. This is not to say that the outcomes of the Doha Round will all be a model of clarity. Negotiating an agreement between 151 WTO Members will inevitably result in some ambiguity, constructive or otherwise, especially in the most controversial elements of the negotiations. Deals will have to be made and compromises will have to be struck in order to reach an outcome. However, Members are much more aware of the importance of a clear and precise text, and negotiators are requiring a much higher level of precision before signing an agreement than in previous rounds.

Having said that the dispute settlement system has worked quite well to date does not mean that everyone agrees with the panel and Appellate Body decisions. Ambassador Gosper gave the example of the decisions of the Appellate Body in a series of anti-dumping cases which have had a significant impact on the current negotiations in the Negotiating Group on Rules. Similarly, he mentioned that the agriculture negotiations have been influenced by the ongoing cotton dispute, in particular, the issues relating to agricultural export credit guarantees. Ambassador Gosper stressed that it is important to recognize that just as national legislators can amend legislation if they disagree with a domestic court’s ruling, WTO negotiators can amend the treaty texts if they disagree with the outcome reached by the dispute settlement system.

Turning to the future, Ambassador Gosper mentioned that some commentators have expressed concern that failure to complete the Doha negotiations could have a negative

²⁰ Report by the Consultative Board to the Director-General Supachai Panitchpakdi, *The Future of the WTO: Addressing institutional challenges in the new millennium* (WTO, 2004), p. 50.

impact on the WTO dispute settlement system. For instance, Weekes has said that the activity of trade negotiations takes some of the spotlight and pressure off panels and the Appellate Body. According to Weekes, one of the effects of the failure to bring the Doha negotiations to a conclusion is that it tends to put more pressure on the dispute settlement system, which could have significant risks. Although it is too early to say whether heavier use of the dispute settlement system is to be expected, some commentators have contrasted the intense activity of the WTO's dispute settlement system with the slower pace of the negotiations, and have suggested that there is an imbalance between the political negotiations and the judicial dispute settlement functions of the WTO. To illustrate this point, Ambassador Gosper mentioned a statement by former Appellate Body Member Claus-Dieter Ehlermann, according to whom the WTO is characterized by an imbalance between a strong quasi-judicial structure set up under the *Understanding on Rules and Procedures Governing the Settlement of Disputes* (the "DSU") and the weak political decision-making process which is all too often blocked between major trade rounds by the traditional WTO consensus rule.²¹

However, not all commentators agree that there is an imbalance between the political and judicial functions of the WTO. Ambassador Gosper referred to Professor Robert Howse and Susan Esserman who have argued that the WTO system continues to afford flexible mechanisms to "navigate issues" that fall between dispute settlement and full-fledged formal trade negotiations, even in highly technical and politically sensitive areas.²² Howse and Esserman submit that the presence of a robust dispute settlement system has not precluded the possibility of finding solutions and in some circumstances it has directly operated to facilitate such a solution. They illustrate this point by reference to the Doha TRIPS and Public Health Declaration and to the Kimberly waiver relating to diamonds.

In concluding, Ambassador Gosper stated that, even if the Doha Round negotiations are successful, there will be a lot of work for the dispute settlement system to "get its teeth into".

²¹ C-D. Ehlermann, "Six Years on the Bench of the "World Trade Court" – Some Personal Experiences as a Member of the Appellate Body of the World Trade Organization", 36(4) *Journal of World Trade* 605, at 606.

²² R. Howse and S. Esserman, "The Appellate Body, the WTO dispute settlement system, and the politics of multilateralism" in G. Sacerdoti, A. Yanovich, and J. Bohanes (eds), *The WTO at Ten: The Contribution of the Dispute Settlement System* (Cambridge University Press, 2006), 61

(c) Professor Merit E. Janow, Member of the Appellate Body

Professor Janow began her presentation with a discussion of the metrics by which one should evaluate the performance of the dispute settlement system. One possible metric is how actively or vigorously the system is being used. In this regard, Professor Janow indicated that there had been over 360 requests for consultations, 133 panels established, and 128 panel reports and 82 Appellate Body reports adopted.²³ A second metric would be the users of the system. Here, Professor Janow mentioned that the United States and the European Communities are the most active users and that some 12 Members are “double-digit users”, with a large number of third party participants. A third metric is the types of matters that are coming before the dispute settlement system. Professor Janow observed that the GATT and DSU provisions are the most frequent areas of disagreement, but that there have been several cases regarding trade remedies, subsidies and agriculture. A fourth metric mentioned is the degree of compliance with the decisions arising from disputes. Professor Janow referred to a paper written by the Director of the WTO Legal Affairs Division on this issue²⁴, which suggests, as do some academics, that the level of compliance is fairly good. Professor Janow observed an increase in disputes regarding compliance under Article 21.5, but added that, in her view, this might be an expected next phase of the system. A final metric identified by Professor Janow is the type of proposals presented in the DSU reform negotiations. Since few proposals radically challenged the overall architecture of the current system, this is perhaps suggestive of a certain satisfaction with the current system. Finally, Professor Janow added that some academics propose that the quality of the legal analysis and reasoning in each and every case is the most important metric.

Next, Professor Janow discussed some of the most significant institutional challenges currently faced by the system. First, Members have highly divergent opinions on certain substantive areas of the covered agreements, where treaty texts could be clearer and where limited reliable preparatory material exists. The treaty interpreter has to deal with this challenge by using the interpretative tools available to address this complexity. Another challenge mentioned is the increasing use of economic data in dispute settlement – particularly in relation to subsidies, but also in other areas – which raises many questions of law and fact and requires WTO adjudicators, especially at the panel level, to consider complex econometric or other empirical evidence. She also mentioned the relationship of WTO law and international law, the multiplicity of sensitive areas in the covered agreements that have not yet been the subject of any disputes, and the fact that only few people are carefully reading the panel and Appellate Body reports, but many more are commenting on them.

Professor Janow then offered a brief “personal comment” about the relationship between WTO law and sovereignty. Examining the current debate on this question from an academic’s point of view, Professor Janow observed three types of arguments that generally surround

²³ The number of panel and Appellate Body reports adopted includes proceedings under Article 21.5 of the DSU.

²⁴ B. Wilson, “Compliance by WTO Members with Adverse WTO Dispute Settlement Rulings” in M.E. Janow, V. Donaldson and A. Yanovich (eds), *The WTO: Governance, Dispute Settlement and Developing Countries* (Juris Publishing, forthcoming).

this issue. The first type of arguments relates to the view that economic globalization and the expansion of markets has triggered the creation of a rule structure that has somewhat intruded into domestic economic policy space and that has eroded the scope and autonomy of domestic decision-makers, curtailing their freedom of action. Professor Janow recognized that, from this point of view, WTO dispute settlement might appear to be potentially problematic. The second strand of thinking, which she believed is associated with Professor John Jackson and reflected in the Consultative Board Report mentioned by Ambassador Gosper, perceives the tensions of economic globalization to be related to the allocation of power and to the level at which different types of matters should properly be regulated, be it at the national, regional or international level. According to this line of thinking, cooperation is the only real solution and international treaties, such as the *WTO Agreement*, are seen as a way of achieving outcomes that could not be achieved solely by domestic action. The third line of thinking, which is very much in debate in US academia, sees the international framework as the principal means of achieving domestic goals.

In Professor Janow's view, a country's decision to join the WTO is an exercise of sovereignty, which it undertakes in order to address problems or opportunities that are better dealt with at the international level, or that cannot be dealt with at the domestic level because of the operation of international markets. Based on her 30 years of trade experience, Professor Janow noted that many of these issues are driven by markets, and that they reflect a purposeful choice of the WTO membership to take issues to the international level to solve problems and take advantage of opportunities that cannot be secured by unilateral domestic action alone.

She further explained that the Appellate Body has very rarely addressed sovereignty, as such. Professor Janow recalled that, in one case, the Appellate Body stated that the Members have agreed to exercise their sovereignty according to the commitments they have made in the *WTO Agreement*, in exchange for the benefits they expected to derive as signatories of that Agreement. Therefore, the WTO contract reflects, in her view, an equilibrium between these delicate issues, with Article 3.2 of the DSU containing the foundation on which panels and the Appellate Body base their mandate to clarify existing provisions without adding to or diminishing the rights and obligations provided in the covered agreements. The dispute settlement system is situated within a political framework and thus it is still a quasi-judicial instrument. The fact that a ruling is only binding after adoption by the DSB and that the choice of means of implementation of the ruling depends on the Member concerned are structurally very important features. Therefore, even though WTO decisions have an impact on State behaviour, final authority resides with the WTO Members. This, in her view, is an important reflection of the balance between the powers reserved to Members and the authority conferred upon the dispute settlement bodies.

Professor Janow added that, when confronted with a domestic measure, panels and the Appellate Body only address the issue from the angle of whether or not this domestic measure comports with international obligations. They are not concerned with the manner in which domestic authorities are structured or how they reach a decision. Professor Janow

noted that, when she used to teach GATT law at university, she described the GATT as an instrument of negative integration, as opposed to an instrument of positive integration. It did not oblige a uniformity of regulation or structures nor tried to harmonize domestic systems. After the Uruguay Round and the enactment of the WTO agreements, the commitments have clearly become broader and deeper and there are actually some areas that tug in the direction of harmonization. Nonetheless, to her mind, the negative integration framework is still operative today.

Finally, regarding the question of institutional balance addressed by Ambassador Gosper, Professor Janow believes that both negotiations and dispute settlement need to be evaluated on their own terms. She hopes that if there were an imbalance, the answer would be to strengthen the political side, rather than weaken the judicial side.

(d) Professor Georges Abi-Saab, Appellate Body member

Professor Abi-Saab began his presentation by saying that he would look at the WTO dispute settlement system as an outsider—as an “alien” or a “man from Mars”—trying to situate the Appellate Body in the cosmological map of the international judicial universe.

He explained that, in the “Darwinian evolution” of international trade dispute settlement, the DSU is a “quantum jump”, a great institutional leap forward. The original GATT made no reference to institutional aspects and was almost silent about peaceful settlement of disputes. The dispute settlement process was the result of a slow evolution by practice, which began with a working group, which then became an expert group, and was finally called a panel. Because decisions were adopted by consensus and all Contracting Parties had to accept the outcome of the dispute, including the disputing parties, it was not clear whether the process was one of application of the law or of accommodation of interests, or something in between. Of course, legal provisions were invoked and some panel reports were more legally sound than others; still the process cannot be classified as more than conciliation, especially because the result was not binding and the application of law to facts was neither systematic, nor very rigorous. Therefore, from a system which was “spineless” or “invertebrate”, the DSU introduced a very different structure, leading to a legally grounded and binding decision.

Under the DSU, although the final decision is in the hands of the Members in the DSB, the reality is that these Members may not set aside the decision unless they all agree to do so, including the two parties to the dispute. The decision is therefore *de facto* binding. This means that suddenly “the creature becomes vertebrate, it has a spine”, with the upper part of this “double-decked system” exclusively devoted to the re-examination of the manner in which the law has been interpreted and applied to the case. Therefore, in Professor Abi-Saab’s view, the system today is a real system of control of legality with a high degree of judicialization. This new “institutional creature” really acts as a judicial body. It is this judicialization which increases the danger of the “constructive ambiguity” alluded to by Ambassador Gosper. This ambiguity is not only “constructive”, but also a potential risk before

a tribunal. In fact, a tribunal may not commit denial of justice regarding a certain issue brought before it simply by stating that the law is ambiguous. It has to reach a solution. A tribunal may find that there is no rule that governs the particular issue in dispute, leading it to a finding of absence of obligation, which is a decision, and a very different proposition from refraining to decide because of an ambiguity in the law. In case of ambiguity, a tribunal has an obligation to clarify the law in order to reach a decision, hence “the clarification role” of the system. This is neither judicial legislation nor judicial activism, but the duty to exercise the judicial function by pronouncing on the *petita* of the party.

Professor Abi-Saab next examined the relationship between WTO law and general international law. He observed that, since the GATT, the approach of panels has been to focus almost exclusively on the text of the agreement(s). However, Professor Abi-Saab asked if this is always legally feasible. Responding to this question, Professor Abi-Saab noted, first, that the system is not completely hermetic because the DSU directs the system to rely on the rules of customary international law, at least for interpretation purposes. Secondly, he observed that the dispute settlement system, as a judicial system, sometimes must confront issues that are not addressed in the WTO agreements. For example, the DSU is silent in respect of rules of evidence. Therefore, solutions naturally must be sought in general international law. Another example is the rules of the law of treaties. The WTO agreements may have some provisions regarding, for example, entry into force but many other problems in the life cycle of a treaty are not addressed and have to be solved by having recourse to the general rules of the law of treaties. Recourse to these types of rules has not been considered objectionable.

By contrast, reliance by panels and the Appellate Body on other general principles of law or of general international law, such as good faith, has been more controversial. The problem is the difficulty in identifying these general principles, some of which are considered by society as questions of public policy (“*ordre public*”) or *jus cogens* in international law terms. For example, some have questioned whether the precautionary principle mentioned in some cases is a general principle of international law or a binding rule of *jus cogens*. It is not for the WTO dispute settlement system to declare these principles to be *jus cogens* when they relate to non-WTO areas of law. However, supposing that an international treaty includes a general principle – for example, an FAO treaty considers it imperative to follow the precautionary principle in certain sectors—the question then becomes more difficult, especially if the principle is recognized by a competent universal forum as a rule of public policy. These international public policy issues should not be decided sectorally, but more broadly. Professor Abi-Saab mentioned, in this regard, a statement by Dominique Strauss-Kahn, IMF Managing Director, that on certain important issues there should be a common caucus, composed of the Managing Director of the IMF, the President of the World Bank, the Director-General of the WTO and the head of the UNDP, in order to foster consensus on such matters.

(e) Professor Joel P. Trachtman, Tufts University

Professor Trachtman explained that countries rely on international law, enter into treaties, or abide by customary international law, in order to improve the well-being of their citizens. States make a purposeful choice both of the norms that they select in international law and of the institutional backings for those norms. Thus, a tribunal in an international legal setting may be understood in social scientific terms as an agent or a trustee for a collective or a group of States. Professor Trachtman added that any treaty will be incomplete and unable to specify all the answers to all the questions that States will wish to deal with in the future. Therefore, in his view, the tribunal acts as an agent to “fill the gaps”. International tribunals also have an enforcement role.

Having discussed the role of adjudication in international law, Professor Trachtman examined the role of dispute settlement in the WTO. He explained that the WTO dispute settlement system is a mandate-driven entity and that its mandate is to clarify and interpret WTO law. The system’s second mandate is to preserve the rights and obligations of Members, thereby providing security and predictability. In terms of enforcement, the dispute settlement system’s mandate is to act as gatekeeper for authorized self-help in the WTO. Remedies so far have generally involved suspension of concessions or other obligations. These remedies are strong and innovative compared to other international legal processes, but still rather soft in a number of ways and do not necessarily induce compliance. For example, he believed that *EC – Hormones* could be understood as a case of “efficient breach” where it may have been normatively more efficient for a breach to occur than for the European Communities to comply.

Professor Trachtman next discussed incoherence and its sources, starting with normative incompleteness. He explained normative incompleteness as the failure of treaty negotiators to specify how different international law norms relate to one another, adding that national bureaucracies may not always be able to coordinate well between one another. According to Professor Trachtman, normative incompleteness may result from the fact that certain issues only become important in relation to trade law at a certain point in time, after the contract has been drafted. He also mentioned that it may be that the treaty negotiators were unable or unwilling, given political or time costs, to address these issues in full. As a general matter, the *Vienna Convention on the Law of Treaties*, which addresses inconsistencies between multilateral treaties, does not provide a satisfactory way in which to deal with these problems and it is therefore incumbent on treaty negotiators to deal with them more specifically, or to leave them to dispute settlement.

The second source of incoherence is procedural incompleteness of the dispute settlement process. Professor Trachtman explained that only selected international law rules have mandatory dispute settlement attached to them, and only selected rules have remedies that are imposed in response to their violation. As a practical matter, this results in variable enforcement and variable compliance. Citing Professor Abi-Saab’s 1987 General Course on

Public International Law at the Hague Academy²⁵, he stated that to each level of normative density there corresponds a level of institutional density necessary to sustain the norms.

Professor Trachtman then tackled the question of imbalance and whether such incompleteness should be addressed through dispute settlement or through treaty-making. He cautioned that when treaty writers mandate the dispute settlement system to deal with controversial issues, it is important to avoid criticizing the system for dealing with them. In these cases, the dispute settlement system is simply following its instructions, and acting as an agent or trustee. Where the WTO dispute settlement mandate is inadequate, because of its limitations as to the types of law that can be applied to resolve normative incompleteness, Professor Trachtman believes that diplomats must either complete the norms themselves in new treaties, treaty amendments, or other “legislative” acts, or continue to rely on the dispute settlement system.

In conclusion, Professor Trachtman said the Appellate Body has done a “heroic” job of managing incoherencies, often with inadequate tools. He added that problems of incoherence are likely to grow as problems of international cooperation caused by globalization become greater and as more international law norms are created, in different places, and collide with one another.

2. Questions and comments by the audience

(i) *Steve Suppan, Institute for Agriculture and Trade Policy (IATP) – Geneva Office*

Notifications to various WTO committees are supposed to be part of the guarantee of an open and fair trading system. What happens when Members refuse, even systematically, to notify? Can the DSB issue some kind of advisory notice about evidentiary problems that the individual panels and the Appellate Body face as a result of failure to notify?

Ambassador Gosper replied to the question by stating that this issue speaks to the ability of Members to adjudicate to what extent commitments are being met. He noted that it has been evident, in the negotiations overall, that the treatment of these sorts of issues is not uniform between the various committees in the WTO. In fact, there are different practices in different committees which relate to the manner in which Members report on implementation of their various commitments and make notifications. In Ambassador Gosper’s view, one of the striking issues in these negotiations is the weak performance of the Committee on Agriculture in providing a forum for transparent discussion of the Members’ commitments, obligations and state of implementation. According to Ambassador Gosper, this is one of the reasons why there is such an effort in the present negotiations to “beef up” that part of the architecture, in order to have a more substantial monitoring and surveillance mechanism.

²⁵ G. Abi-Saab, “Cours Général de Droit International Public”, in *Recueil des cours: Collected Courses of the Hague Academy of International Law*, Vol. 207, 1987 (Martinus Nijhoff Publishers, 1996).

Professor Janow added that the dispute settlement system only addresses specific cases that come before it and that it would not be possible to issue a general advisory opinion as to whether a failure to notify is a generic breach.

(ii) *Roderick Abbott, European Centre for International Political Economy (ECIPE)*

There are about 50 or 60 developing countries which have hardly been involved at all in the dispute settlement process. Are those Members being served by the system, is it too complicated, too expensive, or are they preferring to settle their disputes in other ways?

Ambassador Gosper noted that the lack of involvement by developing countries is not necessarily indicative of the lack of interest of these Members in the system or of their capacity to use the system. The Advisory Centre on WTO Law has been very important and has helped a lot. There are some other proposals for further development of the system, for example, creating a small claims procedure. However, it is clear that the system is more heavily used by a small number of Members and it is not clear whether the remaining Members need further assistance or whether they see no particular purpose or value in the dispute settlement system at this time.

Professor Abi-Saab mentioned that the system is too esoteric and complicated for very small, or even intermediate, countries. Moreover, the available remedies might discourage smaller countries from assuming the burden of bringing a case, which can take two to three years. Stronger remedies, such as retrospective compensation, might encourage their involvement.

Professor Trachtman agreed that the problem for small countries with small trade interests is that it may not be valuable for them to spend great resources in the proceedings. The natural answer would be for them to band together formally or informally in order to share procedural costs. In addition, a small claims procedure and legal assistance of various kinds could be useful. Professor Trachtman referred to the proposal made by the Government of Mexico for cash remedies as another possible tool.

(iii) *Raj Bhandari*

The WTO has judicialized international trade. International trade lawyers must interpret the law as they would interpret criminal law. This is the reason why a lot of small developing countries are not able to participate in the dispute settlement system and why so far only one third of the WTO membership has used it.

The dispute settlement system is indirectly an incognito negotiator in the present round of negotiations. The judgments have influenced many developing countries not to accept binding regulations for fear of being brought before the DSB. So how can the dispute settlement system shield itself from being an incognito negotiator?

Professor Trachtman noted that judicialized and predictable dispute settlement allows developing countries to plan and rely on their rights which can be a very important part of the legal package. It is not certain that developing countries would be better off with a more power-oriented system in which market power dominates as opposed to the ability to use the legal system. Of course, a power-oriented system is still available to them in addition to the legal system.

(iv) *Nathalie Bernasconi, Centre for International Environmental Law (CIEL)*

Professor Janow mentioned that not many people were reading the decisions, but that many more were commenting on them. One possible reason why that might be is that when the decisions are issued they are not made public immediately. However, there is usually a public discussion about a decision that no one has read except the disputing parties, leaving journalists to try and figure out the actual outcome on the basis of hearsay.

Professor Sacerdoti noted that Appellate Body reports are confidential until circulation. Appellate Body reports are published on the website of the WTO at the same time as they are released by the Appellate Body to the disputing parties, so there is no delay in access.

Professor Janow stated that public discourse about the case-law is sometimes unrecognizable and that the public has a view of the dispute settlement system which is perhaps a bit harder than the reality. In fact, since so much is in the hands of the Members and since the Members have drafted the obligations, the panels' and Appellate Body's job, as treaty interpreters, is to rely as precisely as possible on these obligations. She stated that Professor Trachtman has for the first time made gap filling sound positive, but that is not how everyone perceives it. Professor Janow added that some Members choose to publish their submissions on the internet making available quite substantial material even before a panel or Appellate Body report is published.

(v) *Luiz Eduardo Salles, PhD Student at the Graduate Institute of International Studies, Geneva*

In your daily activities as Appellate Body members, to what extent do you feel you are part of an international judicial system and does this consideration affect your daily work, the way you think about how you will deal with a specific case?

Professor Sacerdoti stated that the function of deciding independently, impartially, according to due process, and applying international law is part of the Appellate Body Members' role and is similar to the role of treaty interpreters in other international courts. There has been a tendency to establish among courts and similar bodies contacts and relationships, and universities from time to time organize gatherings of judges and law professors. However, this does not influence directly the work and role of the Appellate Body Members. He also noted that the case-law of panels and the Appellate Body has been cited by other courts and has been mentioned in the work of the International Law Commission on State responsibility.

Professor Abi-Saab said that the judicial function is always the same, with the same parameters, no matter the court in which it is exercised. The international judicial function is also a species of the judicial function with the role of a national judge being much better defined than that of an international judge. Every forum has a different mandate, a different environment, and a different collective memory creating what is referred to as its judicial policy. Of course, within the WTO, it being a Member-driven organization, with the obligation of the dispute settlement organs not to add or detract from the rights and obligations of the Members, the scope of judicial policy is much narrower. But, obviously, regardless of the institution, a judge has to act as a judge, that is the judicial function, which is quite different from the judicial policy of a given institution.

(vi) *Amir, Final year law student from Brazil*

In the light of the Doha Round negotiations, how could the DSB help the trading system take into consideration other areas of international law, such as environmental and human rights law. In other words, may international rights and obligations arising from those other areas of law be enforced through the WTO system, at least when they are trade-related, rejecting a hierarchy between trade rules and the rest?

Professor Trachtman responded that, under the mandate of the DSU, panels and the Appellate Body must apply the WTO covered agreements in accordance with the customary rules of interpretation of international law. This involves only interpretation by reference to other instruments of international law and not application of these other instruments *per se*, unless these other instruments are specifically referred to in the covered agreements.

Professor Abi-Saab noted that a Member could present a defence based on some non-WTO rule if it establishes that that rule is *jus cogens* and that it conflicts with an obligation under the WTO covered agreements. However, not only would that Member have to establish that this other rule exists, but it would have to demonstrate that the rule is one of *jus cogens* and thus takes precedence over the WTO covered agreements.

Ambassador Gosper noted that the negotiations under paragraph 31(i) of the Doha Ministerial Declaration, which refers to the relationship between WTO rules and specific trade obligations in multilateral environment agreements, have not identified any substantial problems regarding that issue. Therefore, he believes that there is actually no problem to address in this part of the negotiations.

Professor Janow stressed that proving that a norm is *jus cogens* is a very difficult argument to establish. Textual clarity is a value which offers more predictability to the Members. Relying on norms that go beyond the WTO covered agreements does not clearly fall under the DSB's mandate.

(vii) *University student from Brazil*

In practical terms, how should negotiators avoid more incoherence during the negotiations?

Professor Trachtman stated that one way to deal with this issue is simply to specify within the treaty how different international legal norms interact with each other, for example, by specifically mentioning which norm is hierarchically superior to the other. A second solution would be to authorize a particular tribunal to apply both norms either by previously instructing it on the hierarchy among the norms or by authorizing it to develop a hierarchical arrangement among them.

As regards the current negotiations, Ambassador Gosper mentioned the difficulties that could arise because different drafting groups are using different approaches to deal with similar legal obligations. He stressed that this issue would need to be addressed at some point.

3. Conclusions and way forward

The discussion highlighted the inter-relationship between dispute settlement and negotiations in the WTO. The effectiveness of the WTO dispute settlement system provides security and predictability to agreements concluded and commitments made in the negotiations. Furthermore, the rulings adopted by the DSB are taken into account in the negotiations. The effectiveness of the dispute settlement system has also meant that WTO Members strive for greater precision in the negotiating texts and are less willing to accept ambiguity. At the same time, the negotiations can help resolve difficult issues that otherwise would be brought to the dispute settlement system. Some of the panellists suggested that there will always be some ambiguity in a negotiated text and that it is very difficult for negotiators to anticipate every situation that may arise in the future. Thus, one panellist suggested that the role of the dispute settlement system is precisely to resolve such ambiguities.

The session also examined various criteria that can be used to evaluate the performance of the dispute settlement system. One aspect that was highlighted was the increasing participation of developing countries in the WTO dispute settlement system. Nevertheless, there was recognition that smaller developing country Members and least developed country Members still face considerable difficulties using the system.

Finally, the session discussed the relationship between WTO law and general international law. One panellist explained that the WTO dispute settlement system is not operating in isolation because panels and the Appellate Body are expressly required to rely on international customary rules of interpretation to interpret the WTO agreements. Moreover, panels and the Appellate Body sometimes must rely on general international law to resolve procedural issues not expressly regulated in the DSU, a practice that has not met with objections. By contrast, reliance on substantive rules of international law is more controversial. Another panellist explained that incoherence may arise from normative incompleteness, which

occurs because negotiators do not specify how different international law norms relate to one another, and from incompleteness in enforcement, which occurs when only some international norms have binding dispute settlement procedures, while others do not. Negotiators can minimize incoherence by specifying how treaty provisions relate to other norms of international law, or by authorizing the dispute settlement system to make such determinations.

B. Global Governance, International Trade and Development Discourses and National Policy-Making, Organized by the International Gender and Trade Network (IGTN)

Report written by Mariarosaria Iorio, Head of the International Gender and Trade Network (IGTN), Geneva Office

Abstract

The session's main objectives were the following:

1. *Highlight critical issues related to international development policies as provided by the World Bank, the IMF and the WTO, on the one hand, and the United Nations and its specialized agencies, on the other hand; and*
2. *Point out policy challenges faced by developing countries as a result of the complex international environment to achieve socially-friendly and equalitarian development.*

1. Presentations by the panellists

The session was moderated by Mariarosaria Iorio, Head of the International Gender and Trade Network (IGTN), Geneva Office.

(a) Katrine Hagen, International Federation of University Women (IFUW)

Katrine Hagen recalled that she had had a long association with the International Federation of University Women (IFUW) starting in the days when she was a young college professor. IFUW provided a network of supportive women when it was very difficult for women to establish an academic career. Later in a different setting IFUW provided advocacy for gender equality at the International Labour Organization (ILO).

As the Deputy Director-General for External Relations, she came to the ILO in the 1990s, when structural adjustment policies of the World Bank and International Monetary Fund were imposing restrictive policies on governments to privatize, cut budgets and jobs. The ILO worked hard to persuade these institutions about the importance of jobs and decent work to ensure stable economic growth in developing countries. The IFUW ensured that difficulties of women in developing countries were understood.

Women were the majority of workers in the informal economy of developing countries, and more often combined paid with unpaid work at home. Poverty eradication was a gender issue, and required a gender-sensitive approach, in particular to challenges faced by women in making a living for their families.

Supporters of the WTO had been pushing for trade liberalization as the way to go for poverty eradication and economic growth. The ILO called for a combination of support for trade liberalization with policies that ensured equitable sharing of its benefits. Disparities between rich and poor had been growing, not only in developing countries but also in the industrialized countries. Recent studies showed that the benefits of economic growth were going to the richest of the rich, while working people were losing out. These rising inequalities did not help support trade liberalization. Deterioration of income distribution, macroeconomic imbalances and national security issues, and risks to return to isolationism were high.

The ILO and the WTO had recently published a joint study on trade and employment. This study showed that inequalities were not always the result of trade liberalization. Domestic policies had to take into account the opportunities for growth and accommodated the needs for adjustment. This study also identified areas where further analysis should be carried out. These included a better understanding of the dynamics between the informal and formal sectors of developing country economies, and a better appreciation for the gender disparities and how to overcome them. These are areas that indeed deserved further attention to advance global economic integration through an equitable distribution of its benefits.

(b) Michiko Hayashi, Economic Affairs Officer, Trade Negotiations and Commercial Diplomacy Branch, Division for International Trade in Goods and Services and Commodities, UNCTAD

Michiko Hayashi highlighted areas of the Doha multilateral trade negotiations that would have, in UNCTAD perspective, an impact on developing countries' gender sensitive development. First, there was significant potential in Mode 4 (movement of natural persons). Also, advancement of the information technologies had expanded potential for services exports from these countries through Mode 1 (cross-border supply). Developing countries' exports in services through these two modes were highly restricted. Commitments in these two modes by developed countries would significantly contribute to increase their services exports.

Second, elimination of cotton subsidies was particularly important for West African countries. In the area of industrial goods, developing countries and LDCs could benefit considerably from elimination and reduction of tariffs, particularly where tariff escalation and peaks existed, e.g. textiles and clothing. Successful conclusion of the Trade Facilitation negotiations could also lead to modernization of the customs in developing countries and LDCs.

The Doha multilateral trade negotiations might bring significant benefits to developing countries and LDCs. However, competition and erosion of preference would also result thereof. Therefore, adequate adjustment measures needed to be taken, while efforts to be made to diversify developing countries' production.

Garment and agriculture employed a large proportion of women. Efforts needed to be made at the international and national levels to ensure adjustment costs of trade liberalization were not neglected. Providing duty-free market access to products from LDCs pursuant to the Hong Kong Ministerial Conference as well as improving the coverage of the Generalized System of Preferences (GSP), and ease the GSP origin rules would also help to reduce the impact of trade liberalization, resulting from the Doha negotiations.

- (c) Fiorina Mugione, Chief, Enterprise Policy and Capacity Building, Division of Investment, Technology, and Enterprise Development, UNCTAD

Fiorina Mugione outlined that a complementary set of capacity-building policies was required to address the supply-side constraints faced by local firms, particularly small and medium size enterprises. Overcoming such constraints involved sustained development efforts and enhanced official development assistance (ODA). Foreign direct investment (FDI) could contribute to productive capacity development when combined with policies promoting productive investment, technology transfer, enterprise development and the consolidation of productive chains. Mugione identified policies to strengthen the contribution of FDI to capacity building, and underlined the need to enhance the linkage between ODA and FDI. She also raised the issue of development and effective utilisation of productive capacities, in particular the role of governments, key drivers, success factors, best practices, policy options and support measures for operational business linkage programmes to strengthen productive capacities of developing countries and to facilitate the growth of their domestic enterprises.

- (d) Aftabalam Khan, International Coordinator, Trade Justice & Stop Corporate Abuse Initiatives, Action Aid

Aftabalam Khan thanked IGTN for inviting Action Aid to speak at the WTO Forum. Global and regional financing institutions, he recalled, influenced national policy-making systems. He took the case of agricultural policy, and recalled that since 1960s, the WB and the IMF had increased their role in agriculture policy-making in developing countries. During 1960s, overall surplus of agricultural production was of about 7 billion USD. By the end of 1980s that surplus disappeared. In 2001, agricultural deficit of developing countries amounted to 11 billion USD. Global and regional financial institutions encroached upon developing countries' policy space as well as their sovereignty. In 2001, the ADB posed as a precondition for its loan to Pakistan the abolition of seeds corporations. As result, the Government of Pakistan had to cut down its public procurement, while stopping prices intervention. This affected rural populations both men and women. Wheat prices decreased as a result of such a measure. As a result, farmers were indebted and their lives seriously affected. In Ghana when the tariff on rice was decreased passing from 100 to 20 per cent the imports of rice increased 200 per cent. This has huge consequences on its rural producers, mostly composed by women. When Ghana tried to increase its tariff on rice, it faced pressure by the IMF. The Minister had to launch a complaint against the IMF to maintain its measure. Global structural reforms of these institutions are needed to provide more policy space for developing countries. Civil society and NGOs had to bridge the gaps between such institutions policies and those who have to live with these policies on the ground.

2. Questions and comments by the audience

Question addressed to Aftabalam Khan

What are the reforms needed to improve the existing global governance system?

Aftabalam Khan's noted that given the lack of alternatives the issue was how to make the WTO, the WB and the IMF work in a more gender and development friendly manner. It was, in his view, a matter of making these institutions more accountable so as to better assess the impact of their policy proposals, including on gender.

In this regard, he stated, the United Nations should play a greater role. Decision-making in the above-mentioned institutions should better reflect the emerging world economic environment: India, Brazil, China, South Africa were raising both economically and politically, and should therefore together with the G77 and others, play a greater role in shaping international decision and policy-making. At the moment, decisions therein were mostly controlled by developed countries. Meanwhile, he recalled, that if reform was not possible, many social movements were already calling for the shutting down of these institutions. This should be an eye opener.

Questions addressed to Hagen

Mode 4 of the GATS introduces the idea of movement of natural persons. What is the ILO position with regard to working conditions of immigrant workers?

Hagen recalled that the International Labour Office (ILO) had a strong stand on equal treatment for immigrant workers. Working conditions in force in receiving countries were to be applied. The difficulty of including Mode 4-related issues into bargaining networks made trade unions highly critical on Mode 4. There were many challenges related to equalitarian working conditions and Mode 4 of the GATS.

In Hagen's view, Mode 4 of the GATS could contribute to creating more flexibility in cross-border movement of people. However, its implementation should not go automatically with the assumption that the cross border worker was intending to migrate. The ILO was very critical both on exceptions in Mode 4 as well as with waivers to standards in export processing zones.

Are quotas a good means to improve under representation of women in responsibility positions?

Hagen thought that targets were appropriate to work towards equitable diversity in all settings. She recalled that she was involved in the litigation on affirmative action in the United States Universities. The Supreme Court ruled against quotas. It stated that one could not make specific allocation of numbers of groups of people in University population. Most

Universities had always been looking for diversity in the student population and student bodies as well as for quality of performance. Operating pursuant to the Court judgement and achieving diversity without applying quotas had been a challenge. Most Universities in the United States seemed to have adjusted. Elsewhere, she noted, there were quotas for ensuring representation of women in parliament, as in the case of Uganda. This was an interesting approach. The challenge was to achieve equal treatment, while being categorized in a specific threshold, and not as a representative of a constituency. There were dangers associated with such an approach.

What was Ms Hagen's position with regard to the United States cotton subsidies, and which undermined producers' capacity in developing countries to live of their own work?

Hagen stated that she would need more information on this issue. However, in her view, cotton subsidies to US farmers should be brought to an end.

What is the role of universities as producers of knowledge and shapers of thought particularly with regard to aid and more equitable development policies?

Hagen replied that universities had an important role to play in challenging old ideas, while looking at trends and emerging issues related to the process of globalization.

Questions addressed to Mishiko

UNCTAD spoke about technology and its role in development. How can poor without electricity take advantage of technology?

Mishiko stated that UNCTAD acknowledged that access to technology was an important issue to be dealt with. UNCTAD published a report on issues related to access to technology. UNCTAD wished to do more in this area. The question was how to be relevant.

It was recalled that for African countries the duty free and quota free was important as well as Sanitary and Phytosanitary measures and Rules of Origins. These issues deserved more attention in the Doha Round.

Mishiko recalled that Non Trade Barriers (NTBs) were dealt with in the NAMA negotiations. The Agricultural negotiations were already very complex. There was also a Committee on SPS and NTBs. However, these issues might become part of the future agenda. Many LDCs could not take full advantage of duty-free and quota-free because of their weak productive capacity. These constraints should be addressed by Aid for Trade.

Question addressed to Aftabalam Khan

Can Aid for Trade or Trade for Aid solve the quantitative and qualitative differences of productivity levels both within and among countries? Unless there is a removal of tariff barriers and the invisible hand can operate, these initiatives cannot bridge productivity differences within and among countries.

Aftabalam Khan stated that developed countries first built their institutions and market structures and then opened up their economies. This happened only when they were ready to compete. Development in rich countries was not due to liberalism. He referred to the greening of the Swiss agriculture as a result of Swiss protection of its agricultural sector, and the France and Germany disputed conditions of admission for Eastern European workers that could undermine working conditions in the French and German labour markets.

In the time of *Adam Smith* there was no *visible hand* of Trans National Corporations (TNCs). Nowadays, five TNCs are in control of 90 per cent of global agricultural trade. When a banana is exported from Costa Rica to UK, only 3 per cent of export benefits went to the producer, while 87 per cent went to the supermarket and distributing chains. Ricardo, in spite of his theory of competitive advantage, did support that local institutions and production units should be prioritized. That was not what was proposed in the current Doha negotiations. Estimates showed that if the NAMA negotiations proposals were accepted, developing countries would lose 63 billion dollar in tax revenues. Trade liberalization could only be beneficial if its pace and institutional frameworks were properly scheduled and setup.

Comments

In the plenary, the panel on governance was composed mostly by men. There was only one woman. This trend was reversed in the IGTN panel. The Director General of the WTO, Pascal Lamy, mentioned parity in his opening speech. His panel was composed of two women and two men. The gender balance should be ensured on a systemic basis. Disaggregated data on gender and age were very important to identify richer of the richest, and the poorer of the poorest. The feminization of poverty was to be taken into account when assessing links between the global governance discourses and national policy-making.

On quotas for women, it was noted that the Convention on the Elimination of all forms of Discrimination against Women foresaw that quotas were an appropriate temporary measure to establish balance of representation in decision-making. It was not discrimination, but rather a means to establishing a level-playing field.

The sincerity of the panellists on the SAPs and on their impact on agricultural production of developing countries was appreciated. It was also noted that while Falconer's text focused on tariff barriers, for developing countries NTBs were a major obstacle to market access. This also had an impact on poverty.

The question was how to liberalize successfully. The 1914 period was the most liberal. The system in place however fell apart because of the unevenness between losers and winners. A key issue related to how to deal with companies setting standards that went beyond public policies.

3. Conclusions and way forward

The following main conclusions resulted from the session:

1. Experiences in the regions showed that economic and trade policies as proposed by multilateral institutions were neither socially nor gender neutral;
2. The WTO Director-General's effort to highlight parity in the opening session was highly appreciated. These efforts should be enforced in the future in highly visible and decision-making settings;
3. A WTO and ILO study, in collaboration with the relevant NGOs working and trade and gender, could be undertaken on the potential effects of Mode 4 of the GATS on working conditions challenges faced both by receiving and sending countries. Such a study should contain disaggregated data and specific analysis on women's employment, as women are still in most precarious jobs and face the highest rates of wage discrimination;
4. Global institutional and policy advice needed to be assessed both in light of their impacts on different segments of society and on development policies;
5. Decision-making processes in the Bretton Woods institutions had to be revised in light of new geo-political context and emerging countries' economic and political influence, including India, China, Brazil and the G77, while the role of the UN agencies should be strengthened;
6. An accountability system should also be put in place to ensure that policy-making at the global level was properly assessed and evaluated;
7. Participants welcomed efforts made to find areas of convergence between the WTO and the ILO, namely in the area of trade and employment of women. Further analysis could be conducted, in collaboration with civil society NGOs that are working on these issues, on challenges posed by Mode 4 of the GATS with regard to movement of natural persons and their working conditions in receiving countries;
8. Global and economic development policies affected directly or indirectly developing countries' capacity to alleviate poverty and to compete internationally;

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9. The Doha Development agenda could play a role in fostering development, while safety nets and support for women were needed particularly in sectors such as agriculture;
 10. The importance of Aid for Trade and Aid for Investment to face supply-side constraints in developing countries and Least-Developed Countries was highlighted. Scepticism was expressed on its real capacity to impact on supply side management and capacity to compete of developing countries;
 11. NGOs were asked to bridge the gap between policy-makers and their recipients. This was particularly true for gender-related and women's issues;
 12. National governments had to be responsible for their national and economic priorities. Such priorities had to be reflected in both macro economic and trade policies.
 13. The academic community could play an important role in collecting and analysing disaggregated data, while provide policy orientation that could support equalitarian policies in both developed and developing countries;
 14. Disaggregated data on the impact of trade and adjustment costs on different segments of the population were needed to visualize the gender dimension and impact of trade policies on social and gender-friendly development.

Finally, Iorio, provided the following concluding remarks.

Presentations highlighted the difficulty of ensuring that global policy-making had a constructive development and gender impact at the national levels. A number of challenges remained to be faced as international policy-making dynamics in the Bretton Woods and the WTO resulted from different leverage possibilities of their Member States. States remained accountable to their national constituencies for decisions that were taken at the international level. Global international discourses as produced in international organizations influenced national political and social structures, by either limiting national policy space or by orienting political decisions that supported the wealthier segments of society, while undermining egalitarian and progressive policies in both industrialized and developing countries.

C. **The Rapid Development of FTAs: Challenges and Opportunities for Future Multilateral Trade Negotiations, Organized by the European Commission, DG Trade**

Report written by Edouard Bourcieu, DG Trade Chief Economist Unit, European Commission

Abstract

- *The workshop was organized by the European Commission, with panellists from the WTO, the World Bank and the academic world.*
- *The objective was to explore the potential implications of the changing trade landscape for the future of the multilateral system. In particular there was a need to examine to which extent the current wave of FTAs will change the conditions for future negotiations and consider possible ways to manage it better.*
- *The workshop proved to be a useful collective reflection on ways to make regionalism deliver for multilateralism. It showed that there were different views as regards the benefits to be expected from the development FTAs but that there was a wide agreement as well around the need to change the way we thought over regionalism and multilateralism in the future. The proliferation of FTAs was a reality and the real question had become how it could be used as a lever for future multilateral trade negotiations. There was a need to engage constructively in this debate and find concrete solutions.*
- *The participants called on the WTO membership to engage more directly in this debate and go beyond current WTO rules. Several concrete tracks to make FTAs more multilateral-prone were identified. The guidelines already developed by APEC were also praised as a useful input for this work programme.*

1. **Presentations by the panellists**

The session was chaired by Gaspar Frontini, Chief Trade Economist, European Commission.

(a) Gaspar Frontini, Chief Trade Economist, European Commission.

Gaspar Frontini recalled that the objective of the workshop was to explore the potential implications of the changing trade landscape for the future of the multilateral system. In particular there was a need to examine to which extent the current wave of FTAs was to change the conditions for future negotiations and consider possible ways to manage it better. The starting point was an imperative commitment to multilateralism. The world needed a strong multilateral trading system. It was the most effective means of expanding and managing trade for the benefit of all, a unique tool for development, and a guarantee for global stability and equity.

He underlined that there were reasons to be worried by the rapidly growing wave of FTAs: bilateral agreements were inherently discriminatory and thereby breached the most important WTO rule and the most precious one. The sheer number of RTAs had widely spread regionalism and FTAs were no longer just an exception to multilateral rules. To the opposite, they bore the potential to make non-discrimination the exception. They might divert attention from the WTO at a time when it needed full commitment by all parties. The complex network of agreements resulting from the proliferation of FTAs clearly bore an economic cost for trading operators. There was a need for a common reflection on their implication.

He stressed, however, that we had to recognise that these very changes could modify the way we could think over the link between regionalism and multilateralism. FTAs were virtually everywhere and still rapidly spreading around the world. While four countries only today operated more than 80% of their total trade under FTAs about forty countries could do so should FTAs currently under consideration be concluded. The share of world trade covered by FTAs could increase from a bit more than one third today to more than a half once FTAs currently under negotiation are concluded and to three quarters should all FTAs currently under consideration be concluded. The meaning of a lot of FTAs might be different from a few FTAs, because discrimination killed discrimination, every new FTA signed by a country eroding the value of the preferential access it gave to previous FTA partners, and above all because it might be easy for a country which would have liberalised trade with 90% of its partners to liberalise trade with all of them at the WTO. Therefore, there might be a case for a positive approach of FTAs, conducive to multilateral commitments. Countries which will become part of a wide (even if complex) network of FTAs could be open to streamline and consolidate it at the multilateral level – just as Chile was already doing. Economic operators in particular could find the effects of uncoordinated policies very costly and push for more general rules. On the other hand, other countries could be sensitive to the merits of multilateralism – the only way to restore a real level playing field. This could provide favourable conditions for multilateral negotiations, which would then simplify, extend and consolidate bilateral liberalization.

He recalled that the EU had recently launched new FTA negotiations with several important partners around the world – Asean, Korea, India, Central America, Andean countries while stressing that it remained fully committed to the WTO with DDA negotiations its first priority. He explained that the EU was convinced that FTAs could build on WTO and go further and faster in promoting openness and integration. They could maintain the dynamics of trade opening, support reformers and (conversely) weaken protectionist interests in partner countries. They could also “road-test” certain disciplines on those issues which were not ready for multilateral discussion, also because they were often linked to cooperation provisions.

He warned however that the potentially positive sequence whereby regionalism prepared the ground for multilateral negotiations could be broken should FTAs leave aside too many sensitive issues and liberalise different product with different partners. WTO rules were useful

but not sufficient to ensure that any new FTAs served as a stepping stone for multilateral liberalization. Therefore he called on participants to provide fresh thinking as to how the development of FTAs could be used as a lever for future multilateral trade negotiations.

(b) Arancha Gonzalez, Head of WTO DG Pascal Lamy's office

Arancha Gonzalez recalled that the proliferation of FTAs was a reality we had to cope with. The trouble was that they brought down barriers to trade but increased the cost of doing trade.

She considered that the problems they raised were well-known. There was a very heterogeneous set of FTAs as regards product exclusions – and this already bore concrete implications for Doha negotiations e.g. on tariff-rate quotas management. Rules of origin were particularly worrying: there was a multiplier effect of inefficiency linked to their multiplication. There had been an attempt at WTO to harmonise or organize the coexistence of non preferential rules of origin but it had not been successful enough to date. This would also be an issue for the implementation of the Hong Kong Duty Free Quota Free initiative in favour of least-developed countries. Finally, regulatory issues and services were also important areas where potentially diverging approaches might be costly.

As for solutions, she suggested to look more closely at the work done by APEC on guidelines for FTAs. She stressed also the importance of meaningful WTO rules. The use of current WTO rules related to FTAs had been sub-optimal. The recent adoption of the Transparency Mechanism had been an important step in the right direction to address these deficiencies. The new procedures for the consideration of RTAs at the CRTA was proving to work well, and would lead to an open and transparent scrutiny of existing agreements, helping also to rationalise the discussion on systemic issues and instigate the debate.

In conclusion, she stressed that the link between regionalism and multilateralism was essentially an issue of coherence at WTO Members' level. Countries engaged in FTA negotiations were all WTO Members. It was not two sets of different countries. This question would thus benefit from more dialogue at national level as well.

(c) Professor Simon Evenett, Professor of International Trade and Economic Development, University of St. Gallen, Switzerland

Professor Evenett identified five means by which FTA provisions could be multilateralised. They were undoubtedly different but, broadly speaking, each amounted to expanding the extent of international commerce subject to MFN treatment or to similar treatment within a given set of FTAs.

- The inclusion in FTAs of *de jure* MFN treatment of a particular form of international commerce. e.g. investment performance requirements in some FTAs.

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- The inclusion in FTAs of measures that are de facto implemented on a MFN basis. e.g. when a country commits to improve its regulatory regime for telecoms and preferring to run only one (not multiple) regulatory regimes does so on an MFN basis.
 - The inclusion in FTAs of third party MFN clauses, which ensure that a signatory does not grant new FTA partners better market access than previous FTA partners. e.g. services and government procurement provisions in selected FTAs.
 - The inclusion of provisions in FTAs that discourage or forbid the actions allowed under WTO agreements that result in discriminatory treatment. e.g. FTAs which have “joint committee” provisions that discourage the application of trade remedies.
 - Whether through the expansion of the number of FTAs or reform within a set of FTAs, the expansion of international trade subject to a common set of rules for a given matter. e.g. Rules of Origin (RoOs) or the spread of procurement covered by the GPA associated with EU enlargement (recall the new member states entered the GPA on the same terms as the EC and not through a separate set of bilateral deals done under conditional MFN, which is often the way the GPA works.)

In conclusion, he called on WTO Members to launch a WTO Members-led process on a subject by subject basis to deepen the analysis of factors for multilateralisation.

(d) Bernard Hoekman, Research manager of the International Trade group at the World Bank

Bernard Hoekman discussed the development of FTAs through their implication for economic development. He identified criteria to make FTAs pro development and more supportive of multilateralism. FTAs needed in particular to address competitive, supply side issues, and not only market access.

This involved several policy prescriptions. As regards market access, it was important to ensure full market access as even a small set of exemptions greatly eroded the benefits of openness. He thought it was also important to liberalise on an MFN basis and to use liberal rules of origin such as in the US AGOA scheme with African countries. On the other hand, he did not think the full elimination of tariffs was an important condition: what was important was to fulfil the criteria of no exception, MFN basis and liberal rules of origin, the scale of tariff dismantling came second.

FTAs needed also to address trade costs, in particular through trade facilitation. They should allow deeper integration and economies of scales. It was also important that they involve liberalization of services to foster more efficient services (at least by locking-in domestic reforms).

Finally, he stressed that FTAs should be mainstreamed into national priorities. They should be linked to cooperation and development assistance. Better preparation and

coordination of policies should also be ensured while effective implementation and monitoring mechanisms should be foreseen, in particular with respect to non tariff aspects.

(e) Professor Vinod Aggarwal, Director, University of California – Berkeley

Professor Aggarwal praised the Commission for its open-mind in inviting him as he is known for his critical positions as regards FTAs. He recalled that APEC had worked on multilateralising regionalism for five years.

He criticised trans-regionalism between distant countries, considering that while Art. XXIV had been included in the GATT framework with truly regional areas in mind, he considered that the EU had been a leader in making the case for trans-regionalism but he was not convinced that the expansion of FTAs could lead to more openness across the world.

In particular, he was sceptical in view of the political economy of FTAs: he was indeed of the opinion that giving to free trade forces what they wanted in the context of FTAs ultimately undermined their support to further multilateral negotiations – the Information Technology Agreement (TIA) had been a good example of such opposite effect. For him, it was obvious that the current wave of FTAs weakened the momentum for DDA negotiations as they offered a plan B.

He recognised however that there was a need to be pragmatic as FTAs were there to stay and joined with the EU in calling for comprehensive FTAs covering substantially all trade. APEC work should be used as a basis. Finally, he called on other WTO Members to join the debate.

2. Questions and comments by the audience

The following debate with the room addressed the motivations for FTAs, in particular the willingness of certain countries to become a regional hub versus the research of additional liberalization and market access.

The discussion on Art. XXIV underlined its lack of operational reach. It was noted however that the transparency mechanism would improve the public scrutiny of agreements. The discussion also pointed out that some GATT founders would not have excluded trans-regional FTAs, especially with regards to the Commonwealth.

Finally, it was stressed that FTAs were partly a response to previous FTAs involving a kind of prisoner's dilemma (FTAs race) and that some countries could have an interest to commit jointly not to enter into further FTA negotiations.

3. Conclusions and way forward

The workshop proved to be a useful collective reflection on ways to make regionalism deliver for multilateralism. It showed that there were different views as regards the benefits to be expected from the development FTAs but that there was a wide agreement as well around the need to change the way we think about regionalism and multilateralism in the future. The proliferation of FTAs was a reality and the real question had become how it could be used as a lever for future multilateral trade negotiations. There was a need to engage constructively in this debate and find concrete solutions.

The participants called on the WTO membership to engage more directly in this debate and go beyond current WTO rules. Several concrete tracks to make FTAs more multilateral-prone were identified. The guidelines already developed by APEC were also praised as a useful input for this work programme.

D. Mainstreaming International Trade into National Development Strategy, Organized by the Evian Group, Switzerland and CUTS International, India

Report written by the Evian Group, Switzerland and CUTS International, India

Abstract

International trade is increasingly considered as one of the important means to eradicate poverty in developing countries. However, trade in itself is not a panacea and is contingent on a host of complementary policy issues before it can bring positive development dividend. The evidence from implementation of the Uruguay round of trade agreements shows that while some sectors/countries benefited, a large section of the poor across the globe were either left behind or adversely affected. One reason for this is that international trade is looked through the prism of WTO rules and procedures, which are commercial in their approach. The human element or, in a broader context, the developmental aspect is missing. Though the Doha Ministerial Declaration mentioned mainstreaming trade into national development strategy, there is hardly any coherent or cogent initiative being undertaken at the country level.

Since the early 1990s, many developing and least developed countries (LDCs) either unilaterally or as bound by WTO obligations significantly liberalised their trade regimes. As a result export has recorded robust growth in recent years in the case of many developing countries. However, the corresponding growth of export of labour-intensive goods has slowed down in some of these, as related by the Federation of Indian Chambers of Commerce and Industry.²⁶ Similarly, the export potential of the agriculture sector, which is a labour-intensive activity in most of the developing countries and the main source of livelihood for the majority of poor people, has largely been unutilised. As a result, enhanced trade has not had a significant impact on poverty reduction as compared to its relatively positive impact on economic growth. This is where the role of national development strategy comes in.

Mainstreaming trade should therefore be understood in the broad context of trade reform and the appropriate complementary policies, including macroeconomic framework, fiscal policy, regulatory and institutional issues and safety nets. Since trade-led growth has been the declared economic policy of many developing countries of the world, it is bound to interact in complex ways with other domestic policies. At the multilateral level too, trade liberalization is not confined to bringing down import tariffs alone, there are a host of other domestic policies that have been brought under its purview. The challenge, therefore, is to devise a coherent trade policy strategy that is supportive of broad-based development.

²⁶ In March 2007, The Federation of Indian Chambers of Commerce and Industry (FICCI) stated that “India’s labour-intensive exports like Textiles, Garments, Handicrafts and Leather&Leather Products are growing slower than the knowledge and technology-intensive exports” <http://www.ficci.com/press/254/pre2.doc>

In light of the current situation and future challenges, the session addressed the following relevant questions:

- Do pro-development outcomes of multilateral trade negotiations lead to pro-poor growth outcomes at the national level?
- What kind of complementary policies and institutions are required for export-led growth to impact positively on poverty-reduction?
- What are the social and human considerations required to embed in national trade policy?
- What are the necessary changes required in the process of trade policy-making?

1. Presentations by the panellists

The session was moderated by Dr Jean-Pierre Lehmann, Professor of International Political Economy, IMD, and Founding Director, The Evian Group, Switzerland

Mainstreaming Trade into National Development Strategy: The Core Issues

(a) Dr Jean-Pierre Lehmann, Professor of International Political Economy, IMD, and Founding Director, The Evian Group, Switzerland

The first question raised related to the effects of trade in terms of national development strategy; what could they be? The challenge that the world faces today is how to maintain the global trading system, as maintaining any system would inevitably mean that there has to be evidence of positive effects arising from this phenomenon. The challenge is to uphold the spirit of the WTO and, given the current lack of trust that prevailed among negotiators in the Doha Round, the challenge has become even more daunting. The Evian Group has repeatedly reiterated that the stakes are high.

(b) Dr Veena Jha, IDRC Fellow at Warwick University, UK

What means can international trade foster in order to alleviate poverty? Highlighting that trade theories differ as regards the role of trade on poverty alleviation, the reasons why exports do not necessarily alleviate poverty needed to be summed up. Amongst the main reasons pointed out, it was recalled how export growth has been particularly strong in non-agricultural sectors, although the poor are indeed mainly located in that particular sector. Therefore, their way out of poverty largely depends on the performance of the agricultural sector, as well as on their access to technology and education.

An investigation into the sectoral composition of exports makes you wonder if the poor are currently directly involved in exports and if not, whether pro-poor exports may be institutionalised – and, if so, how. In order to establish an inclusive growth strategy, it was observed that assets of land and education needed to be honed, as these have direct implications on export-led growth. Also, the need to involve the voice of women whether they

are directly or indirectly engaged in exports was stressed, as well as the close involvement of institutions – both political and non-political – in trade promotion.

While examples converge on how exports from the agricultural and non agricultural sectors have drawn the poor out of the poverty trap, a number of issues hamper the smooth functioning of the process. Unequal access to assets such as land, education and training for example can lead to the reduction of the benefits that can be obtained by the poor from agricultural exports (regarding the smaller financial returns related to unequal access to land, the examples of South Africa and Nepal were especially brought to light). Also, the impact of exports on marginalized groups such as women, tribal peoples, etc is also important to take into account while seeking to understand pro-poor export-led growth. In order to develop growth strategies that target those groups, fair trade initiatives and practices have to be up-scaled. In addition to a more proactive government, the role of civil society organizations, public-private partnerships, network building, ITC, etc. are critical for linking export markets with the poor. The role of institutions is crucial insofar as the innovativeness of these institutions has helped improve service delivery through, say, decentralization, participatory decision-making, etc.

In summary, the fundamental importance of agriculture in a pro-poor growth approach was reiterated and the role of trade promotion both at national and international levels stressed.

At the national level, the following elements were pointed out:

- Trade promotion organisations should leverage governments to invest in agricultural infrastructure, particularly in areas of high potential and high transaction costs (Africa), so that agriculture exports can grow;
- Build on skills and assets necessary to move out of agricultural exports into non-agricultural exports (e.g. education, land titling);
- Create opportunities through exports for non-farm employment creation and regional migration; and
- Land redistribution – ensure that this is accompanied by facilities such as credits and markets so that the poor titled holders can export their way out of poverty.

Regarding the actions that could be undertaken on the international scale, the following points were mentioned and questions raised:

- Encouraging export-led mobility of labour, especially addressing constraints to sectoral and regional mobility, particularly for the poor;
- Reducing transactions costs in exports through better training, information and application of new technology;
- Political economy of trade addressing both large conglomerates and small producers. Both entities can help the poor get out of the poverty trap;
- Identifying which trade related institutions will help the poor the most;

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- Identifying whether exports have contributed to the development of informal markets -which are an exit strategy for the poor-, as well as identifying the role of corporate social responsibility and other such initiatives in this context.
- (c) Faizel Ismail, Head of Delegation to the WTO, Permanent Mission of South Africa, WTO, Switzerland

First, some issues related to the way “development” needed to be viewed in the context of the WTO were pointed out:

1. **Fair trade:** there should be a fair opportunity for developing countries to export to global markets. In this context, subsidies should be cut down, given that they undermine the exporting capacity of many countries and thus prevent them from exporting their way out of poverty;
2. **Fair rules:** rules should be balanced. Implementing international rules should not impose an unfair cost/burden to developing countries;
3. **Capacity building:** developing countries should be enabled to produce and meet the global standards of a global market;
4. **Good governance:** transparency is key to good governance and a decentralisation could be one path to good governance.

Then, five principal points to mainstream trade into national development strategy more efficiently were listed:

Participation and involvement of developing countries in the WTO Trade Policy Review Mechanism; this mechanism is meant to achieve greater transparency in and understanding of the trade policies and practices of WTO Members. It is made to improve adherence by all members to rules, disciplines and commitments made under the Multilateral and Bilateral Trade Agreements. Developing countries should actively participate in this mechanism in order to show openly what trade rules they have already implemented and which ones are in the process of implementation.

Shared responsibilities; it is unfair to expect the developing countries to adhere to and implement the rules mandated by the WTO on their own initiative only. Developed countries must also include them during the process of discussing, deciding and implementing those rules.

Leadership and good governance; it is the responsibility of developing countries to assume effective and appropriate leadership to enforce their own implementation plans and to show good governance practices. Developing countries have to demonstrate that, even if WTO rules have not been implemented within their borders, they are making the necessary efforts to comply with them.

A fair international trade framework; developed countries should ensure they provide a fair possibility for poor countries to export in a fair trade framework. They should provide the capacity to meet SPS standards as well as supply capacity. They should provide assistance to countries to allow them to participate actively in the international trade regime.

Integrated development strategy; at the national level, trade ministries have to implement a process to make sure they work in tandem with other ministries. This strategy would improve policy coherence and take on board other issues as crucial as trade issues (social issues for example). On the international level, trade negotiators have to engage with other **stakeholders** to make sure that the international process is accountable with the national level; South Africa is an example in this regard.

(d) Dr Rosalea Hamilton, CEO, Institute of Law & Economics, Jamaica

The meaning of “International Trade” as well as “National Development Strategy” needs to be challenged.

On one hand, international trade today is dominated by WTO rules that are highly contested and which rely on a free trade logic that requires tweaking. As said by Pascal Lamy, “the ‘invisible hand’ itself needs to be ‘taken by the hand’ sometimes.” (Pascal Lamy, *WTO symposium on Trade and Sustainable Development within the framework of paragraph 51 of the Doha Ministerial Declaration*, October, 2005).

Also, it was recalled how trade relations today are shaped by historical trading arrangements that are increasingly inappropriate for the modern highly competitive global marketplace, given that they rely on preferences or on high tariffs. They were however very much mainstreamed into national development strategies that, in the past, focused on infant industry development and import substitution. Today, because the world has changed significantly, there is much asymmetry between liberalising trade rules, trade policies and development processes that were shaped by historical realities on one hand, and the actual experiences of economic actors on the other.

“We now know how we got here” said Dr Hamilton. Many developing countries signed the Marrakesh Agreement without understanding the full implications of the agreements it contained. And it is not just developing countries that did not seem to understand the complexity of these agreements. The Americans, for example, had admitted in the framework of the Antigua & Barbuda internet gambling case that they did not understand the complexity of the schedule of commitments in the GATS agreement either.

It is therefore important to wonder to what extent, for a country engaged in traditional trade guided by inappropriate trade rules and a flawed trade policy, mainstreaming trade into an unsustainable national development strategy can have disastrous consequences.

Furthermore, it is crucial to clarify the national development strategy into which one may want to mainstream alternative forms of trade and trade rules that can enhance a development process. In so doing, the development strategy most suitable for Jamaica and CARICOM could be summarized as follows: to create an enabling environment to fully utilize creative productive capacities of individuals as well as firms so as to enhance the process of domestic capital accumulation. This is the process that would best meet global challenges and exploit global opportunities.

In Jamaica, there is evidence of growing under-utilized productive capacity that constrains the growth potential, and so especially among MSMEs (Micro, Small and Medium Enterprises) in the “informal sector”. Amongst other things, it was highlighted that there is no longer an “unlimited supply of labour” in the subsistence economy that can be attracted in the capital market at a price above the subsistence level. This was pointed out as one of the reasons for which foreign direct investments (FDI) have not yielded the expected outcomes in the past two decades. Hence, Jamaica’s national strategy should shift focus to enhancing the capacity of local capital producers. These are mainly engaged in the creative, copyright sector (such as musicians – according to WIPO, 10% of the music played in the world is reggae music –, entertainers, dancers, artists, handicraft producers, etc).

At this juncture of a refocused development strategy, the question of what complementary policies and institutions require for export-led growth to impact positively on poverty reduction was addressed. Eight items were pointed out, although the list is not exhaustive;

- Policies to strengthen the enforcement of IP and to improve the capacity of the Collective Management Societies²⁷;
- Investment policies to enhance local capital creation;
- Education/training targeted at the needs of the creative, copyright sectors mentioned above;
- Greater incentives for innovation, creativity and rapid diffusion of new technologies in those sectors;
- An institutional support to provide enterprise-wide risk management services as well as other “innovative services” to finance more widely those sectors;
- An institutional support for data collection, analysis and monitoring is critical for the above mentioned sectors;
- The creation of a consultative national policy-making process to ensure that trade policy meant to assist the creative, copyright sector on the one hand and to address the needs of the traditional sectors on the other hand are mainstreamed into a national development strategy. Such a process would shift the economy away from reliance on preferences and price-taking behaviour to reliance on innovation and price-making behaviour;

²⁷ The Collective Management Societies monitor the use of copyright works, issuing licences, collecting licence fees and distributing such fees to its members and the members of affiliated societies (www.wipo.int).

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- Through this consultative process, mainstreaming becomes an important means of coordinating and integrating trade policies with complementary policies and alternative institutional arrangements that can transform the economy and society in general.
- (e) Mohammad A. Razzaque, Economic Adviser, Economic Affairs Division, Commonwealth Secretariat, UK

The efficacy of unilateral liberalization in ensuring pro-development outcomes has to be questioned. The WTO MFN Tariff data 2003 clearly shows that India has tariff levels lower than only two other countries, but its average growth during 1990-2005 has been among the highest. In contrast, Madagascar (5.7%), Guinea (6.5%), Uganda (9%), Rwanda (9.9%), Mauritania (11%) etc. have average tariffs much lower than India's 30%, yet their growth performance in no way can be compared to that of India. Growth is construed in terms of export-led growth. However, there is no statistical or empirical data that supports the Export Led Growth (ELG) hypothesis.

Based on the example of Bangladesh, exports can be a weaker engine for growth initially. However, eventually, taking advantage of the MFA, clothing exports from Bangladesh grew from a mere US\$1bn in the mid 1980s to US\$12bn in 2006-07. While the export-GDP ratio has grown from 6% to 14%, the share of the domestic value added to exports as a share in GDP declined to 6%. Although exports may impact the GDP in this manner, it has other positive effects that can be an effective weapon against poverty.

With regard to ELG, the challenge is to succeed in the world market and generate employment. With regard to the role of policies and institutions, improving domestic productive capacities needs to be emphasized instead of focusing on allocative efficiency. This would entail making more specific interventions, and learning from successful exporting firms within the countries.

In conclusion, the changes needed in the trade policy-making process were tackled. While it is useful to learn best practices from other countries, they may not be replicable and the heterogeneity of countries needs to be kept in mind. Also, the important distinction between trade policies and the policy of trade liberalization was brought up. While trade liberalization is important, so is proactive policy move. Some of the other trade policy measures highlighted were the following ones:

- Differences amongst countries imply that there has to be country-specific assessments about trade shocks as well as the effectiveness of export promotion and liberalization policies;
- For medium to long-term pro-poor development, the development of domestic capacity is most essential;
- Difficult reforms related to institutions and practices may be more useful in promoting exports and pro-poor growth rather than such easy reforms as tariff cuts;

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- Learning from own country experiences particularly from exporting firms may be a way of identifying the scope of developing productive capacity; and
 - Supportive international policies such as Aid for Trade and other forms of technical assistance are a must.

(f) Pranav Kumar, Policy Analyst, CUTS International, India

The export trend of the last three decades shows that while developing countries as a whole have managed to increase their share in world merchandise exports, the benefits are not evenly distributed. There are two distinctive trends which have emerged. First, among the three continents of Asia, Latin America and Africa, Asia seems to have performed much better in comparison to the other two continents. Secondly, a handful of developing countries have gotten a lion's share in total world merchandise exports. For instance China and six other East Asian countries – Hong Kong, Malaysia, Republic of Korea, Singapore, Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu and Thailand – have more than 80% share in Asia's total exports to the world. The remaining developing countries just could not achieve a similar export expansion despite going for all out trade liberalization.

LDCs have suffered the most. Although LDCs have increased their share of world trade in recent years, they still account for a very small portion of total trade. Exports are highly concentrated among a few LDCs. The merchandise exports from LDCs have increased in absolute terms since 1990, with an especially sharp increase in the past three years (2002-05). Despite this strong record, LDCs as a group accounted for only 0.6% of world exports and 0.8% of world imports in 2004. The trade profile of LDCs varies considerably across countries. Two LDCs accounted for 35% of all LDC exports. In contrast, the 13 last-ranked LDCs in terms of export value accounted for less than 1% of total LDC exports in 2004. Lack of product diversification continues to be a problem for most LDCs.

It is important to examine what caused this skewed distribution of trade benefits among developing countries. The trade expansion of the last three decades has largely been driven by growth in manufacturing exports. The share of agricultural goods in total world merchandise exports fell drastically from almost 15% in mid-1980s to about 8% in 2005. Contrary to this, the share of manufacturing in world exports continues to be very high as its share has increased from 70% in 1990 to more than 75% today. Within manufacturing exports, technology and knowledge intensive products represent a major contribution. The share of labour-intensive manufactures like textiles and clothing remained almost constant at 5-6% in total world exports.

The world export trend of the last decade and a half clearly shows that the export opportunities (market) of products of export interest to the majority of poor developing countries have not increased significantly. For instance, agriculture, which is the main source of livelihood to billions of poor people in the world, had been experiencing a declining share in world export. In per centage terms the contribution of agriculture in total world export had gone down from 12.2% in 1990 to 8.4% in 2005. Mining products, the major

export of African countries, including many LDCs, share in world export decreased in the 1990s with a slightly upward trend in recent years. Things are changing with the current commodity boom mainly driven by Chinese demand and in agriculture with the recent rise in prices and the impact of biofuels.

Based on the experiences of trade liberalization in many developing and least developed countries, it has been observed that although initiatives at the multilateral level are critical for better trade performance by the poor countries, there are also domestic bottlenecks that need to be addressed. These domestic policy measures would ideally include:

- Making available appropriate and predictable sources of trade finance;
- Strengthening the trade capacity of vulnerable sectors;
- Improving trade facilitation services;
- Addressing the fiscal implications of trade liberalization; and
- Devising an effective social safety net.

2. Questions and comments by the audience

In the discussion period the following questions were brought up:

- The sector of tourism in poverty alleviation was conspicuous by its absence in the presentations. Is this credible when Africa exports more services than agricultural products?
- How can developing countries build on national strategies if there is instability worldwide because of the failure of Doha and when countries are becoming more protectionist and others are trying to liberalise?
- Is the WTO the appropriate forum to talk about distribution? Distribution questions are not related to trade; they are part of domestic policies and therefore should be tackled at the national level.

In response to the first question Dr Jha said tourism accounts for only 6% of the total employment in the Indian economy. While tourism employs about 10 million workers, the textile industry employs about 70 million. Thus, it is a question of prioritization.

Since there is a shift of competitive advantage (from labour intensive to capital & knowledge intensive) there is an increase of protectionism by developed countries in light of the perception that jobs across both blue collar and white collar categories are being threatened.

In response to the question whether the WTO was an appropriate forum to talk about distribution, Dr Jha affirmed that for some issues, such as EPAs, A4T etc., she considered the WTO an appropriate forum. For others, it may not be appropriate. However, it cannot go unnoticed that liberalization has brought lots of benefits (education for example).

Ismail emphasized that developed countries tend towards greater protectionism. The US farm lobby impedes progress on agriculture. In 2002, the US had voted for a bill on

agriculture increasing subsidies. A new farm bill introduced in 2007 increased subsidies even more and enhanced protection. However, in the last 4-5 years, emerging markets have been undergoing significant progress. China and India have experienced radical change in their economies and have shown impressive export growth; South Africa has also shown impressive growth and so has Brazil. Developed countries have become more protectionist and developing countries are going through important reforms rapidly. This dichotomy and disparity in the reforms in the developing countries and the rigidities in the industrialised countries explains why the DDA has been brought to a dead end.

In response to the question on distribution, Ismail said it is important to be able to talk about the benefits of market liberalization, because the set of rules governing the system are unfair, inequitable, and unbalanced. For example, in the agriculture and textile sectors, the export strengths of developing countries are there, but developed countries have complicated and rigid import provisions and policies (barriers/obstacles). That is why the DDA is so important.

With respect to the small farmers' issue, Ismail suggested that they have to be empowered at the national level and have to be given a voice at the international level, at the negotiating tables. It is a question of giving communities the chance to get organized and make their voices heard in international fora.

Dr Hamilton stated that tourism was very pertinent in the case of Jamaica. The impact that tourism has on growth is a question of vulnerability. In Barbados there was a negative impact. In Jamaica tourism has had a growth rate of 10% in the last 10 years. Tourism has seen its value added thanks to music, sports etc. This sector looked at collectively is crucial for export oriented growth. Dr Hamilton also emphasised the need to integrate more SMEs in this sector, as a way forward. Sectors linked to tourism have a great potential in poverty reduction.

In response to the question on tourism, Razzaque said that most countries that are members of the WTO have taken commitments regarding tourism and developing countries recognize services as a key issue with regard to foreign owned services in LDCs, already open in WTO negotiations.

Kumar responded to the issue of distribution by reiterating that this could be discussed at the WTO. WTO negotiations are no longer only about cross-border reductions in trade barriers but these negotiations affect a host of domestic policy issues. These domestic policy issues are crucial for addressing distribution at the national level. Moreover, many developing countries are expressing concerns about shrinking domestic policy space, as a result of growing commitments at the multilateral level. This is causing problems in pushing their own domestic development agenda including the distributional aspect.

3. Conclusions and way forward

Trade liberalization is not a panacea for all economic and social ills. The empirical evidence gives enough credence to the facts that wherever trade liberalization yielded a positive outcome, a favourable domestic enabling environment played a crucial role. The key message, therefore, is to strengthen complementary domestic economic policies, which can support increased trade and ensure the desired pro-poor growth. Efforts towards increased trade have frequently been detached from those towards development progress, whereas both goals are tightly interconnected, and in fact depend on each other. On one hand, increased growth and employment opportunities are necessary for lifting people out of the poverty trap. On the other hand, sustainable growth needs human capital, educated and healthy people, as well as a favourable business environment. It is with a holistic perspective of these dependencies that trade needs to be integrated into national development strategies.

Mainstreaming trade into national development strategy means co-ordinating and integrating trade policies with companion policy measures. In other words, there is a need to take a comprehensive approach to trade reform by considering policy requisites and trade reforms in a single framework. It involves the systematic promotion of mutually reinforcing policy actions across concerned government departments and agencies, creating synergies in support of agreed national development goals. Hence, it is of vital importance for the trade ministry to work in tandem with ministries of finance, agriculture, environment, textiles & clothing and planning & development. This is where most of the poor countries have failed, including large developing countries like India, resulting in lack of policy coherence.

It must be highlighted that under trade-led growth, national trade policies cannot remain isolated from the broader developmental strategy. Stronger policy coherence is needed for domestic as well as international decisions. Growing economic inequalities in the context of increased liberalization can be mitigated through trade regulations and pro-poor domestic policies. The state has a role to play in promoting human development through export promotion since rising exports alone is not a guarantee for poverty reduction. As a start, the expected increase in government revenues through more open markets can contribute to pro-poor measures and investments.

Furthermore, desirable government interventions should not be limited to additional financial resources directed to the poor, but should go well beyond that. In a business environment of increased competition, the competitiveness of those industries with the most potential to affect positively or negatively the lives of the poor has to be carefully evaluated. Reasons for possible decline have to be identified, especially concerning the likely import surges and domestic consumption changes brought about by liberalization. Tactical investments are crucial to increase competitiveness and enhance production capacity through the training of workers, updating of production techniques, and strengthening of the necessary infrastructure.

Certainly, many developing countries lack the production capacity to diversify their exports and therefore need financial and technical assistance to diversify their production base so that they can reduce their vulnerability when facing market uncertainties. Furthermore, within a development and poverty reduction perspective, it is essential to evaluate the vulnerability of those who are more exposed to changes in trade patterns and investigate the different strategies available, according to livelihoods, geographic locations, and socio-economic background, among other factors. The exact impact on diverse stakeholders has to be taken into account to encourage positive effects and mitigate negative effects.

E. The Trade Dimension of Globalization: Multilateral (WTO) or Regional (RTAs), Organized by the Agency for International Trade Information and Cooperation (AITIC)

Report written by the Agency for International Trade Information and Cooperation (AITIC)

Abstract

AITIC's session focused on the challenges faced by the multilateral trading system in the light of the surge of RTAs. It aimed at establishing the causes for the current drive towards regionalism and analysing its impact on international trade relations, in particular for developing countries.

Dr Durán highlighted some of the main difficulties faced by developing countries when negotiating RTAs with developed partners, and provided some figures to assess the magnitude of this trend. Professor Panagariya provided an insight of the economic effects of regional liberalization which he found was suboptimal compared to unilateral or multilateral liberalization. Professor VanGrasstek centred on the causes driving US shift towards regionalism; these were found in wider foreign policy goals rather than purely economic objectives. The interventions that took place in the open debate that followed reinforced the opinions of the speakers.

It was widely recognised that regionalism is economically less interesting than multilateralism, which should be promoted through the WTO. However, regionalism is such a powerful force because it is driven by many political factors that outweigh economic arguments.

1. Presentations by the panellists

The AITIC Session focused on the challenges faced by the multilateral trading system in the light of the surge of regionalism, and analysed the causes and the impact of this trend. Three speakers, AITIC's Executive Director, an academic and an independent consultant, presented their views from an economic and a political perspective on the effects on developing countries of the proliferation of regional trade agreements (RTAs), particularly those between developing and developed countries.

(a) Dr Esperanza Durán, Executive Director, AITIC

Setting the scene: Potential risks for developing countries in the current drive towards regionalism

Dr Durán presented her assessment of the current trend towards regionalism, of the role, if any, of the WTO as the guardian of multilaterally agreed rules, and of the costs and benefits for developing countries entering this kind of trading relation with developed countries.

In the last decade developed and developing countries have multiplied exponentially bilateral or regional trading agreements. Faced with this trend, was the WTO the institution that could harness globalization or had it lost this role to the RTAs? Obviously, developing countries faced additional difficulties when participating in North-South RTAs. Analysing this from a political economy perspective, it was clear that developing countries were likely to accept onerous, non-trade conditions imposed by developed countries. When negotiating with a stronger partner, developing countries faced a number of handicaps, such as: a stronger incentive to sign an agreement with the developed partner; insufficient knowledge of the different sectors in which they could be competitive; lack of reliable statistics; human and economic resource constraints, etc. The result was bilateral deals in which developing countries tended to adopt the rules imposed by developed countries, with the risks that this entailed.

This concern was very much pertinent, as North-South RTAs seemed to be spreading all over the world. Since 2000, amongst the 144 RTAs notified to the WTO that remained in force today, 58 were North-South RTAs, as opposed to only seven North-North. In view of all the North-South RTAs now under negotiation, this trend was only likely to be reinforced. This situation was puzzling, as it had taken developing countries many years to gain some leverage over developed countries at the WTO and they were now giving it away by entering into bilateral negotiations.

This raised many questions. Was this caused by developed partners pushing developing countries into bilateral negotiations to regain the power lost at the WTO? As RTAs were “here to stay”, what was the new role of the WTO in the present context? As a way to reconcile the multilateral and regional dilemma, economists had been recently putting forward two concepts: harmonisation and expansion of RTAs. However, none of the two seemed likely to occur at present. Therefore, how was the multilateral-regional relationship going to evolve in the future? Would RTAs be a threat or a thread for the fabric of the international trading system?

(b) Professor Arvind Panagariya, Columbia University

The Economic Aspects of Regionalism

Professor Panagariya looked at RTAs from an economic perspective, and compared them to other ways of liberalization. There were three ways a country could reduce its tariffs: unilaterally, regionally or multilaterally. Unilateral liberalization was the optimal path but it was unrealistic at present. Therefore, when choosing between multilateral or regional, multilateral liberalization should be preferred because: i) getting access worldwide was much better than to just one partner; ii) importing from the cheapest source worldwide was cheaper than from a more expensive RTA partner; iii) multilateral liberalization resulted in administrative ease; and iv) it allowed increased efficiency as international improvements and innovations could be shared globally without discrimination.

The evolution of RTAs over time was interesting. The years between 1950 and 1970 had seen the development of the First Regionalism, a period of time characterised by the creation of many inefficient agreements – mostly in Latin America. The Second Regionalism kicked off with the conversion to bilateralism of the US, which had signed and was still in the process of signing a large number of bilateral agreements. Other characteristics of the Second Regionalism were the expansion of the EC to its current 27 members and the advent of Asian countries into regionalism. As a result, nearly every WTO Member was now part of one or more RTAs.

The infant industry argument was the most prominent economic theory calling for the establishment of RTAs. However, this line of reasoning had never been successfully supported by empirical evidence. On the contrary, the downsides of RTAs, like their propensity to cause trade diversion or their bureaucratic inefficiency rested on much more solid foundations. Regional liberalization led to slower multilateral liberalization, as shown by tariff liberalization in Latin America over time. Another dangerous outcome of RTAs, particularly North-South, was that they contributed to the spread of non-trade-related disciplines, as could be seen in most US RTAs.

Since RTAs were here to stay, the only way the multilateral trading system could regain prevalence over them was by successfully completing the Doha Round, as this would kill the preferences given by RTAs at their root and would also help to keep at bay the spread of non-trade-related provisions.

(c) Professor Craig VanGrasstek, Consultant

The Extrinsic Value of Free Trade Agreements for the United States

Professor VanGrasstek focused his presentation on the extrinsic value of RTAs, which was the real reason for signing RTAs, at least for the US. The US had almost always linked trade policy to wider foreign policy. During the “Cold War”, it had concentrated on increasing collective prosperity with its allies, so concessions were extended multilaterally to all of them. This policy continued under the Reagan and Clinton administrations. Recourse to RTAs remained infrequent throughout this period. However, this changed radically with the onset of the Bush administration and, particularly, after September 11. Since then, RTAs entered into by the US have proliferated from just six to 25 (counting partners and candidates).

The reasons for RTA propagation are mostly political. Trade with each of the post-September 11 RTA partners was marginal for the US. In fact, the proportion of preferential trade relative to US total trade had remained stable since 2001. This meant that none of the more recent RTA partners were of real economic importance to the US. On the contrary, for the partner countries trade with the US represented a large share of their trade. The relative low importance that the US attached to pure trading interests was shown by the fact that most RTAs included non-trade issues, such as labour and environment.

The real justifications behind each US RTA, pre and post September 11, showed that the US was mostly interested in the wider foreign policy, and even more so in recent times. Before September 11, every US RTA had an economic motive, which could also be mixed with other motives, such as oil supply, or security. However, in recent years, the balance has shifted considerably to give much more importance to non-economic issues. Out of the 14 most recent US RTAs, only four had some kind of economic interest, and a not very clear one, because this economic interest relied on the US putting pressure on those G-20 countries with which it was about to negotiate, or in the process of negotiating RTAs, to defect from this group. The remaining 10 RTAs presented no economic interest whatsoever for the US and were only dominated by oil supply or security concerns, whether anti-narcotics, Middle East peace or, a recent category, supporting the US in the war of Iraq. The countries belonging to this coalition have all been offered an RTA, except the EU members, the Pacific micro-states and ex-USSR countries.

As a consequence of this frantic RTA activity, the US would now be obliged to pursue the multilateral path, as there were not many other prospective RTA partners in the current international political context. In the longer term, the position of the US towards RTAs would depend on the results of the 2008 elections. In any case, not much activity should be expected until Trade Promotion Authority was renewed.

2. Questions and comments by the audience

The main points raised in the debate with the floor were the following:

Professor Panagariya believed that the reason why developing countries were accepting to make important concessions in bilateral negotiations while resisting multilateral liberalization, was that keeping trade protection multilaterally was the only leverage that developing countries had on their developed country partners. He argued that blocking multilateral liberalization helped to limit preference erosion. A participant stated that RTAs did not really secure market access, as preferences were rapidly eroded. She also said that the experience of Colombia when signing an RTA with the US showed that such negotiations were completely politically driven on both sides. Professor VanGrasstek answered that RTAs were not intended to preclude preference erosion, but to secure zero tariff for your own exporters. Signing an RTA with an important partner was politically driven in most countries, as he had witnessed himself in some RTA negotiations.

3. Conclusions and way forward

When concluding, Dr Durán noted that everyone seemed to agree that multilateralism was preferable to regionalism, although politics geared trade policy in the opposite direction. In view of some key upcoming events such as the US elections and the uncertain outcome of the Doha negotiations, the question of whether the multilateral trading system would continue its trend towards atomisation would remain unanswered for the time being.

F. A Missing Instrument: A WTO/Regional Integration Global Academic Network, Organized by the International Chair WTO/Regional Integration

Report written by the International Chair WTO/Regional Integration

Abstract

The need for a WTO/Regional Integration Academic Network was discussed and recognized in the 2006 WTO Public Forum. The main objective of this session was to initiate the debate on the Network's main characteristics. The session sought to answer, among others, the following questions:

- *Network of individual persons or network of institutions? Would it be adequate to proceed in stages: beginning as a network of persons without excluding the future evolution towards a network of institutions?*
- *Main tasks of the network, in particular in its first stage. How to guarantee an enhanced involvement of academics from developing countries?*
- *Is it appropriate for the Network to address not only WTO matters but Regional Integration and Bilateral agreements as well?*
- *How to set up the first "core group" without hurting susceptibilities? Would it be reasonable to begin by including the academics that have participated in the WTO Regional Courses?*
- *What is the best institution to convene the first constitutive meeting? What is the best timing to implement the initiative?*
- *How to enlarge the network, on the basis of the "first core group"?*

1. Presentations by the panellists

- (a) Ramon Torrent, University of Barcelona and Coordinator of the WTO/Regional Integration International Chair

Ramon Torrent started by recalling that the International Chair WTO/Regional Integration ("WTO/RI Int. Chair") had been presented in the 2006 WTO Public Forum during the session on "How can academic policy-oriented thinking on WTO matters be improved". At that time, the need for a WTO Global Academic Network was discussed and recognized.

He presented the current program of activities of the WTO/RI Int. Chair, distinguishing between the "typical" and the "atypical" activities. Among the first he mentioned the Master of Laws, International Economic Law and Policy that will start in 2008 and different courses delivered by the Chair. As regards the second type of activities he mentioned the Barometer of International Trade Relations and the launching of a WTO/Regional Integration Academic Network, both focusing on trade relations at the global level.

First, Torrent envisaged the creation of the WTO/Regional Integration Academic Network as a network with a very small structure and with the minimum amount of costs linked to coordination. He added that, as suggested last year, the Secretariat or Coordination could be located in a middle-sized country and perhaps in a town that, apparently, everybody likes to visit: Barcelona.

Second, important criteria, emphasized by the speaker, were that the network should be: global, interdisciplinary, multilingual and with high participation from developing countries.

Third, the network would work on issues covered by the WTO and the different processes of Regional Integration focusing, in particular, on the overlapping and interdependence among the different layers of international trade relations.

Fourth, the network would start initially as a network composed by individuals. A good idea could be to begin with lecturers in the Regional Trade Policy courses organized by the WTO.

Fifth, the network should take into account the present characteristics of the international trading system, in particular its broader thematic coverage and the greater number of participants in order to promote the involvement of all countries. In order to achieve this objective, it was considered necessary to develop innovative thinking on the main objectives of the different levels of agreements and institutions that create that system. In summary, the network should attempt to answer the question: who does what at which level?

Finally, Torrent invited interested participants to participate in a meeting, co-organized with the ICTSD, that will take place next year in Barcelona where the main features of the Network will be discussed more deeply.

(b) Vera Thorstensen, Economic Counsellor, Brazilian Mission to the WTO

Vera Thorstensen expressed her full support for this initiative. She emphasized, in particular, the difficulties encountered by developing countries to teach and form professionals with a comprehensive knowledge of the functioning of the international trading system.

In this perspective, she briefly described a program developed by the Brazilian Mission, consisting mainly of a four month stay in Geneva for civil servants, professors, lawyers, economists and other postgraduates in order to provide them with very detailed training on the WTO system. This program has been recognized as very successful.

Following this success, courses are being organized in Brazil for law and economics professors, with a view to enhance their knowledge about WTO matters.

The speaker stressed that the main purpose behind all of these activities was to teach people how to use the rules in the interest of their own country. This is why the approach had to be highly policy-oriented and take into account the real world of trade negotiations and dispute settlement.

(c) Carmen Pont-Vieira, Former WTO Secretariat Staff, Trade Policy Review and Regional Agreements Division

Carmen Pont-Vieira highlighted the importance of this initiative, recalling that, due to the very important changes experienced by the international trade system, the work academics might do in the field of WTO, Regional Integration and other non trade matters, becomes crucial.

The speaker was in favour of a network with a broad perspective covering not only WTO issues but also related topics. In her view, such a network would provide an added value by allowing academia to inject some reflection about the coherence of the global trade system.

As regards the alternative to constitute the network with persons or institutions, she considered a good idea to start, as a first step, with individuals but extending to institutions whenever it would be feasible. One of the main tasks for the first meeting would be to define the initial concrete stages as well as some clear objectives.

In summary, Pont-Vieira welcomed the idea of a WTO/Regional Integration Academic Network, conceived as a dynamic network that would only become truly global if it were able to promote an important networking activity among its members.

(d) Patrick Low, Director, Economic Research and Statistics Division, WTO Secretariat

Patrick Low started by mentioning some of the existing networks and enquired what would be the specificity of this new network. He also wanted to address the issue of the resources required for its functioning. He suggested the need to undertake both a reality check and a necessity check.

In this perspective, he critically reviewed the nature and operation of different types of existing networks. After such a review, he ended his intervention by putting three questions to the audience:

- What will be the main purpose of the WTO/Regional Integration Academic Network?
- If its objective is not qualitatively different from that of already existing networks, wouldn't it be more efficient to simply join up networks and build on existing ones?
- What are the resources needed to run the network and where will they come from?

(e) Sheila Page, Senior Research Associate, Overseas Development Institute

Sheila Page recalled that the issue about the convenience of such a network had already been discussed last year. What was needed today was to define its characteristics with precision.

In her view, a “Global” network was missing. There were Latin American, African, European, Asian and North American networks. However, there were few people who knew whether and how similar trade-related global issues were discussed in other parts of the world. There was a real problem in getting people from networks in other parts of the world to contribute to and understand the debates that occurred within one network. She was not sure whether the solution was to join up existing networks or to build up a new network, but she stated that this initiative could be an opportunity to provide informed access regarding how the same topics were being debated in different parts of the world, as well as, to facilitate interaction among people working on the same questions and creating synergies, if feasible.

She emphasized that it is was very difficult to start with few resources, and noted that one of the main missing resources tended to be the availability of working time. Most people had a lot of obligations in their own work and could not find the time to run the networks they participated in, but, on the other hand, we could not expect a research network to be run by administrators who were not researchers. Therefore, whatever was done had to be done on a shoestring, mainly in terms of time.

She recommended to start by identifying two or three topics that were now widely recognized as important research topics and also to define researchable questions on these issues. These questions should be of interest from a policy point of view and interesting also to pupils. In the near future, these questions could be defined through programs of joint collaboration, by setting up mini-networks within the network that would work and come back after one year with answers to these specific questions.

2. Questions and comments by the audience

At the end of the presentations, Torrent invited participants to give their comments. Participants mostly agreed and congratulated the speakers for the initiatives presented.

The first participant, who had an extensive experience of running a regional trade network, agreed with the fact that networks imply a lot of time and need to be managed on a shoestring. She said that some light needs to be shed on what will be the main activities of the network, whether it will train professionals, whether it will mainly take a legal approach, etc. This could be spelled out during the first constitutive meeting of the network. She also argued that the degree of networking among existing networks should not be underestimated.

Another participant who came from the academic world pointed out that one of the added values of such a network would be to assist teachers in WTO introductory courses by having a collection of syllabus for courses of various lengths, as well as, by producing some teaching materials.

Other participants insisted on the need to define clear criteria for the membership of the network and to explain which were the incentives for participating in it. The issue of the funding of the network was also raised.

From a donor's perspective, it was stressed that the key for a successful network was to fill a niche that had not previously been addressed by someone else.

In response to these comments, Page expressed concern about adopting a donor perspective in order to define the membership of the network. She also stated some doubts about the possibility of starting with a network that focused, at the same time, on training and research and added that this could be achieved after some years of experience, as in the case of the European Association of Development Research and Training Institutes (EADI).

On the issue of funding, Page clarified that, in her opinion, the WTO/Regional Integration Global Academic Network should not be conceived as a funding agency. On the contrary, she sees this initiative as a collaboration of people who have funds and research projects already in place, but who will gain something by working together.

An official from an important WTO delegation pointed out some missing elements in the discussion. First, he recalled that, most often, trade delegates are not hooked on academic networks. As a matter of fact, lobbies and NGOs are often more close to trade delegates than academics are. Second, he emphasized that a global network such as the one that was being proposed would be able to provide general inputs that are, at present, not covered by regional networks. Third, he considered that we all have to position ourselves in a post-DDA environment. In this regard, there is a need for reflecting on new agendas and new ways of addressing the problem of international rule making. New areas should also be considered, for example: labour standards, environment and biodiversity, and issues that are part of other UN bodies where a large set of standards have been agreed. The suggested network could be extremely useful, provided its output brings down all the issues it tackles to a level where trade negotiators can effectively use the results.

In response to some points raised during the discussion, Mr Torrent emphasized that while there was a lot of literature on WTO, European Integration, NAFTA, and all other processes of Regional Integration, there is a lack of literature on the regulatory framework of globalization, as a whole, and on the foundations of international trade and economic agreements. This becomes a problem for training and research precisely because of the need to address the fundamentals, in particular if new agendas or new approaches have to be developed. In his opinion, a single network capable of jointly addressing issues like: European Integration, WTO, Mercosur, US-bilaterals, Asia and Pacific cooperation does not

exist. An overall view of all these phenomena is needed and that should be one of the main objectives of the network.

3. Conclusions and way forward

Feedback from the speakers and participants seemed to indicate the need for a global, interdisciplinary and policy-oriented academic network covering not only WTO matters but also regional integration and related issue. However, such a network must be carefully defined in order to provide real value-added, complement and create synergies with existing networks.

No formal conclusions were drawn at the end of the session. However, taking into account the different interventions, the organizer institution, following consultations with all the panellists, considers that the network could be set up according to the following lines:

(i) *Main purpose*

To create a truly global network able to:

- Contribute to improving the functioning of the system of international trade and investment relations, and in particular how it deals with the growing number of developing country members; and
- Contribute to reducing the risk of excluding a great number of developing countries from the main institutions and processes of international trade and investment.

(ii) *Specific objectives:*

- To promote innovative and policy-oriented research and debate on the complex set of international agreements and institutions, focusing in particular on their interactions and their effects on trade, investment, and national policies in these areas;
- To produce and disseminate materials to be used in training activities related to these topics;
- To promote the interaction among individuals and existing networks (in all countries and regions) who are interested in this subject;
- To create a network in which both developed and developing country researchers participate actively; and
- To help to bridge the gap between the academic and the policy communities.

(iii) *Characteristics of the network*

(iv) *Structure and Membership*

- The network will have a relatively loose structure with only a small coordinating unit, a website and an annual (thematic) meeting;

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- The members of the network will include individuals who want to participate actively in its activities. Members of already existing networks will be most welcome, as their participation will enhance the effectiveness of the Global Network and its capacity to promote interaction. However, the Network does not aim to become a “network of networks” or to create a two tier structure. It will encourage members to keep the other networks in which they participate fully informed of the Global Network’s activities;
 - The network will also welcome the participation in it, on an individual basis, of practitioners, both in the public and in the private sector, who are interested in promoting its main purpose and its specific objectives. Their participation should help, in particular, to bridge the gap between academia and policy and private sector activities; and
 - The network will address the ways and means by which a specific class of student members can be set up, allowing postgraduate students to benefit from its activities.

Issues and Activities

The network will define periodically the main issues on which the activities of the network will concentrate.

- The network and the institutions that coordinate and promote it will task each year one or more teams of members to undertake specific research. This research will draw in academics from developing countries and will be the core subject matter for discussion and debate in the proposed annual Assembly. It will be the backbone of the Network’s interactions in each year, but members will be encouraged to use both the website and direct contacts to keep other members informed about all their research on these issues;
- The Website will provide information about the Network’s own activities, but will also provide links to its members’ publications and to other relevant project websites; and
- The network will be multilingual, using at least the three WTO official languages.

(v) Funding of WTO/RI GAN

- The initial implementation of the network will be funded by the institutions that promote and coordinate it and the institutions that finance them; and
- Additional funding will have to be found to cover future activities.

G. Does the Single Undertaking Still Underpin the Coherence of the Global Trading System?, Organized by the Centre for International Governance Innovation

Report written by Professor Robert Wolfe, School of Policy Studies, Queen's University

Abstract

This session aimed to consider the relation between institutional design and the effectiveness of the WTO. The already broad WTO umbrella will continue to expand as globalization keeps enlarging the range of potential conflict between policy decisions taken by governments many miles away from one another. How can the WTO ensure coherence in existing obligations, and coherence with governance in all its other forms, while managing efficient negotiations on renovation and expansion of the obligations? The present WTO is indivisible, which gives an equal voice to large and small Members and ensures the internal consistency of WTO law. Some argue, however, that it also leads to negotiating rounds with a large agenda whose complexity defies human understanding. Given that so-called Variable Geometry and other flexibilities mean that in practice the extent and rigour of actual obligations differ widely among Members, is the Single Undertaking framework either necessary or worth the cost? Must the WTO agreements remain a Single Undertaking, must every negotiation be part of a round, and must every round be a Single Undertaking?

1. Presentations by the panellists

The session was moderated by Harsha V. Singh, Deputy Director-General, WTO.

(a) Dr John M. Curtis, Distinguished Fellow, Centre for International Governance Innovation

The session began with a presentation by Dr John M. Curtis, who wished to make three contextual points, drawing particularly on a gathering of international trade experts in June 2007 at the Centre for International Governance Innovation in Waterloo, Ontario. The first is the emergence and development of the global value chain – the global supply chain or new international corporate structures if you will – brought on by digitization, and fragmentation of the market place. More and more people from large swaths of the developing world are being brought into the global economy; technology – particularly information technology – is being improved upon daily and is being disseminated broadly and deeply; while global suppliers increasingly are able to meet global demanders anywhere, and at anytime. The second point is the large number of new players on the global scene both large and small of global players – the “arriviste” powers, a term that I prefer to the more commonly-used term of “emerging” powers that I regard as very historic. China, India – and to some extent others such as Brazil and Indonesia – never mind Korea and Japan that have already arrived – and Russia which is on the way back – are very much part of

the global value chain and thus increasingly are an integral part of the world economy and subject to its rules, behaviours and practices. The third and final transformative point is the rising concern world-wide about the environment and sustainable development more generally.

The Single Undertaking, one of the crowning achievements of the Uruguay Round, brought everyone – big and small countries alike – into the system. But do these regularized and largely harmonized rules and norms of trade that we have collectively shaped over the past half-century have a whole lot of relevance into the future? His answer was yes, as long as new arrangements (perhaps beginning with non-binding principles in some areas to start) are at a minimum plurilateralized, leaving accession open to all maintaining always the clear objective of a coherent, predictable world trading system. The reality of global value chains will probably require a horizontal negotiated approach to investment, and perhaps competition to ensure that global value chains are a source of prosperity and not friction. The same approach might hold too for an almost completely new issue area – the trade-related aspects of climate change policies. Given the global nature of climate change, a multilateral approach – perhaps part of a Single Undertaking is probably necessary from the start.

(b) Professor Simon Evenett, International Trade and Economic Development, Department of Economics, University of St. Gallen

In his presentation Professor Simon Evenett argued that the two principles chosen by WTO Members to guide the negotiations in the Doha Round (namely, that the quantum of liberalization of agricultural policies exceed those of manufactured goods and that developing countries liberalise less than industrialised countries) and the eventual choice of negotiating items for its Single Undertaking were incompatible with (i) first-order political economy constraints in leading trading nations (notably as they relate to agriculture), (ii) the widespread tendency of WTO Members to engage in unilateral trade reform, and (iii) with the impact of a booming world economy that might have lead some political leaders to conclude that the cost of a Doha Round impasse (or even failure) was very limited. Moreover, with all of the good will in the world unless there is a dramatic simplification of the negotiating set and the principles chosen to guide the negotiation in the coming months (which would probably have to include the removal of agricultural reforms or a sharp lowering of demands for agricultural reforms by industrial countries), then there was very little chance that the Doha Round could be completed by the end of 2007. When thinking about the implications for the role of a Single Undertaking in multilateral trade negotiations, Professor Evenett argued that recent events served as reminder of the importance of other factors in jointly determining the potential success of a multilateral trade negotiation.

Given the upcoming US presidential election and the time it takes for a new Administration to be in place, and recalling that the Indians must hold a general election by the summer of 2009 at the latest, then assuming the WTO membership concurs the earliest possible resumption of serious multilateral talks will be late 2009, with a resumption in 2010 far

more likely. At that point the current set of Doha Round proposals may not seem so relevant or compelling. Professor Evenett argued that policymakers would be better served if the next 18 to 24 months were used to identify viable promising alternative multilateral trade initiatives with which to compare resuming the Doha Round negotiations. At least this way decision-making can be informed by a comparison of alternatives, and the matter is not reduced to whether to abandon the Doha Round or not. Policymakers may then decide to supersede the current Doha Round proposals and, if so, whether or not the Doha Round is formally concluded could largely be a presentational matter. To guide the identification and assessment of alternative multilateral trade initiatives to the current Doha Round proposals, Professor Evenett pointed to three attributes that any such initiative should have. These attributes are Substantial Relevance (to the WTO's objectives and to its members), Political Viability, and Feasible Implementation. A process could be established whereby a selected number of alternatives could be proposed and analysed for consistency with these three attributes. This process would have to draw on a wide range of expertise and need not be confined to WTO Members, even though the latter are the ultimate audience and decision-makers. The WTO Director-General could play a useful role aggregating and summarising the different viable perspectives, eventually presenting a report to the WTO General Council in or around the first half of 2009.

(c) Professor Robert Wolfe, School of Policy Studies, Queen's University

Professor Robert Wolfe began by recognizing that some observers respond to the delays occasioned by consensus and the Single Undertaking by asking in frustration: Must the WTO agreements remain a Single Undertaking? Must every negotiation be part of a round? Must every round be a Single Undertaking? His answer was Yes. In the alternative, could current and new Members pick and choose which existing and new agreements they like? Why, he wondered, would it be a good thing to cease struggling against fragmentation and discrimination? The Single Undertaking is simultaneously 1) a legal concept that maintains the coherence of the agreements (see Final Act para 4); 2) a multilateral norm that ensures general MFN; 3) a decision-making tool that forces broad-based coalitions in Geneva and at home; and 4) an economic concept for managing distributional implications

Against that background, Professor Wolfe suggested five sets of analytic criteria for assessing whether a given issue can be added to the Single Undertaking from the perspective of good institutional design: A. Purpose of the WTO; B. Nature of the issue; C. WTO compatibility; D. Role of the state; E. Domestic resonance. What then should the Single Undertaking contain? It should have a balanced set of issues whose policy externalities cannot be managed unilaterally, including something for all tastes, north and south; importers and exporters (including within Members). It should include trade in goods, especially agriculture; trade in intangibles, especially services; and it should contribute to promoting development and limiting climate change.

(d) HE Guillermo Valles Galmés, Ambassador of Uruguay to the WTO

Ambassador Valles Galmés responded to the remarks of the first three speakers by observing that the Single Undertaking had been a useful device both for the trading system and for the process of the negotiations. The Single Undertaking enabled negotiations on topics that had once been off-limits, including agriculture in the Uruguay Round and fisheries subsidies in the Doha Round. The Single Undertaking was also relevant in addressing the issue of fragmentation of the trading system, a risk that could be exacerbated by too much variable geometry. Realism was required, and he worried that Members seduced by the possibilities of regionalism had underestimated the risks of a failure of the Round. He concluded that the Single Undertaking would remain a useful tool, even for future negotiations.

2. Questions and comments by the audience

The presentations provoked many interesting questions from the floor about whether a Single Undertaking for Doha was possible, the relation between the Single Undertaking and the EU EPAs with the ACP countries, the relation of unilateral reform to the Single Undertaking, developing country capacity for across-the-board negotiations, and what the meaning of “Single Undertaking” will prove to be in the Doha Round.

3. Conclusions and way forward

Does the Single Undertaking help manage globalization? As a principle it reduces uncertainty about the core and the boundaries of the trading system, and stabilizes expectations about which norms and rules of behaviour must be followed to remain a Member in good standing. The moderator agreed with the presenters that it remains a useful negotiating device, even if it presents challenges, but it remains to be seen whether a large Single Undertaking for the Doha Round will be possible.

H. Coherent Strategies for Trade Liberalization – Bottom-up Policies, Regional Agreements and WTO-System Compatibility, *Organized by the European Centre for International Political Economy (ECIPE)*

Report written by the European Centre for International Political Economy (ECIPE)

Abstract

The European Centre for International Political Economy (ECIPE) proposed a panel to discuss how trade liberalization measures undertaken other than within the WTO framework can be made to support the multilateral system.

The following questions were discussed during the session:

- Do important trade liberalization efforts by other means than the WTO complement, strengthen or undermine the WTO system?
- Are there direct or indirect conflicts between different levels of liberalization?
- With the rush to bilaterals, especially, currently in Asia, is the Geneva-based order in danger?
- Does unilateral, autonomous liberalization render the system of reciprocal concessions such as represented by the WTO framework useless?
- What should be the purpose of the WTO in the future and what can it be?

1. Presentations by the panellists

Fredrik Erixon, co- Director of ECIPE, introduced the session and moderated the panel.

(a) Dr Razeen Sally, Director, ECIPE

Dr Razeen Sally highlighted the medium-term strategic issues in the world trading system in a “post-Doha” context, i.e., a five-to-ten year time horizon. He announced that he would end his speech with key questions rather than detailed answers. Dr Sally said he did not believe the Doha Round would be concluded successfully. According to him, there are seriously diminishing returns to trade negotiations, at all levels: multilateral, bilateral and unilateral. The trend he sees is that the rules agenda will become more important than the market access agenda. One of the key challenges to come is how to “multilateralize regionalism”, or how to extend the benefits of liberalization undertaken at regional or bilateral level to others at a global level. Finally, he asked how the momentum for autonomous, unilateral liberalization could be maintained, especially on regulatory and behind-the-border matters – in a mutually reinforcing way for the multilateral system?

Regarding the WTO, he noted, that two key areas of clear success are accessions of new members and the Dispute Settlement Mechanism. One “failure” is its achievements to further liberalization. These are due to three structural shifts: (i) the agenda on the table

of negotiations has become broader and deeper; (ii) the negotiating circle has widened (more members); and (iii) the negotiation process has become much more politicized.

The speaker considered it highly improbable that the WTO system will deliver substantially on trade liberalization in the future. Especially, since it is increasingly dealing with tackling “second-generation” regulatory, “behind-the-border” barriers, namely in services. In his view, the operating system of the WTO must be changed so that current obstruction can be ended.

The ways out proposed by Dr Sally include the following:

- No more rounds. Advances in trade negotiations should be incremental, with suitable modes and ends. Negotiations will need to be sectoral, and stand-alone.
- The Single Undertaking will need to be unpicked.
- Special and Differential Treatment will have to be granted on a de facto basis, not in a de jure manner.
- The future of the WTO will therefore be one of “variable geometry”.

When counting the European Union as one, roughly 30 WTO Members account for 90 per cent of world trade. 10 WTO Members (EU counted as one) account for 70 per cent of world trade. In the medium-term, this core group will have to focus more on rules issues than on market access. Such rules would include subsidies, customs administration, trade remedies, and so forth. In these areas, strong and growingly identifiable mutual stakes are emerging. These revolve mainly around issues of transparency, non-discrimination and operational matters. The question of enforcement will be whether to make rules justiciable or if they should undergo peer review (on the OECD model).

Regarding the proliferation of bilateral and regional free or preferential trade agreements (FTAs) he stated that the majority of FTAs are “trade-light”; they have trade diverting effects, and complicate and overburden trade (“spaghetti-bowl” effect); and they generally are tailor-made for particular businesses. Therefore, they are part of a pattern of diminishing returns to trade negotiations, especially when it comes to rules. The questions are thus: How can one advance bilateral co-operation on regulatory issues, but outside trade negotiations? Dr Sally reminded us that there is the “19th-Century method of liberalization” pioneered by the United Kingdom: unilateral, bottom-up liberalization. World Bank figures show that most trade liberalization (65%) in the 1990s occurred autonomously, or “unilaterally”. This is the case mainly with China, and also with Vietnam. This unilateral method worked fruitfully in combination with the WTO. The problem today is that the momentum for unilateral liberalization has slowed down. There is an emerging backlash.

The key challenges today are:

- How to renew the momentum for autonomous liberalization, especially when it comes to behind-the-border regulation. The key is China. China's autonomous liberalization has had a significant emulatory effect on the rest of Asia and the emerging world. Keeping that momentum in China is crucial. It is also crucial for the European Union or the United States: they should keep their borders open and refrain from protectionism;
- How to reinforce domestic economic and trade policies via measures that improve the investment climate; and
- How to create a mutually reinforcing link between the unilateral and the multilateral/WTO level.

(b) Rengang Huang, Minister Counsellor, Permanent Mission of China to the WTO

Rengang Huang qualified the idea that there is a lack of coherent strategies between the WTO level, bilateral and regional agreements, and autonomous liberalization; or because it is difficult to come to a convergence of views. In the case of China, the multilateral system plays a very important role for China's domestic liberalization. It provides guidance, criteria, benchmarks, serves as a catalyst for reforms, etc. China's liberalization after WTO accession has not stopped. Even today it continues unilaterally. China's accession lasted fifteen years, during which China had to enact many new laws. Trading rights in China increased dramatically (the number of companies allowed to trade grew from 1,000 to 400,000 in that period). He noted that today China is being told that it is trading too much.

Huang also stressed that although the WTO is said to be multilateral it is not a truly universal system. Some important players are not yet members, such as Russia and the Ukraine. Does it make sense to put the WTO on the top of the hierarchy in the international trading system? The role of the WTO is in fact limited in its effects on promoting liberalization and economic growth.

Regarding China's autonomous liberalization, including in investment and some services, it covers more sectors than the WTO agreements. Looking for coherence would become an endless task. Autonomous liberalization happens everywhere on a daily basis. WTO Members are entitled to adopt whatever liberalization strategy they deem conducive to their development, growth, and improvement of living standards.

On the topic of "multilateralizing regionalism", Huang argued that a coexistence of various arrangements will exist. They can be mutually reinforcing. Pilot programmes, pioneering experiences can be tried first locally, then "multilateralised".

In terms of the policy changes discussed in the WTO, he wondered whether one could call them "liberalization"? In his view, there are different stakeholders involved. "Globalization" is not only about trade policies. For example a problem exists with the environment and climate issues. Some WTO Members want rules on these topics.

(c) Professor Patrick Messerlin, Groupe Economie Mondiale, Sciences Po, Paris

Professor Patrick Messerlin's presentation was focused on the issue of leadership in the WTO and on how to "retool" and to "flexpline" the WTO so that it can be made to work better in the future.

Professor Messerlin highlighted the fact that there is a lack of leadership in the WTO. But there is no real evidence that there is less support by public opinion, or more anti-trade lobbies, or that business is more absent. What counts is the fact that in key WTO Member countries there are increasing difficulties to oppose tiny interest groups. For example the United States Senate gives agricultural states more electoral weight than they should have. In developed countries, in the last years government majorities have grown thinner. He cites the examples of the last presidential elections in the United States, trends in majorities in the Congress and Senate in the US. In France, presidential majorities have grown thinner as well, also in the elections for the German Bundestag. Governments tend to woo the small interests that can support their majorities at the margin. This favours anti free trade bias and makes international negotiations more difficult. The second problem as this increased anti-trade bias conflicts with a WTO agenda that grows broader.

Professor Messerlin also highlighted that despite the current crisis in the Doha Round, compared to other previous GATT rounds, this one is not less "productive". Productivity of a round is measured here as "the balance between liberalization formula and exceptions formulas in terms of net tariff cuts".

What the WTO would need is:

- To focus on the core business of the WTO: market access. Investment is better tackled in the IMF or the BIS.
- To "peel the onion" in market access in goods: tackle one issue after the other.
- Market access in services: go to plurilateral agreements.
- The WTO should "shoot for shorter, more frequent rounds". There are domestic constraints (US conflicts between the President and the Congress, for example). The Single Undertaking should be put into question. It "bit" in 1995, but today group exemptions undermine it.
- Push for possibility to discriminate positively via "WTO open plurilateralism".

(d) Roderick Abbott, former Deputy Director-General of the WTO

Roderick Abbott focused on the issue of regional agreements (FTAs) and to what extent they are a threat to the multilateral system.

Abbott reminded the audience that the WTO is not a universal "Article I MFN system". Article I stipulates unconditional most-favoured-nation practice. But there have always been exceptions: special and differential treatment for developing countries in the GATT, and

preferential schemes such as EBA or AGOA, and for a long time agriculture was exempted. What is interesting is that the GATT's founding fathers provided for article XXIV of the GATT, allowing for regional agreements.

Regional agreement are there, they are simple “truths”. They are discriminatory by definition. No disciplines exists for them that are operational. They are here to stay.

Policy-makers should not focus so much on “multilateralizing” the benefits extended preferentially in regional or bilateral agreements. The question of whether FTAs are legitimate or legal is not really an issue. What is more important is what they contain, and then assess what can be adapted at a WTO level. He recommends, particularly, to have a look at “WTO +” agreements, such as NAFTA, EU bilateral agreements, or Chile's FTAs, that have strong elements that go beyond the WTO.

2. Conclusions and way forward

After a discussion with the audience the panel chairman wrapped up concluding that the main points that emerged were:

- The WTO should move towards fewer ambitions;
- Regional trade agreements are not fundamentally in contradiction with the spirit of multilateralism; and
- The real “beef” of liberalization takes place unilaterally.

I. **WTO Dispute Settlement: A Vehicle for Coherence?, Organized by the Center for International Environmental Law (CIEL)**

Report written by the Center for International Environmental Law (CIEL)

Abstract

The international legal framework is increasingly fragmented. WTO Members have been largely unsuccessful in negotiating explicit multilateral solutions on coherence, shifting some of the responsibility to dispute settlement panels and the Appellate Body. Clarity is needed in order to foster coherence between the WTO, multilateral environmental agreements (MEAs), regional trade agreements, and other bodies of law (including human rights and labour).

Questions asked during the session include: Whether panels and the Appellate Body have a role in fostering coherence between WTO and other international law? If they do have that role, do they exercise it sufficiently well? What is the experience so far, looking at specific cases and decisions? How should future WTO panels deal with the interrelationship between WTO rules and other international legal systems? Are transparency and public participation useful procedural tools to enhance coherence in the context of WTO dispute settlement? If so, how should they be improved?

1. Presentations by the panellists

The Chair of the panel discussion, Mina Mashayekhi of UNCTAD, initiated the discussion.

(a) Brendan McGivern, White and Case

From US – Shrimp to EC – Biotech: An overview of the trade and environment debate in WTO jurisprudence

According to Brendan McGivern, the incorporation debate within the WTO is a subset of a broader debate: what is the role of public international law in WTO dispute settlement, and what is the place of WTO law in the public international law regime? He explained that for most of the post-war era, the GATT was in a “closed box.” In 1996, the WTO Appellate Body stated in the Reformulated Gasoline case that WTO agreements should not be read in “clinical isolation” from international law. So, McGivern raised the question: 10 years on... is the WTO still in clinical isolation? The majority opinion is yes. It really has only reached the “parking lot” of broader international law. McGivern then gave an overview and short summaries of some of the most important WTO cases tying broader international law principles to the “trade and” cases, including trade and environment WTO trade disputes.

With respect to *EC-Hormones*, McGivern noted that the case, which concerned an EC import ban on hormone-treated beef, was significant, among other things, because it gave

the first answer to the question: What is the required level of scientific proof needed by a government before it may act? The Appellate Body answered that a government need not base its reasoning on a majority scientific opinion, but must do so in good faith on the basis of respectable scientific opinion, even if that opinion was in a scientific minority. This serves governments well, McGivern noted, because if there is no scientific consensus on a given issue, governments may still act on the basis of respectable minority opinion as the basis of their SPS measure. The second interesting ruling related to the Precautionary Principle. Here the Appellate Body ducked the issue, saying that even if the precautionary principle was an emerging principle of international law or customary international environmental law, it need not be dealt with in this case because it would not override substantive SPS provisions.

In *US – Shrimp*, McGivern explained, the US Congress imposed import restrictions on shrimp harvested in a manner which could cause harm to endangered sea turtles. While the Appellate Body found there was a violation of GATT Article XI, it also found that it could find refuge under Article XX(g). However, the ban nonetheless remained inconsistent with the chapeau of Article XX, as it was applied in an arbitrary and discriminatory manner. One of the interesting points of analysis here was the manner in which to interpret the phrase, “exhaustible natural resources.” The Appellate Body ruled that the term should be interpreted based on the “contemporary concerns of the community of nations.” McGivern noted that some developing countries had argued that they could not see a place in the WTO agreements for this “evolutionary approach” to interpretation. The second important point in this case related to the arbitrary and discriminatory application of the ban. The ban was found not to comply with the “chapeau” because it was rigid and had a “coercive” effect – it essentially required the same rather than comparable measures by other countries. The US subsequently had to change this aspect of the measure.

EC – Asbestos, McGivern explained, involved an unsuccessful challenge by Canada to the EC’s ban on the importation and use of asbestos. In assessing whether the measure was justified under the health exception in GATT Article XX(b), the Appellate Body stressed the importance of protecting human life and health, and such an important objective made it easier to find a measure to be “necessary.” However, it is not clear how this translates into the invocation of Article XX(b) to protect the environment.

Japan – Apples, McGivern pointed out, was a case important for an argument that was actually rejected. Japan argued that when a government makes an assessment of scientific evidence, some deference should be given to it in that regard. The Appellate Body disagreed, ruling that they saw nothing in DSU Article 11 that stated there should be any deference given to the Member state. On the contrary, it ruled that DSU Article 11 imposed a standard of an objective review.

McGivern gave a quick insight to the most important aspect of *EC – Biotech* which was to be further discussed by Bernasconi-Osterwalder. Briefly, the EC put in place a ban on the importation of genetically modified products. This seemed like a place where the WTO would finally “leave the clinic,” so to speak. However, the Panel rejected the EC’s request

that it take into account the Convention on Biological Diversity and the Biosafety Protocol to justify its ban. Based on Article 31(3)(c) of the Vienna Convention on the Law of Treaties, the Panel concluded that unless all Members of the WTO are members of the MEA, then the MEA would not have to be considered in a WTO dispute as a “relevant rule of international law applicable in the relations between the parties.”

McGivern also briefly touched upon the pending *Brazil – Retreaded Tyres* case, which was subsequently further expanded on by Dytz. The case involves a challenge by the EC to Brazil’s ban on the importation of used and retreaded tyres in an attempt to curb the large waste problem they created, which had implications for human health and the environment as they became fuel for forest fires and breeding grounds for mosquitoes. McGivern raised two issues. First, on necessity, the panel had assessed the capacity of Brazil to implement measures other than the ones currently employed to control tyre waste, and decided they were untenable for Brazil. Essentially, it referred to the old WTO maxim from *Beef Hormones* of making assessments in the “real world where people live, work and die” rather than an “ideal” situation. It will be interesting to see if the Appellate Body upholds this ruling, particularly as it relates to the question of what may be considered as an alternative measure that is “reasonably available” to a government. It seems that the Panel’s approach implies that this issue may be at least partly a function of a government’s level of development. The second interesting point went to the discriminatory application of the chapeau of GATT Article XX. The EC essentially alleged that the ban was not complete, as there was a leak of used and retreaded tyres into Brazil from MERCOSUR countries and the application was therefore discriminatory. Here, the panel looked at the real world effects of the measure, saying that tyre importations under court orders were taking place “in such amounts that the achievements of Brazil’s declared objective is being significantly undermined.” In other words, the Panel essentially applied a “trade effects” test to determine if the requirements of the chapeau were being met. This decision is currently under appeal.

In conclusion, McGivern noted that some hoped that WTO law would become a part of broader public international law, but he stated that Members probably did not want this to happen. However, McGivern stressed that this did not mean that there wasn’t a role for MEAs in WTO dispute settlement proceedings. McGivern pointed to two issues that should be discussed and considered when discussing the WTO-MEA relationship: First, a long overdue discussion on the spaces for multilateralism and unilateralism. For example, in *US – Shrimp* the Appellate Body admonished the United States for its unilateral action. Secondly, there should be room for governments to unilaterally undertake legitimate environmental actions when necessary, even if there were no MEA in place. If executed correctly, a unilateral measure should be able to meet the requirements of Article XX.

(b) Nilo Dytz²⁸, Permanent Mission of Brazil in Geneva

Trade, Health and Environment: the Brazilian experience in the Retreaded Tyres case

Nilo Dytz noted that his presentation was a personal testimony. He remarked that his comments, therefore, should not be taken as the official position of the Brazilian government. He also underlined that he would attempt to be as neutral as possible not to inappropriately influence the Appellate Body in any way.

Dytz noted that the *Brazil-Retreaded Tyres* case, currently under appeal, received special attention when it was initiated due to the health and environment issues it raised. For this reason there was considerable interest from civil society both in Brazil and in Europe. However, Dytz said that there was “a certain degree of suspicion” in civil society regarding Brazil’s environmental defence of a trade-restrictive measure, a suspicion generally and often observed also amongst other Members when a country seeks to defend a trade-restrictive measure on environmental and health grounds. This case was the first time a developing country has defended a trade measure on the grounds of health and the environment. It effectively showed that environmental protection is not an issue which only affects developed countries.

Each year, 1 billion tyres reach the end of their life cycle. 40 million of those are in Brazil. There is no simple solution for the management and disposal of such vast quantities of waste tyres. It is especially difficult to deal with the waste problem in an environmentally sound and healthy manner. Four measures were challenged in the case, but one is the most important: the import ban on retreaded tyres. The EC alleged that the ban was a violation of Articles I and XIII of the GATT. Brazil conceded that although the ban was inconsistent, it could nonetheless be justified under the XX(b) exceptions in the GATT. Given the problems concerning health and the environment that waste tyres created, the ban needed to be implemented. The panel agreed, stating that the measure was necessary to protect human life and health. But the measure could not pass the chapeau of Article XX of the GATT, as some imports of used tyres were still permitted under judicial injunctions, which the government was still fighting in courts. With respect to the smaller amounts of imports of retreaded tyres from MERCOSUR, the panel concluded that the ban did not constitute an unjustifiable restriction to trade.

To relate this back to the discussions in this panel, Dytz noted that the panel at several instances had referred to studies and guidelines relating to tyre waste under the Basel Convention on the Transboundary Movement on Hazardous and other Wastes. He noted that the relationship between the WTO regime and other international law was probably best served by taking a historical perspective, a patient perspective. He stressed that it

²⁸ Mr Dytz noted that his presentation was a personal testimony. He remarked that his comments, therefore, should not be taken as the official position of the Brazilian government. He also underlined that he would attempt to be as neutral as possible not to inappropriately influence the Appellate Body in any way.

was important to look towards a very high, broad level integration. The interaction of different forms of international law is still a very new field. But overall, Dytz stressed there didn't seem to be many reasons to have more than one "international law" and that as we moved on, there would be more and more opportunities for them to interact, and "play together."

(c) Nathalie Bernasconi-Osterwalder, Center for International Environmental Law

EC-Biotech: Fragmentation of international law versus mutual supportiveness

Nathalie Bernasconi's presentation focused on the Panel decision in the *EC-Biotech* case. She noted that the decision in that case did not have the legal force of an Appellate Body decision but was nevertheless very important because it put into question the approach taken by the Appellate Body in the *US-Shrimp* case. She said that the *Biotech* decision should serve as a wake-up call for environmentalists and negotiators who claim that the environment-trade inter-relationship had been resolved through dispute settlement, in particular in the *US-Shrimp* decision. She noted that in contrast to the Appellate Body in the *US-Shrimp*, the *Biotech* panel largely disregarded the relevance and importance of multilateral environmental agreements (MEAs).

In *EC-Biotech*, the EC asked the panel to take into account two treaties dealing precisely with the trade in biotech products – the issue at the heart of the *EC-Biotech* dispute. These treaties were: the Convention on Biological Diversity (CBD) and the Biosafety Protocol. Bernasconi stressed that these were treaties that were widely accepted: The CBD counts over 190 and the Biosafety Protocol over 140 parties.

In order to determine whether and how these MEAs should be taken into account, the Panel, in line with previous jurisprudence, relied on Article 31 of the Vienna Convention on the Law of Treaties of 1969 (VCLT) on treaty interpretation. The Panel went straight to Article 31(3)(c) of the VCLT, which directs adjudicators to take into account "any relevant rules of international law applicable in the relations *between the parties*." It interpreted this reference to mean that Article 31 (3)(c) mandates treaty interpreters to take into account non-WTO treaties only where these were ratified by *all* WTO Members. The consequence of this approach is that no MEA would ever be taken into account under this provision because no MEA has so far been ratified by all WTO Members. Bernasconi noted that in light of the absence of agreement as to the scope of Article 31 (3)(c) amongst international legal scholars, it was very surprising that the Panel expanded extensively on its meaning and scope. A report issued by the International Law Commission (ILC) qualified the narrow reading of the *EC-Biotech* Panel as problematic because of the "unlikelihood of a precise congruence in the membership of most important multilateral conventions" and noted that the result would be the isolation of multilateral agreements as "islands" permitting no references *inter se* in their application.

In order to contextualize the panel's approach within broader WTO jurisprudence, Bernasconi looked back at how the Appellate Body dealt with the inter-relationship between WTO and outside WTO law in the *US–Shrimp* case. The Appellate Body in *US–Shrimp* did not mention Article 31(3)(c), and referred only to Article 31(1), according to which the terms of a treaty must be interpreted in accordance with the “ordinary meaning” to be given to its terms “in their context and in the light of its object and purpose.” In this sense, the Appellate Body, for its analysis and interpretation of GATT Article XX, understood MEAs as part of the context and object and purpose of the terms it was to interpret, notwithstanding the outside treaty's party composition. Specifically, the Appellate Body took into account the concepts of sustainable development, multilateralism (including specific MEAs) and mutual supportiveness between trade and environment, as incorporated in the preamble of the *WTO Agreement* and reflected in subsequent developments within the WTO such as the *Decision on Trade and Environment* and the creation of the Committee on Trade and Environment.

This stands in contrast to the Panel's approach in *EC–Biotech*, which relied primarily on Article 31(3)(c), and relied on Article 31(1) only marginally. The *Biotech* Panel stated that it *could*, if it considered it useful, take treaties into account independent of their ratification status. However, while the Appellate Body in *US–Shrimp* stressed the importance of multilateral efforts to protect the environment and focused on the context, object and purpose of the WTO agreements, the *Biotech* Panel compared the role of environmental treaties to the role of dictionaries, noting that “[s]uch rules would not be considered because they are legal rules, but rather because they may provide evidence of the ordinary meaning of terms in the same way that dictionaries do.” The ILC, again, criticized this approach, qualifying the comparison of international law to dictionaries inadequate.

In the end, the *Biotech* panel and the Appellate Body in *US–Shrimp* have taken fundamentally different interpretative approaches. In some instances, both approaches may lead to the same result, and arguably the Appellate Body's more conciliatory method would not have changed the result in the specific case. However, it is also possible that the approaches lead to dramatically different outcomes. Bernasconi favoured the approach taken by the Appellate Body and noted that, after all, treaty interpretation implies that where more than one interpretation is possible, the interpreter must choose amongst the options available. In the trade and environment context, where one option is in line with other multilateral efforts and standards, would it not be logical, in light of the WTO objectives and the concept of mutual supportiveness, to opt for an interpretation that would accommodate standards and approaches incorporated into relevant MEAs?

(d) Professor Joost Pauwelyn, Graduate Institute of International Studies, Geneva

Trade and ...: Negotiated Solutions versus Judicial Intervention – Mexico – Soft Drinks and Hypotheticals on Labour and Human Rights

Professor Joost Pauwelyn began his presentation by noting that the question of systemic coherence in the WTO dispute settlement system goes far beyond the trade and environment context: it arises in every instance where WTO law overlaps with other rules of international law. According to the WTO “conventional wisdom,” the Appellate Body referring to rules outside the WTO contract would be a form of judicial activism, whereas ignoring those rules altogether would be deferential to the political branch. Professor Pauwelyn called for a reversion of this notion. He argued that ignoring agreements by WTO Members just because they are not concluded at the WTO in Geneva is the real activism. The opposite approach would enhance systemic coherence besides promoting coherence from within the WTO (e.g. through Articles XX, XXI, and XXIV of the GATT), it would allow reference to political agreements outside the WTO.

According to Professor Pauwelyn, the Appellate Body has used “backdoors” in order to take into account what goes on beyond the four corners of the WTO. He was worried by the Appellate Body referring to treaties that have not been ratified by the WTO Members in certain interpretations of WTO law (e.g. in *US–Shrimp*). He also raised some concerns that under WTO law an international standard might be relevant even where not all members have agreed to it. This, he believes, could lead to unpredictable outcomes.

Professor Pauwelyn asked whether it would not be preferable, more logical, and predictable if WTO law recognized itself as part of international law. He cautioned this would not mean that parties, panels and the Appellate Body are free to use rules outside the WTO agreements and overrule WTO norms. The limits would be, in particular: (i) WTO dispute settlement can only be used in order to enforce WTO claims (i.e. the jurisdiction of panels is limited to claims based on the covered agreements); (ii) rules outside the covered agreements can only be relied on as a defense before WTO panels; (iii) both parties to the dispute must be parties to the treaty invoked as a defense; (iv) in order to apply, the rule invoked must prevail over WTO rules according to the rules on conflict of norms under international law (be it conflict clauses in a treaty, *lex specialis* or *lex posterior*). Professor Pauwelyn believes these limits would allow a fuller incorporation of international law and have the benefit of transparency and predictability, while impeding the WTO judicial bodies to exceed their carefully negotiated boundaries.

In order to illustrate the suggestion to take other rules of international law into account, Professor Pauwelyn offered some practical examples. First, he proposed that where an RTA contains a clear choice of forum clause, WTO Panels should feel comfortable in respecting the choice of forum. In *Mexico–Soft Drinks*, this was problematic because the establishment of panels under NAFTA is not automatic, as it is in the WTO. He hypothesized, however, that if France came before the WTO against Belgium for its ban on seal products, the choice

to grant exclusive jurisdiction to the European Court of Justice, made on the regional level, should be recognized also at the WTO. Thus, a WTO Panel should decline to issue recommendations on the substance of the dispute, respecting the will expressed by the parties through Article 292 of the EC Treaty. Professor Pauwelyn then turned to the context of labour standards. He argued that an ILO recommendation calling upon ILO members to take sanctions against a country for its breaches of ILO Conventions on forced labour could excuse a breach of WTO law, provided that both the country targeted with the sanctions and the sanctioning country are members of the ILO and the WTO.

2. Questions and comments by the audience

One of the issues discussed was the role of international human rights law in the WTO. Professor Pauwelyn noted that any application of human rights law would be indirect and that no case has raised this issue so far. He noted that there may be scope to see a human rights argument mounted in the China copyright case: Can China rely on public morals (censorship)? More importantly, however, Professor Pauwelyn raised the question of whether it was for the Appellate Body to interpret public morals with respect to free speech.

McGivern expressed his general concern that any incorporation of external treaties undermines the “commercial deal” that was reached in establishing the WTO Agreements or by later accession. By placing the WTO into the broader spectrum of international law you have the potential to change what was so delicately negotiated. He also reiterated his concern that multilateral action/standards should not be imposed via the WTO, but rather that Members should be able to take unilateral actions to address environmental and health concerns.

This discussion led to a debate on the fragmentation or splintering of WTO from other international law more generally and raised the question of whether such fragmentation could affect or damage the legitimacy of the WTO legal framework. Professor Pauwelyn noted that the problem was that, while the WTO may well remain a “closed box” to the world, the inverse was not true. In response to McGivern’s point, he said that countries made deals at the WTO, but then made other deals elsewhere and that each deal affected the other. One deal could not be shielded from the other. On legitimacy, he noted that if the WTO stayed within its circle, that would not enhance its legitimacy. To the contrary, to gain legitimacy, the WTO needed to step out of its own “parking lot” and out into the world. At the same time, however, he raised concerns about the possibility of a generalised application of broad-membership MEAs because you could hold a country to a standard to which they had not agreed.

Addressing Professor Pauwelyn’s concern, Bernasconi replied that the WTO had already accepted this approach in the TBT and the SPS Agreements, both of which seek to promote the use of international standards and harmonization. She noted that multilateral standards and principles set out in MEAs were precisely the types of agreements that worked towards harmonization, and explained that if WTO panels were to take MEAs into account, this would

not be done in a way that would create new obligations on WTO Members. Instead, MEAs would typically be invoked as a defence, so that panels in deciding whether a Member is in violation of WTO rules, would take into account the fact that multilaterally agreed standards and principles set out in an MEA existed, and that MEA parties were expected to apply them. An MEA would not be used as a tool to impose the application of standards or principles on any WTO Member. She noted that this discussion was to be seen independently of the question of what constitutes a standard-setting body as defined under the TBT Agreement which could indeed lead to the obligation to apply specific international standards.

3. Conclusions and way forward

The discussion in this session focused on the issue of coherence between WTO and other international law and examined whether panels and the Appellate Body have a role in fostering coherence. The views expressed differed significantly one from the other, but there were common concerns articulated nevertheless. Further discussion and analysis are warranted, including to:

- Recap the various approaches possible, with a focus on those options/approaches proposed by the speakers;
- Identify elements of difference and concurrence in the different options, and explore ways in which some of the differences could be reconciled; and
- Identify and assess ways in which the different options/approaches could be practically implemented. This would include the question of whether there is a need to change WTO law or whether the options could be implemented on a case-specific basis through WTO jurisprudence.

J. The Challenges of Coherence: Do We Need A Critical Approach?, Organized by the Latin American Trade Network (LATN) and the International Development Research Centre (IDRC)

Report written by the Latin American Trade Network (LATN) and the International Development Research Centre (IDRC)

Abstract

This session raises the question of whether the search for regulatory coherence may soon become the central role of the WTO and addresses the development policy challenges involved in selected issues. We identify three activities where the work of coherence may be of increasing relevance and pose new sorts of development problems:

- *Dispute settlement: What is the contribution of the WTO's dispute settlement to a coherent interpretation of commitments? How does it interact with regional systems? What role does the WTO play in disputes amongst regional partners? Can this role be enhanced?*
- *Preferential Trade Agreements: How are efforts at rationalization and convergence playing out in regional agreements? What are the issues in which progress is making headway? What is the potential contribution of the December 2006 General Council Decision (WT/L/671)?*
- *Trade-related technical assistance: What is the role of the WTO's trade-related technical assistance (TRTA) in bringing about coherence in implementation of commitment? What types of problems does coherence itself rise? To what extent is TRTA pre-empting a legal interpretation of rules?*

Coherence is the process by which the tension between different trade instruments is resolved into a policy framework that includes a set of norms and procedures to reduce uncertainty. Coherence should not merely be analyzed in terms of the interface of multilateral and preferential liberalization but also the interface involved between preferential liberalization and development objectives. The lack of consultation processes both during negotiations and implementation of commitments increases tensions and incoherence. The commonality between the agreements must be enhanced in order to consolidate or subsume them. In dispute settlement (DS) what matters is getting the rules right but the DS cannot deal with rule change. That is why the emphasis should be on the rule making process itself. The WTO's TRTA adds another layer of problems because it is an instrument of enforced coherence; it leans heavily towards compliance rather than helping countries to assert their rights. Because neutrality is being taken too narrowly, the coherence that emerges is not development friendly.

Introduction

According to its Coherence Mandate, one of the core functions of the World Trade Organization (WTO) is to achieve more coherent global economic policy-making. Article III.5 of the WTO Agreement identifies the achievement of greater coherence in global economic policy-making, in relation with the Bretton Woods Institutions (in particular through cooperation with the International Monetary Fund and the World Bank), as one of the main functions of the WTO. Further to this mandate the General Council passed a Decision approving cooperation agreements with the IMF and the World Bank in 1996. Was coherence thus narrowed down to cooperation? Is coherence merely rhetorical – as a clarion call signalling concern and persuading partners to pursue some course of action? Or is it a run of the mill expression of bureaucratic hope? This session addressed the development policy challenges from another angle, which entail problems of consistency and coordination internal to the WTO itself. Insofar as market access negotiations have moved out of the WTO to preferential agreements, the shift raises the question on whether the search for regulatory coherence may soon become the central role of the WTO.

1. Presentations by the panellists

(a) Debra Steger, University of Ottawa, Canada/ EDGE Network

Dispute settlement

The respect that some Members of the WTO have shown for the authority of the dispute settlement system (DS) and the rulings of the Appellate Body and panels in the past twelve years is remarkable. The fact that most cases are brought to the WTO and not to the regional agreements indicate a significant achievement. In terms of having a coherent interpretation of the agreements, the DS is relevant. Now, the purpose of DS is to resolve disputes and to clarify provisions of the agreements but that could never be a substitute for rule making.

In coherence what matters is getting the rules right but the dispute settlement system cannot deal with rule change. That is why the emphasis should be on the rule making process, ensuring that the rules requiring regulatory coherence to manage interdependence. Efforts should be made to continue the GATT approach which is negative integration rules that show members what the limits are allowing flexibility and policy space.

The interaction between the dispute settlement system and Regional Trade Agreements (RTAs) is gaining in relevance which raises the question if we really need a system where all the international rules and obligations between the same members, can be ruled upon in the same form. Some people think that the WTO should take this responsibility; personally I believe that in this point of time the WTO resources and capacity are not quite enough.

With trade policy review and surveillance of the RTAs, the WTO has already started to take a role and that is a good first step. Finally, the World Trade Organization should not become a world trade court for deciding all the issues arising in the RTAs as well as in the WTO itself.

(b) Welber Barral, University of Santa Catarina, at Florianopolis/LATN

The dispute settlement system is a central element in any legal system to guarantee coherence. Its role is to clarify the interpretation of the law, stipulate limits of obligations, create precedents for future obligations and bring legitimacy to applied sanctions. Such predictability brings advantages in the medium term. It reduces planning costs for economic actors and time costs due to a lack of implementation. It also reduces political costs: lack of legitimacy, disputes among involved institutions (e.g., disputes among multilateral institutions' for funds, resources; costs related to redundant efforts: two or more institutions trying to do the same thing).

The quest for regulatory coherence in the WTO comprehends both an internal and an external dimension (i.e., other multilateral organizations and PTAs). We already have some building blocks for internal coherence: dedicated staff, a consensus among interested parties and political goodwill.

The “fathers of the DSU” were concerned with coherence as a collegiate decision. It had spillover effects over other dispute resolution mechanisms (e.g. Mercosur: Olivos Protocol) and is the last resort if faced with “creative ambiguity”.

The dispute settlement system contributes to autonomous rule creation as a natural consequence in any legal system. However, the WTO Dispute Settlement system (panels and AB) have much less discretionary power than many domestic legal systems.

The dispute settlement system looks at the past whereas rule-making at the future and implementation at the present. The dispute settlement system plays a key role but does not necessarily provide exact clues for determining future behaviour. Precedents may vary widely because of different personal inclinations about cases (ideology, values) and the interpretation of norms influenced by circumstances of time and geography.

The way that the dispute settlement system interacts with regional systems is an important challenge to a coherent trading system. The multiplication of RTAs requires a gradual sorting out of jurisdictional criteria either as a general practice in the regional agreements or at the WTO, to guide how to deal with conflicts. In addition, the dispute settlement sets precedents in regional dispute settlement.

The WTO as a policy broker needs political support to become involved in the distributional implication of trade commitments because an equitable deal is always a politically thorny issue.

(c) Ahmed Ghoneim, Economic Research Forum/University of Cairo, Egypt

Preferential Trade Agreements

Preferential Trade Agreements (PTAs) raise questions of process. First of all, members in a PTA enjoy the flexibility that comes with discrimination. Secondly, if the PTA is not in line with Article XXIV, depth and scope of discrimination might be quite reduced. Finally in many cases PTAs have become a vehicle of political and security intentions and the trade component is just to complement the package.

The lack of coherence might be a good thing in terms of the Article XXIV. Being coherent with WTO requires scrutiny and Article XXIV was designed as a safety valve against MFN. The lack of non-compliance could imply reducing the degree of preference erosion for non members which is something good. Tightening Article XXIV would lead to a greater number of cases being challenged under the current WTO dispute settlement system and this will not necessarily imply enhanced global welfare. If the aim is to stop the proliferation of PTAs it is necessary to tighten Article XXIV; but if the aim is just more coherence, we need to question what for and how.

Will clearer criteria for Rules of Origin (RoO) bring PTAs more in line with WTO? Will identifying the threshold for products to be liberalized make the PTA more coherent with WTO or just with its MFN clause? In issues such as trade coverage or transitional periods, the problem is that the thresholds are far from clear or objective. The reason for the lack of coherence may lie in the need for policy space and the one size fits all trends in the WTO. As a result countries are building sub-systems of their own design while embedding the kind of executive power they desire in the WTO.

(d) Vivianne Ventura Dias, LATN Latin American Trade Network, Brazil

It would be interesting to discuss other aspects of coherence in the context of regionalism. The agreements must maintain coherence *vis-à-vis* the development process, understood as a process of productive transformation in open economies. Using coherence as a benchmark, it is necessary to examine which agreements strengthen, limit or supplement national policies with a view to promoting sustainable development. The Latin American region is of some interest compared with the other regions and in the overall pattern which, for the sake of simplicity, has been defined as regionalism, a heterogeneous concept which includes agreements with differing characteristics (USA – EU – Japan).

Latin America was able to conduct a regional integration experiment, but elements of incoherence have emerged, the first relating to the rules contained in bilateral agreements, which are not found at the multilateral level; and the second relating to rules not applied at the subregional level. The Central American Common Market, the Andean Community (CAN) and MERCOSUR are imperfect customs unions and therefore do not even have a common internal policy. CARICOM is the only regional organization with an institutional set-up

that enables it to negotiate coherently with a single voice in different forums. Generally speaking, the member countries of integration groups do not participate as such in the WTO coalitions and act individually in negotiations, although they may agree on common issues (as with MERCOSUR in the agriculture negotiations).

In the case of CAFTA, the negotiation was coordinated between the five Central American countries and the United States and the decision was taken to make the agreement a bilateral one in principle, not applicable in the Central American countries among themselves. This, then, is a case of coherence resulting from a bilateral agreement aimed at transforming a regional integration agreement. Disagreements between the Andean countries due to extensive market liberalization resulted in the fragmentation of the CAN in April 2006, when Venezuela withdrew from the Cartagena Agreement, claiming that Colombia and Peru were eroding the CAN by negotiating with the United States.

Moreover, the agreements are not merely substitutable, as there can be no perfect substitution between bilateral and multilateral agreements. It is thus necessary to assess the manner in which the WTO could contribute to the definition of rules established bilaterally by asymmetrical power relations. Lastly, we must not overlook the risks that formal coherence or coherence based on multilateralization of certain rules could entail for the convergence of the development process

(e) Mia Mikic, Asia–Pacific Research and Training Network. ARTNeT, UNESCAP

It is important to pay attention to the coherence between the preferential liberalization path and the one based on the multilateral trading system (MTS), and the most-favoured nation (MFN) principle in terms of development strategy.

Derogations from MFN appear in Art XXIV of GATT, Art V of GATS and Enabling clause. They all contain conditions which protect the non-Members by minimizing trade diversion. However many parties to PTAs signed and have been implementing agreements that do not comply with these conditions. None of these reciprocal agreements has been a subject of dispute. As a consequence the Asia-Pacific region is a witness to the proliferation of many heterogeneous trade agreements, collectively forming the so called “noodle bowl”.

A good portion of these agreements are not notified thus completely escaping a review for compliance with WTO rules. At the national level, there is a disconnection between pursuit of trade liberalization through the MTS and PTAs. This is evident in terms of the government’s willingness to accept more extensive commitments in areas of investment, competition, services, IPRs in PTAs compared to the MTS.

Whereas market access may be greater in PTAs, the MTS offers access to DS which is not always available in the PTAs. To steer negotiated market access, PTAs are typically accompanied by much more complex RoO. Because of multiplicity of membership in the PTAs, the RoO form an opaque trading environment increasing the trade costs and reducing

ability of firms to use competitive advantages. Furthermore, incoherence between PTAs and development policy appears to arise because of lack of consultative processes during negotiations and monitoring implementation of commitments.

Many PTAs have no proper bodies to monitor implementation and propose modification of commitments if necessary in view of adjustment needs. In terms of possible actions to multilateralize PTAs and make them more coherent with the MTS and development, three levels of actions are explored: 1) The WTO Transparency mechanism on regional trade agreements has been in provisional use since Dec 2006; 2) consolidation of PTAs through geographical, functional or institutional approaches, and 3) Strengthening national level policy coherence by building institutional frameworks allowing multistakeholder's consultative processes before, during and after negotiation of PTAs.

(f) Ann Weston, North-South Institute, Canada

Trade-related technical assistance

Total spending on trade-related technical assistance and capacity building (TRTA/CB) grew from US\$1.9bn in 2001 to US\$3.1bn in 2005 and will likely continue to increase as part of the Aid for Trade package. WTO spending on TRTA/CB has also risen from US\$10 million to US\$25 million over this period. The particular concern here is the WTO's role and whether it has helped to increase policy coherence in the area of trade and development, i.e. to ensure that trade contributes to development (in terms of both economic and social transformation).

Drawing on a recent Strategic Review of the WTO's TRTA by CUTS-India, FLACSO-Argentina and NSI, as well as other evaluations I have undertaken, personally I argue that WTO's TRTA is generally more focused on compliance than helping countries to assert their rights and thus promote coherence between trade rules and their development needs. Besides, much of TRTA to promote coherence in this sense has been outsourced either by the WTO itself to partner organizations, or by WTO Members to other organizations (international, regional, national organizations, including those that are represented by people on this panel today). Finally it is important also to note that the WTO is trying with the OECD, and others, to bring some coherence to the diverse players in the TRTA/CB field.

In terms of helping developing countries to comply with their obligations – i.e. to be rule-takers – WTO's legal expertise and its neutrality (to neutralize the legal ambiguity) are considered particular strengths. But paradoxically, these attributes have also constrained the WTO's capacity to adequately train people to be rule-makers i.e. to know their legal rights, the areas of ambiguity in the provisions, and policy space (including the scope for using offensive as well as defensive measures). Similarly the WTO is constrained in providing more tailored analysis let alone advice about a particular country or even regional interests. These tasks have largely been outsourced to partners working with the WTO or working independently.

In our Strategic Review we made some suggestions about how to create more space for the WTO's Institute for Training and Technical Cooperation to be bolder in its training – and thus meet the objectives which it had been set. Some incremental recommendations to improve the WTO courses were: to make more emphasis in economic analysis, impact assessment and methodologies; to use more case studies and workshops.

2. Questions and comments by the audience

Following Ann Weston's presentation, Julian Arkell, Independent Consultant, International Trade and Services Policy (ITSP), stated that he would like to support the capacity building moves of the WTO and OECD. As a matter of fact, he noted that it is necessary to improve the search for capacity building aid. As an expert on GATS, he believed that governments should not withdraw from the regulatory scene. Service provision and regulation required strong government capacity.

Vera Thorstensen from the Permanent Mission of Brazil to the WTO / Escola de Administração de Empresas de São Paulo (EASESP) – Fundação Getúlio Vargas, stated that rules of origin are the most incoherent of instruments which needs to be addressed. Not only is there incoherence between agreements but also intra – agreements that erode liberalization. For example, in the case of the cotton initiative each donor is tinkering with rules of origin to regulate trade. We have to struggle to convince members of the importance of the issue and to agree on a common criteria to reduce discrimination.

Luis Abugattás Majluf from UNDP/Egypt, noted that at the normative level, lack of coherence is not as significant as it is made out to be. As a matter of fact, PTAs and RTAs have not gone much beyond the WTO rules in non-tariff issues, such as sanitary regulation, for example. The value added is market access liberalization. Common practice in most issues is to make direct reference to the WTO agreement that apply to specific areas. At the same time, some areas are not covered by WTO but then we have incoherence between the bilateral, regional and multilateral system. So then, the focus should be on coherence among PTAs and RTAs but not *vis-à-vis* the WTO. All remains on stand-by until the state of the Doha Round becomes clearer.

Mia Mikic certainly agreed that the major problem was amongst agreements and to fix the situation what was required is to increase the commonality of issues and procedures so they can be consolidated or subsumed. That can be done in different ways, one is to produce a manual of best practices for policy-makers; another is to provide a framework to identify what would be the best policy approach or to opt for a deeper level of agreement for customs unions that by definition need some supranational management for implementation which is difficult in Asia because countries have quite different level of development and needs.

According to Barral, legal systems are marked by internal incoherence with norms in conflict. The feature of RTAs is that they create another level, so we have a conflict between WTO norms and national/regional norms. Every time that you create another level

of regulation you add a conflict of norms which require skill and care from negotiators or law makers.

Ventura said that if we took the “noodle bowl” image, there would appear to be a hierarchy among the agreements. At the same time, the “spaghetti bowl” image presented five years ago represented what was being done in Latin America only, since Asia did not participate in that type of agreement. Indeed, there is a need for rule coherence that takes account of the specificities of each region in order to assess the impact on trade which, according to Welber Barral, “depends”.

Steger asked how possible is it (or is the opportunity now lost) to make a multilateral lasagna from the noodle bowl? In other words: to multilateralize RTAs? We have to understand that none of these agreements go beyond WTO agreements, but with the rise of customs unions in Asia we might fear for the multilateral system too.

Mikic noted that if you consider the actual negotiations between Japan-China, Japan-US, India-US, and the potential US-Japan-China, we are definitely moving far.

Tracy Tupman from the Graduate Institute of International Studies, Geneva stated that research shows that the impacts of rules of origin are very small indeed. One of the reasons is complexity itself and another reason is novelty.

Mikic noted that the “noodle bowl” shows that FTAs inject increasing costs and that they are not providing effective market liberalization. As a matter of fact they have long transition periods because these countries have undertaken unilateral liberalization for the last fifteen years so the margin of preference is very small. If we add transition periods to rules of origin, the results are rather poor; for example, the most ambitious agreement is AFTA and its trade coverage is about a third. It is really complex for countries to make use of their competitive advantage. Relative prices are seriously disturbed.

Steger noted that the WTO cannot be thought as the only forum to discuss these issues; but some of these agreements could be used as precedents for the interpretation of specific provisions, which is something that has happened in the WTO. A real problem in RTAs is implementation and enforcement, for example, the dispute settlement mechanisms under RTAs have proved to be less effective.

3. Conclusions and way forward

The objective of the session was to raise the question on whether the search for regulatory coherence may soon become the central role of the WTO. The debate centered on whether there was such a role for the WTO. Despite the variety of views, most were quite sceptical about the role of the WTO, claiming that lack of coherence was hardly a matter of the interface between PTAs and the WTO. Moreover, the reason for the lack of coherence may lie in the need for policy space. Nonetheless, the session identified issues where the work of coherence may be of increasing relevance and the conclusions were:

- Coherence should be analyzed in terms of the interface of multilateral and preferential liberalization but also in terms of the coherence of preferential liberalization with development objectives.
- Incoherence between PTAs and development policy appears to arise because of the lack of consultative processes during negotiations and the ex-post monitoring and evaluation of commitments. Many of the PTAs have no proper bodies to monitor implementation and to propose modification of commitments if necessary in view of adjustment needs. In terms of possible actions to multilateralize PTAs and make them more coherent with the multilateral trading system and development, three levels of actions are under way: 1) the WTO Transparency mechanism on regional trade agreements in provisional use since December 2006; 2) consolidation of PTAs through geographical, functional or institutional approaches; and 3) strengthening national level policy coherence by building institutional frameworks allowing multistakeholder consultation before, during and after negotiation of PTAs.
- WTO's TRTA is an instrument of enforced coherence; it leans heavily towards compliance rather than helping countries to assert their rights and thus promote coherence between trade rules and their development needs. In terms of helping developing countries to comply with their obligations WTO's legal expertise and its neutrality are usually considered particular strengths. But paradoxically, these attributes have also constrained the WTO's capacity to adequately assist trainees to be rule-makers. Because neutrality is being taken too narrowly, the coherence that emerges is not development friendly.
- The major problem is incoherence at the normative level of the agreements. Commonality between the agreements is required in order to consolidate or subsume them in a piecemeal fashion. That can be done in different ways, one is to produce a manual of best practices for policy-makers; another is to provide a framework to identify what would be the best policy approach or to opt for a deeper level of agreement for customs unions that by definition need some supranational management for implementation.
- All legal systems suffer from internal incoherence. The particularity of RTAs is that they create another level. Every time that you create another level of regulation you have a conflict of jurisdiction. In addition, the DS sets precedents in regional dispute settlement.

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- The WTO should not become a world trade court for deciding all the issues rising in the RTAs as well as in the WTO itself.
 - The WTO as a policy broker will need muscle to become involved in the distributional implication of trade commitments because an equitable deal is always a politically thorny issue.
 - In coherence what matters is getting the rules right but the DS cannot deal with rule change. That is why the emphasis should be on the rule making process, ensuring rules requiring regulatory coherence to manage interdependence to resolve all international problems. The WTO has already started to take a good first step with trade policy reviews of countries and PTAs.

In terms of the role of the WTO within the context of the overall theme of the public Forum (“How can the WTO help harness globalization?”) it is recommended that whatever the outcome of the Doha Round, the World Trade Organization efforts at transparency, rationalization and coherence should not be dropped. Attention should be paid to the short term movements. In other words, the pace at which coherence moves, the character of agreements being forged and the nature of the benefits they generate may depend profoundly on the new trends in the short term.

However, it is not recommended that for the sake of coherence the WTO should become a world trade court. The WTO has served as a template for regional agreements both in substance and process, but as such agreements multiply, it may be necessary to work out some criteria either in the PTAs or in the WTO on how the interaction in DS will work.



III. ECONOMIC GROWTH

A. How can Services Trade Contribute to Harnessing Economic Growth for Sustainable Economic Development?, Organized by the European Services Forum

Report written by Kerneis Pascal, European Services Forum (ESF)

Abstract

Services account for more than 50% of GDP in more than 85% of WTO Members and account for more than 20% of global exports. The liberalization of trade in services will generate new export opportunities, help attract foreign investments, improve access to world class services and contribute to the local economy of all WTO Members. The Doha Round should provide an ambitious deal in services with substantial and commercially meaningful new market access, bringing greater legal certainty for services exporters in key sectors and countries.

This panel aimed to confront views from multinational services companies with those from NGO representatives from a big developing country and IGO representative which task is to provide assistance to developing countries in increasing trade in services. The objectives of the session were to show how open services markets play a major role in fostering economic development and growth. The meeting was attended by approximately 150 participants.

1. Presentations by the panellists

The session was moderated by Christopher Roberts, Senior Lawyer, Covington & Burling – London; Chairman of European Services Forum’s Policy Committee; Former Director General of UK Department of Trade and Industry – DTI.

- (a) Thomas Harris, Vice-Chairman of Standard Chartered Capital Markets, London; Chairman of International Affairs Committee of British Bankers Association, European Banking Federation Expert Representative on International Affairs

Harris made a presentation on the international activities of his bank and tempted to demonstrate that it helps in financing the essential infrastructure for the development of the whole economy (roads & bridges, harbours, power plant, etc.) and enhancing entrepreneurship, including local SMEs, in most of the countries where the bank is established. He listed the various countries where his bank was doing business and highlighted the fact that it was countries where the banking regulation was sound, where the investment were secured. He underlined that his bank employs more than 40,000 persons in developing countries. He insisted on the necessity for companies that are ready to invest in developing countries to have the control of their investment. He denied therefore the benefits of joint ventures.

He said that his bank was investing on regular basis around 1 Billion US\$/year in developing countries, but exclusively in countries that allow 100% equity ownership and that respects the own choices of the bank, including allowing benefits repatriation. He said that he respected the choices of the governments that want to protect their “policy space” by keeping trade barriers and discriminatory conditions to foreign investors, but that these conditions are most of the time counter-productive, since they result in no investment at all in crucial sectors for their economic development, like the financial services.

(b) Tilman Kupfer, European Regulatory Manager, BT (British Telecom) – Brussels; Chairman of International Affairs Committee of ETNO, Association of European Telecommunications Operators

Tilman Kupfer presented his company and its international activities. He argued that the International Telecommunications and Information Society companies clearly contribute to bringing essential ITC infrastructure to allow all countries to participate to the national and global economy and reduce the digital divide. He argued that the GATS Telecommunications negotiations that lead to the agreement of February 1997, with in particular the Reference Paper that is annexed to most of the schedule of commitments of the participating countries have largely contributed to the liberalization of the telecommunications sectors across the world. That was evidence that investors need clear regulatory regimes and legal secure environment to operate in foreign markets.

(c) Pranav Kumar, Policy Analyst in CUTS International (Consumer Unity & Trust Society, New Delhi – India (NGO Representative)

Pranav Kumar presented the development of the services sectors in India and the role that it plays in the booming Indian economy. He particularly underlined the computer and related services as well as the Business Process Outsourcing (BPO) as an example where his country is taking profit of globalization. He emphasised also that by introducing adequate autonomous reforms to support this phenomenon, the Indian Government contributed to helping India harvest the benefits of the services globalization and to sustain that trend. He insisted that despite the fact that India was a great exporter via this trend, there was still a need to expand the benefits of globalization by allowing more Indian IT engineers and managers to provide their services in other countries. This movement of natural persons providing services must lead to further commitments by developed countries so that developing countries can really take benefit from their competitive advantage, i.e. cheaper labour force.

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- (d) Rajesh Aggarwal, Senior Advisor, Trade in Services – International Trade Centre UNCTAD/ WTO, Geneva (IGO)

Rajesh Aggarwal made a presentation where he demonstrated that Services companies from emerging and developing countries already export to rich and neighbour countries, and explained that WTO services negotiations can effectively contribute to harness further that unknown potential, if only by raising the awareness that many small and medium size companies are services exporters, like the hotels and restaurants that provide services to foreign tourists, like the consultant doing business over the internet to clients in the neighbouring countries. He also brought practical examples to illustrate the possible work of coalitions of services industries in helping services companies in developing countries in making advocacy for their problems to their government and regulatory authorities, as well as in organising trade promotion activities (exhibitions, brochures, etc.) for exporters of services in their region.

2. Questions and comments by the audience

The following questions were raised during the discussion:

- What is the problem with joint ventures? In response to this question, the panellists were of the view that they are acceptable if not compulsory. They noted that compulsory joint ventures often do not lead to good business results. The business representatives highlighted however that in the services sectors, if the local partner of the joint venture get more than 51% of the capital, i.e. get the control of the company, the foreign investor will not invest the same way than if they would get the control. They will not share their management expertise and know-how with a partner, since they will not be sure to keep their only asset.
- What is the view of the business panellists on Mode 4 liberalization? According to the speakers, business is in favour of further Mode 4 liberalization and they recognize that it is too often mixed up among politicians and immigration policy authorities as an immigration problem, while it is not. Mode 4 transactions are related to the provision of services linked to a commercial transaction, not linked to the research of a job or citizenship. They also emphasised that they understand the offensive interests of the developing countries for the movement of professionals providing services, but insisted that developing countries should also consider taking commitments in Mode 4 to ease access to professionals from other countries to their own market. This would facilitate the off shoring transactions.
- Why is business requesting removal of regulations in financial services negotiations? The panellists noted that business is not anti-regulation, instead it wants the removal of discriminatory regulation. They want sound financial services regulation, with good regulatory authorities managed by competent and independent regulators.

In addition the following comments were raised from the floor:

- One comment stated that foreign financial services ownership does not always benefit SMEs, with Mexico given as an example.
- In response to the comment that the Asian financial crisis resulted more from the lack of regulation than the lack of liberalization, the response given was that lack of liberalization at the time encouraged risky practices by existing firms, exacerbated by local corruption and lack of transparency in the regulation and lack of independence by the regulatory authorities.
- One participant commented that trade negotiators know the value to trade liberalization, what they want is liberalization in exchange by trading partners, e.g. in agriculture.
- In response to the comment that trade negotiations tend to result more in liberalization in itself, rather than in liberalization in parallel with regulatory reforms, one of the speakers highlighted that International cooperation between regulators was important.

3. Conclusions and way forward

Contrary to the negotiations on trade in agriculture and trade in goods, and although these issues are also complex, the negotiations in services are often perceived as difficult by non experts. There seems to be a lack of awareness on how the negotiations in services are working. Given that it involved many segments of the economies, with a very large share of the local value added (GDP), including in most developing countries, the negotiations in trade in services seem more difficult to comprehend and to apprehend. Furthermore, the trade ministers, that are chief negotiators for the WTO negotiations, are not, for most services sectors, the competent authority to take decisions in the services sectors (i.e. they have to consult and refer to their colleagues, the ministers of telecommunications, of transport, of finances, of tourism, etc.). This makes the process even more complicated. Finally, trade in services and the GATS negotiations seem to continue to be perceived by NGOs and developing country negotiators as a North-South issue, and not as a tool to provide a legally secured environment to foreign direct investors, that would then contribute to the sustainable development of the local economy, by creating local jobs, by providing new or cheaper services to consumers, including to small and medium size businesses, who could thus improve their competitiveness by reducing the cost of business (IT & Telecom, Financial loans and banking services, insurances, transport and logistics, etc.).

There is a clear need to increase the dialogue between business, negotiators and NGOs in the field of services negotiations so as to improve the mutual understanding on the way trade in services can contribute to harnessing economic growth for sustainable economic development.

B. Building and Expanding Opportunities for Agriculture, Organized by the Canadian Agri-Food Trade Alliance (CAFTA)

Report written by the Canadian Agri-Food Trade Alliance (CAFTA)

Abstract

This session, sponsored by the Canadian Agri-Food Trade Alliance (CAFTA) focused on the key benefits and challenges associated with expanding international trade in agriculture.

The objectives of the session were to review and discuss the opportunities for the expansion of agricultural trade and to identify and discuss potential challenges associated with moving forward. The panel session presented an opportunity for attendees to provide and share information and perspective on agricultural issues.

1. Presentations by the panellists

(a) Alanna Koch, Canadian Agri-Food Trade Alliance

In her presentation, Alanna Koch noted the importance of export markets to the Canadian agriculture sector. The presentation noted that over 90% of Canadian farmers produce commodities that are either exported or are sold at prices dictated by international markets. In addition, over 80% of Canada's farm gate receipts are export dependent.

Canada is a trading nation, and as such, the benefits that would flow to Canadian agriculture through expanded opportunities are considerable. Koch closed her presentation by stressing the need for an ambitious outcome in the current round of negotiations.

(b) Dr Shiferaw Adilu, Alberta Agriculture and Food

Dr Adilu addressed the key issues and questions from an Alberta perspective. Noting that Alberta is a major exporting province within Canada, his presentation commented on the gains agriculture exporters in Alberta have realized through expanded trading opportunities. His presentation further emphasized the societal benefits attributable to expanded trade opportunities.

(c) Isabel Mazzei, Oxfam International

Isabel Mazzei's presentation emphasized the need for trade policies that benefit developing nations, with particular emphasis on least developed countries. She emphasized the need to build on existing forms of international cooperation to the benefit of poorer countries – and to individual producers.

2. Questions and comments by the audience

A facilitated session of questions and comments by the audience followed the presentation with a wide range of comments brought forward by participants. Comments and questions emphasized the challenge of developing models and processes that meet the needs of member nations. Balancing the interests of “exporting” versus “importing” nations was recognized as a key challenge; the issue of food sovereignty, particularly for small and vulnerable economies was also recognized.

3. Conclusions and way forward

In conclusion, this session provided a venue for shared learning on a key and pivotal issue. It served to shed light on the varying realities facing member nations and on the continuing need for consultation and interaction. While there were no recommendations developed as part of the session, the presentations and comments reinforce the notion that increased trade in agriculture will provide considerable benefit. Care will need to be taken to ensure that benefits flow to both developed and developing nations and that the interests of exporting and importing countries must also be served.

C. Addressing Vulnerabilities and Competitiveness of Small and Vulnerable Economies (SVEs) in Trade Negotiations, Organized by the International Centre for Trade and Sustainable Development (ICTSD)

Report written by the International Centre for Trade and Sustainable Development (ICTSD)

Abstract

The occurrence of external shocks and disasters, which increasingly affect developing countries, warrants a final consideration on the sustainability of their long-term development paths. To ensure that the long-term path is sustainable, it is not only necessary to implement the appropriate trade supported strategies aiming at medium and long-standing sustainable development goals; there is also a need for policy management that is aware of the risks of disasters involving natural phenomena and of those relating to other “external shocks”.

The Situations-based S&DT should help developing countries to overcome the constraints that result from their vulnerability to the two kinds of events mentioned. In particular, the situations experienced by small and vulnerable developing economies may not be resolved without far-reaching action of two types, which the Situations based S&DT should help to undertake. Firstly, national action through policies to develop production and competitiveness, such as those mentioned when referring to the trade-supported strategies for sustainable development. Secondly, international cooperation going beyond immediate aid after disasters and taking a form that is not a burden on those economies.

*Addressing vulnerability and competitiveness in trade negotiations:
The case of small and vulnerable economies*

Vulnerability refers to proneness to harm or damage originating from external forces while economic vulnerability is interpreted as the risks faced by economies from exogenous shocks to systems of production, distribution (including markets), and consumption. This session presents a framework that incorporates the development concerns sought by developing countries in S&DT while upholding the intrinsic values of a rules-based multilateral trade system (MTS). The aim is to provide “policy spaces” or flexibilities for economic diversification and competitiveness.

As part of the work carried out to support Developing Countries’ (DCs) participation in S&DT negotiations, ICTSD has proposed a new methodology, which has been called “Situational Approach” (SA). This approach seeks to provide an optional “third way” aimed at overcoming the obstacles that have so far obstructed progress in the Doha-mandated negotiations on S&DT. Two of its potential benefits are moving the focus away from country differentiation to “Development Situations”, and contributing to

the creation of a development framework for the review and the negotiations on specific improvements in S&DT provisions (ICTSD, 2005). In general terms, the proposed methodology implies identifying circumstances with Development Situations instead of trying to further differentiate DCs by country categories depending on their “level of development”. Particularly in relation to policies supported on S&DT provisions, the situational approach should help in addressing the internal heterogeneity of development within all developing countries, instead of concentrating on differentiation among them.

The dominant feature in development situations include the declining terms of trade, high volatility of export earnings, vulnerability in Balance of Payments (BOP), high unemployment rates and the dominance of the informal sector. Issues in the market access pillar include very high sensitivity of the economy to the volatility of commodities’ prices and to the application of safeguards. Erosion of preferences is another factor especially harming export activities.

On the productive side, supply-side constraints and deficiencies in the productive sector characterised by poor infrastructure, a very low density of productive links between the exporting activities and SMEs; and little capacity in domestic enterprises to supply goods or services of significant value added, either to the domestic or export market. These parameters have been included in the current construction of an ICTSD database.

The meeting/briefing will focus on the possible interaction of aspects widely discussed as possible factors limiting the possibility of developing or less developed countries’ ability to derive benefits from international trade, such as: Smallness, Vulnerability and Remoteness. It will inform on a list of situations for negotiations by analysing specific development problems related to trade, as well as development issues that trade policy instruments should contribute to solve.

1. Presentations by the panellists

The session was moderated by Constantine Bartel, International Centre for Trade and Sustainable Development (ICTSD).

- (a) Werner Corrales, Senior Fellow, Competitiveness and Development, International Centre for Trade and Sustainable Development (ICTSD)

The first presentation was centred on trade-supported strategies for sustainable development in the post Doha scenario. The discussion revolved around challenges and opportunities for SVEs. It also outlined the factors that contribute to vulnerability and illustrations of how a combination and intensity of several of these factors determine the features and competitiveness of each country. This analysis is an attempt to show how trade policy could support national strategies to reduce economic vulnerability of SVEs and at the same time

complement the over emphasis on market access negotiations. It will also be helpful in developing and targeting specific policy instruments to address the trade barriers of SVEs.

(b) Felipe S. Barrito, Consultant

The second presentation focused on the determination of Smallness, Vulnerability and Remoteness from a Situational Approach perspective. There seems to be a consensus that certain features associated with size, remote location, exposure to exogenous shocks and low resilience affect development. These features appear to be restricting developing countries' economies from being able to derive benefits from international trade and comply with all of the obligations associated with the multilateral trade system. The presentation provided the rationale and methodology to classify countries as Small, Vulnerable, and Remote or as a combination of the three based on the Situational Approach.

2. Addressing vulnerability and competitiveness in trade negotiations: The case of small and vulnerable economies

A major turning point in the negotiations came on 25 January 2005, when the CTD-DS Chair tabled a new approach to the negotiations in an informal meeting of the group. The Chair's approach essentially reframed the process to be used by the group to address the paragraph 35 mandate. The Chair proposed a new three-step process, namely (1) the consideration of the use of characteristics to identify what can be accepted as small, vulnerable economies; (2) the consideration of the trade-related problems that could reasonably be attributed to those characteristics; and (3) framing responses to those trade-related problems that these countries could use.

By making explicit mention of the importance of identifying the "characteristics" of SVEs, the Proponents of SVEs thus intended to try to address the concerns raised in previous sessions by developed countries such as the US, Canada and EU regarding how the new rules would be applied only to SVEs. By defining the characteristics and problems of SVEs, and linking them to solutions, they hoped it would strengthen the perceived link between the new rules and the concrete needs of SVEs that arose owing to their particular "situation" or "characteristics", and possibly give a concrete tool for triggering eligibility for the new rules. Still, in so doing, they elicited a backlash from large developing countries, who questioned the uniqueness of the SVE's situation as a result of concerns that such a definition of uniqueness, triggered through characteristics, would exclude their relatively large economies from S&DT that had hitherto been shared amongst all developing countries.

However, Members agreed to move forward by taking up steps one and two simultaneously, and then move on to the framing of systemic responses. On the heels of the mention of the SVE mandate in the July Package, the new three-step process injected new energy into the negotiations and launched a new, more intensive phase of the talks.

This progress is to a certain extent associated to the proponents progressively leaning towards a Characteristic-Based Approach (CBA), which aims at addressing the SVEs problems of competitiveness and vulnerability with targeted solutions.

One of the main issues for both the CBA and the Situational Approach (SA) in the case of the SVEs is to clearly demonstrate the links that exist between the characteristics of these countries, such as smallness or remoteness, on the one hand, and the development constraints that they allegedly experience for fully benefiting from their integration in global trade, on the other.

Two questions are repeatedly asked about these links: to what extent SVEs face trade related development problems that differ from those of other developing countries; and what are the causal links between the characteristics of the SVEs and the problems they experience.

If Special and Differential Treatment is to be effective in meeting the challenges of competitiveness and vulnerability of the SVEs, they must have the opportunity to put appropriate policies in place. This involves discussing whether the revision of S&DT mandated in Doha – should be limited to extending the time periods for compliance and giving effective support for institutional adaptation. Another consideration is to adopt a different vision, involving sufficient flexibilities and the use of resources for development support that the countries may need to implement active supply-side policies.

ICTSD has sought to identify circumstances in relevant areas of trade and development policies, one of which is competitiveness and vulnerability of SVEs, rather than linking S&DT provisions to country categories. The SA sets out to achieve two goals. The first is guaranteeing access by all developing countries and LDCs to a set of basic S&DT benefits: their respective S&DT acquis and the improvements to it that result from the Doha-mandated review. The second is to create additional S&DT benefits based on specific development situations.

The Situational Approach aims to shore up developing countries, by means of S&DT, to implement trade-supported strategies for development in the economic, social and environmental dimensions, involving competitiveness policies and measures to address their vulnerability problems, amongst other. Clearly not all problems of development can be solved by competitiveness policies, which are mainly economic in nature, but these policies may be instrumental – if so designed – in promoting sustainable development. In order to play this role in developing countries, various fundamental sets of economic, social and environmental goals must be addressed by national competitiveness policies, which in turn should be supported by S&DT flexibilities.

The first and the second sets of goals are economic in essence. The first consists of securing conditions for achieving effective market access and fair treatment for the country's exports, for which market access and S&DT may be useful. The latter is a very important goal, but not the only one and certainly not the most important from the long-term perspective of development in economic, social and environmental terms. The second set of goals

is to help the country derive sustained economic growth from international competition, while at the same time achieving a capacity to internally amplify the effects of growth in terms of productivity increases, more and better jobs and income improvements for ever-greater proportions of the population, which implies combining a strategy for technological learning and innovation; and a strategy for creating inter-sectoral complementarities and linkages. Supply-side policies involved may have to be supported by S&DT flexibilities in rules. Equity goals of a competitiveness policy can also be supported by means of S&DT. The connections between equity and economic policies are very important for the sustainability of development in the majority of developing countries, where social exclusion and polarization are partially rooted in the inability of the “modern economy” to provide jobs and sources of income for a substantial part of the population.

Competitiveness policies in developing countries must address processes that take place at the micro, meso and macro levels as such policies should serve the purpose of a positive integration of these countries into the global economy, contributing to the economic, social and environmental goals of sustainable development of societies as a whole, and not just resulting in trade growth or economic achievements of particular firms. Regarding vulnerability, developing economies are increasingly subject to risks of external shocks and disasters that may lead to instantaneous losses of competitiveness gains, which may be very difficult for small countries to recover from.

S&DT flexibilities may enable implementing policies that contribute towards equity goals, through the effects on employment and income that may result of combining the strategies for innovation and linkages already mentioned, and through the effects of a strategy for human capital and social capital formation.

Positive environmental impacts may indirectly derive from the economic effects of a competitiveness policy. However, fostering direct environmental benefits in developing countries is necessary, and may be made feasible if S&DT flexibilities are granted to implement certain supply-side policies. Amongst the objectives of these policies we can mention the reversal of current trends towards increased developing countries’ specialization in exports of goods (diverse goods maybe?); the improvement of energy efficiency and the gradual shift towards sustainable energy sources; the strengthening of their competitive advantages based on a sustainable use of their bio-diversity bases; and addressing compliance with environmental standards to secure access for their exports to many markets.

Small and vulnerable countries may have access to the additional benefits of various situations, some of them focused on competitiveness constraints, which they may share with many other developing countries, and some others focused on vulnerability problems, in which the SVEs are unique. Three fundamental conclusions may be derived from the ICTSD studies, including the results of multiple statistical tests of hypotheses.

The first conclusion is that using a rational combination of indicators (various and not just one determinant) leads to a robust statistical confirmation of the existence of a particular

disadvantaged situation of the SVEs. The counterpart of this conclusion is that analyzing variables in an isolated way does not allow properly assessing the issues of smallness, vulnerability and remoteness in the context of trade and development.

The second conclusion, derived from the first, has very practical consequences: the definition of the lists of countries in the situations of smallness and vulnerability must be based on combining thresholds on various characteristics and problems, and not on only one or a few characteristics.

Finally, the third conclusion refers to the fact that development situations involve relative disadvantages of countries in the particular situation vis-a-vis the rest of the countries. The thresholds must not be arbitrarily defined but take in account the relative position of the country under analysis in the whole WTO membership according to the variables considered.

Regarding characteristics strongly related to competitiveness, no significant differences have been found between SIDS and landlocked countries, on the one hand, and the rest of developing economies on the other. The problems of trade and competitiveness in which no differences are perceived are, amongst others, insufficient value added or insufficient processing of exports, insufficient links between export activities and the rest of the economy, volatility in the price of exports, advantages or disadvantages for attracting foreign investment, or difficulties in overcoming problems relating to international technical and health standards. However, the studies have concluded that small countries have scale restrictions that can aggravate the constraints that other developing countries experience in trying to diversify or to integrate into their own economies the processing of their commodities.

Furthermore, comprehensive Lists of Developing Countries in situations from COM-1 to COM-3 are as follows: *COM-1: "Severe supply-side exports constraints in weak economies"*²⁹ (35 countries). *COM-2: "Diversify X and strengthen technological capabilities and links in Mineral-dependent economies"*³⁰ *COM-3: "Shallow Manufacture"*³¹

The first situation is characterized around economic problems frequently faced by weak economies in the process of joining the international economy. Countries that find themselves in this situation show a very high export concentration on a few agricultural products and/or manufactures with low added value, a very small international market share, low attractiveness to foreign investment except in the exploitation of a few natural-

²⁹ Albania; Antigua & Barbuda; Barbados; Belize; Bolivia; Botswana; Cuba; Dominica; Dominican Republic; Ecuador; El Salvador; Fiji; Gabon; Ghana; Grenada; Guyana; Honduras; Jamaica; Kenya; Kyrgyzstan; Macedonia; Mauritius; Moldova, R. of; Namibia; Nicaragua; Pakistan; Paraguay; Peru; Sri Lanka; St Kitts & Nevis; St Lucia; St Vincent & the Grenadines; Swaziland, and Zimbabwe.

³⁰ High Income Subset (10 countries): Bahrain; Brunei-Darussalam; Chile; Kuwait; Oman; Qatar; Saudi Arabia; Trinidad & Tobago; United Arab Emirates; Venezuela. Low and Medium Income Subset (22 countries): Albania; Bolivia; Botswana; Cameroon; Congo, R. of; Colombia; Costa Rica; Dominica; Ecuador; Egypt; Gabon; Ghana; Guyana; Kyrgyzstan; Mauritius; Mongolia; Namibia; Nigeria; Papua-New Guinea; Philippines; Suriname; Swaziland.

³¹ Albania; Armenia; Belize; Costa Rica; Cuba; Dominica; Dominican Republic; Egypt; El Salvador; Georgia; Grenada; Guatemala; Guyana; Honduras; Jamaica; Jordan; Macedonia; Moldova, R. of; Mongolia; Morocco; Nicaragua; Paraguay; Romania; Sri Lanka; Tunisia; Turkey; Vietnam.

resource based commodities, and a serious difficulty in complying with international standards (e.g. SPS).

In the second and third situations (COM-2 and COM-3) the main problems and objectives are related to complementarities and knowledge technology strategies but both have social and environmental features.

An interesting finding of the studies conducted is that a large proportion of small and vulnerable countries, i.e. developing countries in the lists of situations SVE and SRE are also included in the lists of competitiveness situations COM-1 and COM-3. Situation COM-1 implies very low productivity and weak productive linkages between exporters and the rest of the economy; a high level of growth volatility and a strong trend of deteriorating terms of trade. Additionally, Situation COM-3 occurs in developing countries that have already engaged in an industrialization process but have nonetheless been unable to overcome “shallow integration of production” circumstances, which in some extreme cases can be limited to assembly of imported parts.

Statistical tests were also conducted making use of a set of variables on 155 developing countries and LDCs using binomial probit models. The test reproduced the list of the SIDS, on the one hand, and the list of the landlocked countries. The factors that have significant impact in confirming the SIDS situation are i) proportion of services in GDP; ii) exceedance annual probability of natural disasters producing (Death +Homeless +Injured) over 0.04 per cent of total population; and iii) population (number of inhabitants). The rest of the variables did not have a significant effect. Although incorporating the EVI composite index by Briguglio (2003) into the model increases the explanatory power, from 88 per cent to 95.7 per cent, the EVI is only available for 69 countries and was thus ruled out of the model.

It is clear that analyzing variables in an isolated way does not properly explain the issues of smallness, vulnerability and remoteness in the context of trade and development. However, from the variable-by-variable assessments, four factors appear with a large influence in characterizing the SIDS cluster of countries, namely: i) concentration by export lines; ii) concentration by destination; iii) shipping costs and, iv) the proportion of services in GDP.

It is important to stress that all the subsets of countries to be defined as eligible to additional S&DT benefits should share the common criteria including limitations associated with market share, in order to ensure that no large distortions in international trade are generated by the use of flexibilities in rules by the beneficiary countries. Market share, on the other hand could be used as one factor expressing the size of the economy. Population should be used as the main indicator to characterize the size of the economy (as is normal practice in the literature), but introducing combinations with per capita income (or with per capita GDP) in various ranges, to incorporate the concept of purchase power.

These combinations would allow considering the extremely small economies regardless of the per capita income, and at the same time prioritizing social vulnerability associated to low incomes and limitations of scale in the case of medium size countries. Three ranges were chosen for the simulation exercises of the two situations that followed SVE and Small and Remote Economies (SRE), and a similar approach in which population and per capita GDP are combined is suggested for conducting other simulation exercises: (i) population not exceeding 15 million referring strictly to countries with low income; (ii) population not exceeding 10 million, referring only to countries with medium and low incomes; and (iii) population not exceeding 5 million.³²

3. Conclusions and way forward

Firstly, the universe of WTO Members can be divided into two clearly-cut groups (developed and developing countries), almost exactly reproducing the list of self defined “developing” countries by putting together the three worst-off classes.

Secondly, a very low correlation exists between the features that apparently reproduce the developing country list, on the one hand, and the revealed competitiveness of countries, in the other. In other words, being a developing country according to the three features used to define the list of developing countries says very little about the competitiveness of the countries involved.

Thirdly, conclusions led the researchers to further explore indicators of revealed competitiveness to shed additional light to the empirical evidence commented on common trade and development features of developing countries. An additional exercise was therefore conducted to explore broad circumstances and commonalities amongst developing countries regarding revealed competitiveness and level of success in the integration to the global markets.

Finally, small countries have scale restrictions that can aggravate the constraints that other developing countries experience in trying to diversify or to integrate into their own economies the processing of their commodities. If, in addition, they suffer from external shocks or frequent disasters, they face even more severe constraints to preserve any improvements in competitiveness that they may have achieved and to recover from any damage suffered during disasters. The same can be said for countries whose per unit transportation costs are in fact much higher than those of the rest of the world and that in addition have economic scales that prevent them from making themselves the investments – in logistics and infrastructure – they would need to overcome their disadvantages. Worse yet is the situation in countries that simultaneously meet the three conditions – smallness, vulnerability and remoteness.

³² It is important to take into account that one of the main reservations in WTO against the arguments of the SIDS is that the vast majority tend to have high per capita incomes and rather high levels of Human Development Index, facts which are also clearly highlighted in the literature.

D. WTO and SMEs: What is Needed to Have a Win-Win Situation?, Organized by EuroChambres and Eurocommerce

Report written by Eurochambres³³ and Eurocommerce³⁴

Abstract

The main objectives and relevant questions addressed during the session were the following:

- Small and medium-sized companies stand to be among the main winners of a successful conclusion of the Doha Round. But are the benefits of previous Rounds also tangible at the company level? Is there enough awareness among entrepreneurs of the opportunities of the ongoing multilateral negotiations?
- And what about negotiators' and decision-makers' awareness of the reality of SMEs, their practical problems and needs? Are they translated sufficiently well into useful input to the trade negotiations?

This panel jointly organized by Eurochambres and EuroCommerce sought to provide answers to these questions by confronting both perspectives: the reality of trade policy on the one hand, the reality of companies on the other.

Most participants agreed that SMEs in both developed and developing countries need a strong WTO. In turn, it is important to raise awareness among SMEs of the opportunities of the multilateral trading system governed by the WTO. There is a communication gap between WTO and SMEs that needs to be bridged. Trade associations and chambers of commerce, as well as international institutions, have a major role to play in this regard.

1. Presentations by the panellists

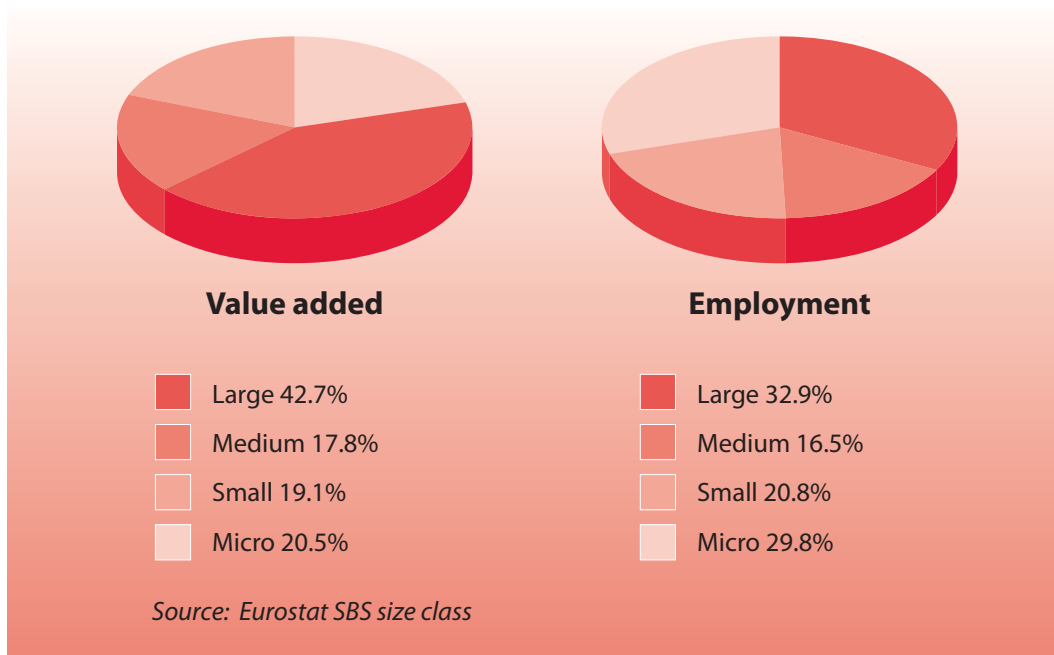
The session was moderated by Dirk Vantuyghem, Eurochambres, Director International Affairs and Ralph Kamphöner, Senior Adviser International Trade, EuroCommerce.

³³ Eurochambres represents the Association of European Chambers of Commerce and Industry represents over 19.9 million enterprises in Europe (99% of which are SMEs) through 46 members and a European network of 1,706 regional and local Chambers. www.eurochambres.eu

³⁴ Eurocommerce represents the retail, wholesale and international trade in 29 European countries. Commerce is the largest consumer-related market service. It generates 11 % of EU GDP and 30 million jobs through 6 million companies, more than 95% of them SMEs. www.eurocommerce.be

(a) Dirk Vantghem, Eurochambres, Director International Affairs

Vantghem explained why in his view SMEs (companies with less than 250 employees and more than €50 million turnover) are tremendously important. There are 23 million SMEs in the EU, amounting to 99.8% of all businesses. They provide 100 million jobs, i.e. two-thirds of all private sector jobs.



Vantghem illustrated the importance of SMEs for growth and employment by highlighting the following figures for some selected countries:

| Country | SMEs | Employment | GDP, Value Added |
|-------------|-------|------------|---|
| Canada | 99.7% | 60% | |
| UK | >99% | 44-66% | |
| US | 99.7% | 50.3% | 40% of total economic activity |
| China | 99% | 73% | 60% of industrial gross output |
| Japan | 99% | 72% * | 52% of manufacturing output |
| South Korea | 99.7% | 71% | 47.5% of gross output 49% of value added |
| Brazil | 99.2% | 66.8% * | 60.8% of manufacturing output |
| Chile | 99.1% | 52.7% * | 37.1% of manufacturing output |
| Africa | >90% | | |
| | | | * of manufacturing sector |

Despite their economic and social significance, SMEs still face too many cumbersome barriers to internationalisation, especially tariffs, lack of IPR protection, different product standards, existing laws and regulations, lack of capital or finance, lack of support and/or advice, cultural and language differences and, generally, a lack of information.

(b) Laurent Matile, UNCTAD/WTO International Trade Centre (ITC), Senior Officer, Multilateral Trading System

After having thanked EuroCommerce and Eurochambres for long-standing, good cooperation and mutual support, Matile focused especially on the developing country perspective and described the ITC as an organisation one of whose main tasks is to foster the globalization of SMEs in the developing world.

It is difficult to say whether SMEs in developing countries will be among the winners of the Doha Round. There are still different bottlenecks; also beyond trade policy there are many things that need to be done to enable producers in developing countries to win from globalization.

As some of the main obstacles, Matile identified the areas of market access (tariffs, NTB, rules of origin, elimination of subsidies), lack of productive capacities, supply-side constraints, inefficient trade-related infrastructure (transport, ports, airports, services, i.e. trade facilitation measures) as well as additional measures beyond the scope of WTO.

Many entrepreneurs in the developing world are not yet sufficiently aware of the opportunities of the WTO and their awareness of the multilateral trading system is still limited. But awareness alone is not sufficient: in addition, companies also need a solid understanding of trade policy and the respective analytical capacities. In this respect, the media and the NGOs in developing countries have a role to play, in order to help SMEs in those countries understand what is at stake in the DDA.

Furthermore, the private sector is not yet adequately organized and SMEs often do not have the necessary financial resources. On top of that, there is also a role for governments who are still too often reluctant to provide useful information to SMEs.

(c) Piero Iacomoni, Monnalisa S.p.A., Italy; General Manager

As a producer of children clothing, Iacomoni had not yet been closely involved in WTO and trade policy matters. He stressed the importance of providing an entrepreneur's perspective and therefore focused on the example of his own company, which has already gone through a long process of internationalisation since its foundation in 1968.

Monnalisa nowadays provides 60 jobs. The company sells 58% of its products in Italy and exports 42% to 50 countries all over the world. Production is based 70% in Italy and 30% worldwide.

For Iacomoni, the price of a product – often used as a parameter in trade policy – is not the only decisive criterion. Product quality and the intangible assets are equally important. He produces “not only garments, but a brand”, stressing that brands create consumer confidence.

Monnalisa has never counted on trade defence measures, but rather on open markets, trying to reach a maximum of consumers.

Iacomoni stressed the limited resources of SMEs and, closely related, the importance of teamwork. The fact that his company never closed during the holiday period is due to the entrepreneurial spirit his employees share.

Efforts to remain competitive in the global market include a lot of research. Monnalisa has eleven employees working in this area.

Over the last seven years, the company has opened over 100 shops in China. Other foreign investment includes shops in India, the “Separate Customs Territory of Taiwan”, Syria and Egypt. Iacomoni considered this is a win-win situation: at the beginning he provided the necessary knowledge, in order to then buy back the products manufactures there. At the end of the day, both Monnalisa and its foreign partners win. Hence, for Iacomoni globalization is an advantage, not a threat: “Globalization is exchanging experience with people and to connect with them”.

Finally, aware of its corporate social responsibility, Monnalisa actively implements CSR and SA 8,000.

Another area for improvement is related to trade negotiators’ awareness of the reality of SMEs: in many cases there is an absence of understanding of the concrete needs and in a number of cases even an absence of trust. Many negotiators feel that the private sector in their countries is not articulate enough.

In order to better translate SMEs’ needs into “WTO language”, a well-organized private sector is needed as well as governmental openness to SME input – in other words: adequate consultation mechanisms at the national level.

(d) Peter Bernert, Owner Brieftaube, Austria; Fashion retailer

The WTO matters for SMEs. In the short term, DDA prima facie benefits include gains for manufacturers, traders and consumers worldwide: dismantling of tariffs and NTBs will cut costs and increase consumer choice; the case for simpler and harmonised customs procedures is uncontested and improved multilateral rules will provide for more legal certainty and predictability.

In the medium and long term, the development of the world economy will impact also on the development of the respective national economies, as well as on society (migration). Globalization, if done the right way, offers both opportunities and challenges for businesses. The current situation of world economies is unique in history as new giant players like China, India, etc. enter the scene. In this environment, especially SMEs need guidance and rules.

Large firms can maintain whole departments to keep up with technological development, watch what the competition is doing, attract finance and skilled employees, and ensure the firm is complying with all relevant regulations. But in SMEs, tasks of this nature are either squeezed in with a person's many other duties or simply not done at all.

SMEs often have no chance to influence policy-makers directly – while SMEs get on with the job, large firms employ special lobbyists to help tailor laws in their own favour.

World trade seems to be too complex for SMEs. Examples: Customs procedures directly affect the cost of sourcing consumer goods; trade flows are complex; traders too often lack the necessary predictability & legal certainty. Between planning and selling, many economic operators work in one-year buying cycles. The sudden imposition of antidumping or safeguard measures can kill SMEs. This was demonstrated *inter alia* by the recent example of the textiles crisis 2005 (“bra war”), when 80 million Chinese textiles were blocked at the EU borders following hasty re-imposition of import quota.

By imposing restrictions at short notice trade policy would harshly interfere in existing contractual obligations, exposing affected companies to severe consequences. Any unforeseeable disturbances of the cost calculation inevitably result in major problems for the companies; in particular those specialised in a small product range.

The WTO is best placed to provide for a stable multilateral framework. Competitiveness-wise, it would be better to export airbuses and to import t-shirts.

Bernert also stressed the importance of trade in services. The provision of distribution services (retail & wholesale) is still very restricted in many WTO Member countries. Widely differing market entry requirements add to the spaghetti bowl of rules; they may be surmountable by big multinational companies, but not for SMEs.

In the second part of this presentation, Bernert explained why in his view SMEs also matter for the WTO. In order to foster growth and wealth, the WTO needs to take account of SMEs' needs. The latter are important not least because they are extremely numerous. They have an impact on democratic processes (in trade associations as well as in the society) and drive the economy.

SMEs account for the majority of new jobs created and make an important contribution to achieving the European Union's Lisbon goal of more growth and more and better jobs.

However, it seems that the input SMEs provide to the WTO negotiations does not reflect the political and economic importance of the SME sector. There is a regrettable lack of understanding for WTO problems. This in turn generates a negative WTO image. It is before all WTO's responsibility to bridge this gap.

Bernert highlighted the need for improved communication between WTO and SMEs, in both directions. This would need to happen less directly between WTO and SMEs than indirectly via trade associations, media and WTO Member states.

As possible solutions, he identified the dissemination of information on initiatives to facilitate SME access to international markets (creation of SME web portals that provide access to publicly available information about trade rules and market support in a variety of economies), but also concerning the role of WTO in general. It should not be forgotten then SMEs are typically owner managed, with just few employees. Hence, there is little time nor motivation to gather information.

In his view, trade associations have a responsibility to explain the WTO to SMEs and to explain SMEs to the WTO. The present panel was a good example in that regard. Dissemination could run parallel: upstream from WTO to the SMEs via media, downstream in both directions via the national associations as close to the SMEs as possible.

Bernert stressed that there is no alternative to the WTO. Only multilateral rules can ensure a stable and reliable legal framework for SME traders worldwide. However, bilateral agreements can act as a useful complement, but only as long as they are not aimed at replacing the WTO. Only the WTO can secure open markets for imports and exports on a sustained basis. The simple and clear rules ensuring the legal certainty SMEs need can only be guaranteed by multilateral WTO process.

(e) José Maria Cervera, International Director, Barcelona Chamber of Commerce and, Industry

The Barcelona Chamber of Commerce and Industry represents some 200,000 SMEs in the Catalunya region. Almost all these companies are concerned directly or indirectly by WTO law, but they find it very difficult to have an influence on it. Many think that the only way would be to address their concerns via the Spanish Commissioner in Brussels.

Hence, more bridges are needed between companies and the European Commission, all the more given the fact that SMEs feel the impact of trade policy decisions first and more directly than bigger companies. But to positively influence these decisions, it is important for companies to have a vision for the future.

With this in mind, the University of Barcelona established the Global Academic Network in 2005, with the aim to connect people with knowledge in trade policy: an awareness-raising exercise.

This project has now materialised in plans to launch a WTO Master in 2008 in cooperation with the WTO chair at the university. Cervera hailed the WTO for having endorsed an initiative like this. The aim is to transfer knowledge to academia, so that in the future a new generation of academics will be equipped with a critical mass of knowledge about the WTO.

The private sector needs this kind of knowledge. WTO Relay Centres can enable straight communication on future trade policy developments and their impact on SMEs.

In conclusion, Cervera stressed that this Spanish initiative offers the possibility to gather the private sector opinion and inject it into the policy-making process, including by strengthening cooperation between the WTO Relay Centres with the European Commission.

(f) Kees Keijzer, Head of Section, Trade; European Commission, Delegation in Geneva

WTO rules are in the interest of SMEs. A rules based system is in the interest of smaller companies, rather than large ones. The GATT/WTO system has led to increased possibilities to export for SMEs: lower (and bound) tariffs for goods; guaranteed access conditions for services, including right of establishment, cross border and movement of service providers and consumers; protection of intellectual property; disciplines for subsidies and trade defence instruments and an effective system of dispute settlement.

The EU has already launched a number of initiatives to help SMEs. In the framework of the EU Market Access Strategy,

- The Market Access Database gives information on all trade barriers affecting exports. As an interactive tool, it gives SMEs possibility to flag problems in third country markets.
- The Applied Tariffs Database provides information on duties and taxes applicable to goods imported into almost one hundred non-EU countries.
- The Trade Barriers Regulation is a legal instrument that gives the right to companies from the EU to lodge a complaint with the European Commission who then investigate and determine whether there is evidence of a violation of international trade rules which has resulted in either adverse trade effects or injury.

For SMEs from developing countries, the EU has put in place:

- The Export Helpdesk for Developing Countries and Exporters Guide to Import Formalities in the EU: an online service with information on all import requirements in the EU (tariffs, documents, rules of origin, taxes) as well as a “market place” to do business.

-
- Trade-Related Assistance: Since the launch of the Doha Round, the EC has allocated around 3.3 billion euros on trade policy/regulations, trade development and private sector support in developing countries.

Further steps to help SMEs through the framework of the WTO could include especially Trade Facilitation, i.e. the reduction and simplification of import, export, transit and customs procedures. Examples of measures under negotiation include measures to publish and make available information; time periods for consultation and comments before new rules come into force; advance rulings; easier procedures for release and clearance of goods; appeals procedures; limits to fees and charges applied and easier transit.

Proposed procedures for the Facilitation of solutions to NTBs: SMEs want quick, pragmatic solutions to concrete trading problems. Dispute settlement is not always an option. WTO regular bodies are not well-suited for problem solving. Procedure should be simple, conciliatory and expedient, with well-defined steps and tight time lines. It should involve a facilitator acting as a mediator giving non-binding recommendations. Any WTO Member country facing an NTB in another country could file a properly substantiated complaint requesting the WTO to launch a procedure. The facilitator would help clarify the issue, lead the consultations and make recommendations on possible (non-binding) solutions.

(g) Ralph Kamphöner, Senior Adviser International Trade, EuroCommerce

Concluding the panel, Kamphöner summarised joint position of EuroCommerce and Eurochambres on the relation between the WTO and SMEs.

The WTO has been correctly playing, and must continue to play, a leading role in the development of the multilateral trading system. By liberalising world trade policies, improving market access and promoting an internationally accepted system of rules and a trade dispute body, this institution has greatly contributed to world economic growth, development and employment, for both developed and developing countries.

Thus, only under the framework of the WTO it is possible to generate the economic growth, welfare gains and governance SMEs need. Bilateral and regional Free Trade Agreements (FTAs) can be helpful complements, but –by no means– a substitute.

Contrary to a number of large companies, SMEs have neither the infrastructure nor the human capital to cope with an overly complex trading environment. They need a stable, simple, transparent, predictable and reliable framework governing their business. A successful conclusion of the WTO Doha Round is particularly vital for SMEs because:

- Dismantling trade barriers will enhance competitiveness across all regions, decrease the costs of living and increase consumer choice.

-
- Simpler and harmonised customs procedures (“trade facilitation”) will enable economic operators worldwide and SMEs in particular, to save some 300 billion Euros per year.
 - Better market access for service providers will foster wealth and growth.
 - Improved multilateral rules, e.g. on antidumping, will provide for more predictability and legal certainty.

In the unfortunate event of a failure of the WTO Doha Round, however SMEs would face serious threats:

- There would be a “spaghetti bowl” of FTAs, each with different rules of origin and individual customs procedures. In such an environment, SMEs would find it much more difficult to export and import – with obvious repercussions on earnings, job creation and the economy as a whole.
- SMEs could be obliged to manufacture different goods for different markets with a direct negative impact on their competitiveness – in the EU as well as in the developing countries.

It is high time to finally come to an agreement among the 151 WTO Members before external events, such as the 2008 US Presidential elections, deep freeze the whole DDA Round.

Kamphöner invited the audience to read the joint declaration by EuroCommerce and Eurochambres in which both organisations call for a strong WTO and a soon and successful conclusion of the Doha Round.

2. Questions and comments by the audience

A participant from Mali stressed the need for proper implementation of WTO commitments, highlighting in this context the specific problems in the cotton sector in his country. He voiced concern that the current trading environment made it practically impossible to produce t-shirts from domestic cotton in Mali. There were still considerable injustices in the WTO system to the detriment of LDCs. Decisions in the WTO were limited to a limited range of countries and the helpfulness of the DSB was rather limited.

A participant from Colombia highlighted the need for clearer rules and better access to information, e.g. via the internet. Many SMEs in developing countries were even smaller than SMEs in the industrialised countries, which made international cooperation difficult in a number of cases.

A representative of the International Federation of University Women said it was difficult to reach SMEs in countries where illiteracy is still a problem, and asked for possible remedies.

A representative of the Italian Delegation in Geneva focused on IPR issues, describing them as a major challenge and calling for proper enforcement. SMEs often find it difficult to protect their products adequately outside the EU.

A participant from Burkina Faso agreed with the previous speaker from Mali and said that many discussants did not have a proper view of the situation of Africa. In reality he found it extremely difficult for smaller developing countries to use the DSB mechanism against bigger developed trading partners.

Another participant presented the initiatives undertaken by the Paris Chamber of Commerce to inform SMEs about trade policy developments.

An Austrian export trader with 55 years experience in foreign trade described his experience of the past WTO Ministerial Conferences since Doha, all of which he attended. He called for more liberalization and urged all trade politicians and officials to finalise the work on the DDA. Russia should join the multilateral framework as soon as possible. He said SMEs are very keen to get support from the WTO, not least to ensure predictability and certainty also for trade operations with bigger trading partners.

3. Conclusions and way forward

According to the organizers, the objective of the session was fully met. The panel showed the economic and political importance of SMEs in both developed and developing countries. All participants agreed that there was a communication gap between entrepreneurs and trade politicians. A number of ideas and constructive proposals were presented to address this problem. International institutions, governments, trade associations and chambers of commerce had each their role to play. Some examples of existing initiatives to this end were presented in the panel, but much more still remains to be done. Two key messages emerged from the panel: the SMEs need a strong WTO and trade policy-makers in the WTO need to enhance their awareness of the specific needs of SMEs.

E. The Contribution of Services to Development, the Role of Regulation and Trade Liberalization, Organized by the Overseas Development Institute (ODI)

Report written by the Overseas Development Institute (ODI)

Abstract

The services sector plays a key role in the economy, but has received less attention than agriculture and industry as sources of growth. There is by now quite a bit of work explaining the role of agriculture in the development process, but developing country officials and donors have placed much less emphasis on the services sector, partly because there is less recognition of the contribution it makes to the economy, and partly because they are less clear about the types of measures – liberalization, sequencing and regulation – that are needed to stimulate the service sector (and wider economy) onto a more dynamic growth path and how these relate to the trade liberalization agenda. The ODI has been studying services and development and presented tentative findings of a study funded by the UK Department for International Development.

The objectives of the meeting were to:

- *emphasize the importance of services in development;*
- *highlight the role of regulatory reform and trade liberalization in services and development, and how this might be done;*
- *raise awareness with development actors of how regulatory reform and trade liberalization can contribute to development; and*
- *bring services experts together to discuss the development effects of services.*

Four presenters provided comments on the main issues from their own (and not institutional) backgrounds. Te Velde provided a general overview on the importance of the services sectors, the role of regulation in developing services and the need for complementary policies to accompany services liberalization. Adlung elaborated on the economic effects of liberalization of services on poverty reduction and the possible role of the GATS. Aggarwal commented on the main issues from a private sector perspective. The final speaker Njinkeu examined services liberalization from the angle of regional integration, in particular in the context of Economic Partnership Agreements between the EU and the African, Caribbean and Pacific.

The subsequent discussion with comments from the floor and answers from panellists considered the importance and risks in managing services liberalization, the role of regional versus multilateral trade liberalization, the difficulties in concluding mutual recognition agreements, the importance of services as opposed to other sectors, the role of Aid for Trade in supporting commitments to liberalise and finally the need to support regulatory audits of services sectors in poor countries.

1. Presentations by the panellists

The session was moderated by Sheila Page, Senior Research Associate, Overseas Development Institute.

(a) Dirk Willem Te Velde, Research Fellow, Overseas Development Institute

The Contribution of Services to Development, the Role of Regulation and Trade Liberalization

Dirk Te Velde discussed the aims of the meeting and presented ongoing research funded by DFID on services and development. He provided a general overview on the importance of services sectors, suggested how services affects development, presented a framework to develop trade in services, discussed the role of regulation and trade liberalization in developing services and the need for complementary policies to accompany services liberalization. He concluded that a bottom-up approach to services liberalization might be more promising, suggested it was important to examine further appropriate regulation and how to achieve this and suggested that Aid for Trade might help in this process.

(b) Rudolf Adlung, Senior Economist, Trade in Services Division, WTO Secretariat

The Contribution of Services Liberalization to Poverty Reduction: What Role for the GATS?

Rudolf Adlung elaborated on the economic effects of liberalization of services on poverty reduction and the possible role of GATS. He suggested that services were important for economic efficiency and growth (via trade and production inputs, in particular transportation), that they could make a major contribution to income through transfers from migrant labour (which are mostly not included in conventional data on services), and reminded the meeting that “services” included provision of social services. He then discussed options in GATS, including liberalizing commercial presence (Mode 3), perhaps by phasing-in reforms gradually. Current offers were hardly meaningful in this regard, in particular if compared with the commitments made by accession countries. In order to encourage quality offers, costs and risks of commitments needed to be reduced through support for capacity building, including via Aid for Trade, and by allowing countries to suspend staged liberalization in certain cases (e.g., exogenous political and economic shocks).

(c) Dominique Njinkeu, Executive Director, International Lawyers and Economists Against Poverty

Dominique Njinkeu examined services liberalization from the angle of regional integration, in particular in the context of Economic Partnership Agreements (EPAs) between the EU and the ACP. He outlines key issues, and reviewed pros and cons of services liberalization in EPAs. He suggested that the EC’s interests in services are not clear, but could be seen from the current texts and requests in GATS. There are severe challenges to making commitments

(requires multi-stakeholder involvement and capacity building interventions); and regulatory audits might help to meet these challenges. He discussed the Kenyan pilot case where they introduced sectoral officials to trade in services concepts, provided a set of questions to address in the audit and held stakeholders consultation on sectoral work.

(d) Rajesh Aggarwal, Senior Advisor-International Trading System, International Trade Centre

The final speaker, Rajesh Aggarwal commented on the main issues from a private sector perspective and focused on regional integration. He emphasized the distinction between liberalization of services and privatization. The effect of liberalizing services depends in part on how well the liberalization is planned.

The moderator, Sheila Page, questioned the need for managing liberalization, and instead pointed at the risks of not liberalising and was impressed that Aid for Trade played such a role in services discussions.

2. Questions and comments by the audience

The questions from the floor centred around the following issues:

- What is the importance of managing liberalization (Myriam van der Stichele).
- What is the role of regional vs multilateral trade in service liberalization (Susan Joekes).
- Why has domestic regulation not been discussed, and isn't it difficult to liberalise services at a non-MFN basis (Johannes Bernabe).
- What is involved in concluding MRAs, has been a lengthy process in the EU (Julian Arkell).
- How can countries deal with the overlap between GATS and Bilateral Investment Treaties (BITS)? Bolivia mission.
- Do we need a WTO investment agreement? (Peter Kleen).
- Services can only emerge as a third stage of development; it is not possible to make a transition directly from agriculture to services (Rolf Traeger).

The panellists suggested that the current services regimes were not always good for development and entailed a risk, so further liberalization might be good.

Whether regional integration is better than multilateral negotiations depends on the circumstances. For instance, in capital intensive sectors it is better to liberalise multilaterally (e.g. Swaziland is already dominated by regional firms), but there might be sensitive sectors that involve harmonisation of rules or recognition of experience so that regional approaches might work better.

There were further discussion on Aid for Trade in services, regional vs multilateral services liberalization and the role of services in development. For many small countries, including small islands, services is the major source of export revenue and driver of development.

We need to look at the relationship between services and investment and at how each is regulated.

3. Conclusions and way forward

There was general acknowledgement that the development of services is very important for developing countries. The effects work through their impacts on incomes, on the investment climate and on the direct supply of valuable public services such as health and education.

While there are obvious risks in trade liberalization, there may also be risks in not liberalizing. Liberalization can be a slow process, e.g. in the case of mutual recognition agreements, and in some cases regional integration might help first, although this is by no means always so.

Aid for Trade was seen as a useful complement to trade in services negotiations. In particular, it was felt that regulatory audits in poorer countries could be useful for regulators to realize whether all current regulations are strictly necessary. While there were questions about the incentive of domestic regulators to be involved, bottom-up evidence from other contexts that services liberalization has helped development might help in this process.

F. Non-Tariff Barriers to International Trade and Economic Growth – What Can The WTO Do?, *Organized by BusinessEurope*

Report written by BUSINESSEUROPE – the Confederation of European Business

Abstract

Non-tariff barriers are increasingly important as blockages to international trade and economic growth and development. This panel will address non-tariff barriers to market opening and suggest ways that the WTO can contribute to improving economic growth by providing a new mechanism for their removal.

The scale of the problem was demonstrated by a presentation from the Confederation of Danish Industry on its recently released study of the non-tariff barriers faced by Danish companies in key markets around the world. The European Union has made a number of proposals to tackle non-tariff barriers in the Doha Round, including for a new horizontal mechanism to resolve disagreements between WTO Members over individual NTBs and the trade facilitation negotiations. The European Commission presented its proposals. Finally, the Indian government gave the view of developing country governments on the development dimension of the NTB issue, including comments on the NAMA-11 proposal for a mechanism and on trade facilitation.

1. Presentations by the panellists

- (a) Eoin O'Malley, Adviser, BUSINESSEUROPE

Introduction

The obstacles to free trade in goods created by non-tariff barriers (NTBs) are only becoming more important with time. The progressive reduction of tariffs over the last 50 years, to very varying degrees, has meant that governments have often sought refuge in non-tariff measures to protect their industries. In addition, the increase in regulatory output responding to environmental and other concerns can in some cases create incidental barriers to trade. We also see that NTBs can also arise through unproductive administration and inefficiencies in, for example, customs management.

The effect of NTBs on international trade cannot be underestimated. An effective non-tariff barrier can completely exclude products from one country from the market of another or raise costs to such a dramatic extent. NTBs are also difficult to define, covering regulatory measures, certification procedures and even questions of competition policy. The goal of the panel is to explore this question further – looking at both the impact of NTBs on companies and ways to address them through the multilateral process.

(b) Rasmus Wendt, Adviser, Dansk Industri – the Confederation of Danish Industries

Business view of NTBs

The problem of non-tariff barriers had been dealt with since the outset of the GATT, as negotiators, through tariffication, wished to move away from quantitative restrictions towards tariffs so as to later progressively remove these over time. Historically, examples of non-tariff barriers within Europe have included such non-transparent measures as a systematic investigation by tax authorities of citizens purchasing a foreign car and the maintenance of individual country standards with burdensome and slow compliance procedures.

The WTO is still discussing NTBs today as they continue to have an enormous impact. A recent Commission report found that European business, as a whole, lost commercial opportunities worth €20 billion. An International Trade Centre report notes that NTBs affect developing countries equally if not more than developed countries.

It is important to note that it is not the existence of standards, regulations or customs procedures that create problems, but rather their implementation. Business needs standards and customs procedures to successfully run the world's economies and manage trade.

The report presented was produced by Dansk Industri (DI) in April 2007 on barriers to international trade faced by Danish companies. The study resulted from the need to promote exports in emerging markets, in particular the so-called BRIC countries (Brazil, Russia, India and China), for the future competitiveness of Danish industry. The study was based on an online survey of 167 companies and 20 in depth interviews, a small but representative sample.

Nearly 50% of those surveyed were facing trade barriers in export markets. This group included companies very accustomed to international trade and compliance with technical regulations and customs procedures. The food products, electrical and electronic equipment and machinery sectors were the most affected. Small companies were not the most exposed to these problems but rather medium-sized businesses.

In terms of geographical destination, China was the most difficult country to deal with. Russia appeared as the second most difficult, followed by the non-China Asia, other developing countries and lastly developed countries.

Danish companies face different types of NTBs including classical NTBs such as slow customs procedures but also problems like language, despite Danes' tendency to speak international languages. Unnecessary technical regulation and local standards were also major issues.

Three case studies are illustrative of the types of barriers faced by companies. In Ukraine importers/exporters are required to have different import licences for different

products. This places a serious burden as importers and exporters do not only sell one product but often many and of different types, requiring multiple licences with different procedures. A second case is the lack of enforcement of intellectual property rights in China, a problem faced by a wide variety of companies. Lastly, a company exporting cars to Indonesia experienced a delay in customs clearance in Sumatra of a full year, despite the fact that the cars were destined for use in development cooperation work.

The NTBs faced by business around the world, whether restrictive rules and regulations, poor implementation, lack of capacity, corruption or attempts to circumvent existing regulation are serious. They can be tackled within the WTO system but more tools are needed. The Committee on Technical Barriers to Trade is doing good work but more needs to be done on restrictive regulation. The WTO must also link up with other bodies to provide technical assistance programmes to improve capacity, including in the area of international languages.

(c) John Clarke, Deputy Head of Delegation of the European Commission to the WTO

European Union view on Doha NTB work

Clarke's presentation covered the proposed horizontal mechanism for tackling NTBs and the negotiations on trade facilitation. The Uruguay Round agreements, including Technical Barriers to Trade, Sanitary and Phytosanitary Standards and import licensing, sought to limit government capacity to create new NTBs. However, NTBs remain a big problem for business.

The Doha Mandate allows for work to tackle non-tariff barriers on a sectoral and horizontal basis. For example, the EU and the US have made a joint proposal on textiles, clothing and footwear labelling. However, such a specific approach is insufficient as governments can always come up with new barriers to replace prohibited ones. As the Dispute Settlement Understanding can be too slow and burdensome to deal with these very specific problems the EC has proposed a horizontal mechanism to deal with NTBs – an idea that came from BUSINESSEUROPE.

The horizontal mechanism is designed to be easy to use and is composed of the following elements. First, a country files a substantive complaint identifying the barrier and its effects, with the other country then responding. The procedure is then launched and a facilitator is appointed to lead consultations, give advice and recommend possible solutions. This procedure would be off the record. At the end of the process the facilitator reports to the WTO membership as a whole both for information and to create pressure for compliance with the decision, which is not legally binding. The process would be completed in a matter of days or weeks.

The other major area of work on non-tariff barriers is in the trade facilitation negotiations, which are seeking the simplification and modernisation of customs procedures around the world. Nearly half of NTBs notified at the beginning of the Doha Development Agenda related

to customs and border procedures and they can make up as much as 4-5% of total costs. This is why business from all over the world has supported the trade facilitation negotiations.

An eventual agreement on trade facilitation would contain a commitment to modernise border procedures based on risk assessment, a commitment to reduce delays through advance clearance using electronic transmission of information, a reduction in fees and charges associated with customs procedures so that these reflect the actual cost of services provided, the institution of a one-stop shop for border clearance and the updating of WTO rules on international transit.

There is broad support across the WTO membership for trade facilitation, from developing and developed countries. This is because simple, modern border procedures help SMEs in developing countries as much as multinationals, allow countries to concentrate resources on high-risk goods and increase tariff revenue as they reduce the freedom for fraud to take place.

(d) HE Ujal Singh Bhatia, Ambassador of India to the WTO

A Developing Country view on Doha NTB work

It is important to distinguish non-tariff barriers from non tariff measures. A non-tariff measure can cover documentation requirements and fees at customs and regulatory measures such as adherence to standards. These are reliable and necessary. A non-tariff barrier however, is a non-tariff measure that causes an unfair impediment of trade.

NTBs have been dealt with since GATT 1947. An overwhelming majority of articles in the GATT relate to NTBs. They mostly provided soft disciplining of these measures and left significant scope to get around their provisions. Stronger discipline, however, came as NTBs became more common. Provisions on anti-dumping and regional trade agreements were brought in during the Kennedy Round. The Tokyo Round put a real focus on NTBs creating agreements on Technical Barriers to Trade (TBT), government procurement, subsidies and countervailing measures, customs valuation, import licensing and anti-dumping.

However, these agreements were voluntary making them less effective. The Uruguay Round included a very intensive attack on NTBs, making all the Tokyo Round codes binding and adding agreements on sanitary and phytosanitary measures (SPS), pre-shipment inspection, rules of origin, safeguards, textiles and clothing. The government procurement agreement also became binding but was a plurilateral rather than a multilateral agreement. Despite these reinforcements, NTBs have continued since 1995 and require further consideration under the DDA. The initial exercise in the DDA negotiations was an NTB inventory, under which 312 measures were notified with one third relating to SPS and TBT and the next biggest group relating to customs.

To deal with this, what was important was to establish procedures to seek meaningful redress as many of these barriers were already covered by WTO agreements. The problem was enforcement. In the six years of negotiations no solution has been found for notified NTBs. However, some have become redundant and some have been resolved outside the WTO. The lessons to be drawn from this are that NTBs will always exist, that they must be quickly resolved, that they do not always affect all countries and that their resolution must be consensual. These lessons underpinned the NAMA-11 proposal on expedited procedures to deal with NTBs.

The proposal seeks a two-stage process. The first part is a mandatory question and answer session with the interested members on the barrier concerned. It is followed by a problem-solving stage to arrive at a solution to the NTBs. The proposal seeks to use existing approaches but does not affect rights and obligations under the WTO. There are other submissions on the table on sectoral problems and standards are an issue that will need to be tackled in the future.

2. Questions and comments by the audience

The discussion covered a broad range of issues. John Clarke responded to a question on new NTBs on dairy labelling in the USA, noting that new measures would have to be fully in conformity with existing WTO disciplines.

The panellists also addressed the question of possible limits on sovereignty imposed by controls on NTBs. Ambassador Bhatia noted that sovereignty is per se limited by all international agreements. The question of the surrender of sovereignty should be thought of as a voluntary process leading to mutual benefit. To the extent that there are sensitivities they should be taken on board in any agreement as decisions are taken by consensus. John Clarke concurred with this view and added that once agreements have been made WTO Members must conform to rules even if consumers preferences make it complicated to achieve.

Ambassador Bhatia defended India's record on customs reform, mentioning that India had reduced delays in its system by 75% in recent years. In the biggest ports clearance took only 1-2 days. Of course, infrastructure difficulties can make transport beyond the port more difficult but the government is investing heavily to resolve this. Customs procedures in India today are in many cases online and in 50-60% of imports involve no further verification after documents are submitted.

The panel also addressed the challenges of the trade facilitation negotiations. Ambassador Bhatia noted that the main issues in the trade facilitation negotiations relate to the concerns of smaller developing countries on access to resources to implement an eventual agreement and added that capacity building will be a crucial issue to get an agreement. The coordination of international technical bodies working to provide this assistance would be crucial in practice.

John Clarke gave some further details on important elements of an eventual agreement including advance processing of electronic data; a green channel for trusted traders; a commitment to have all official controls take place at the same time; and finally a separation of goods movement from duty payment to reduce scope for corruption.

The discussion also covered the area of standards, which may be used as a protectionist instrument in some cases. Ambassador Bhatia noted that this would be an issue to be dealt with by the WTO in the future. John Clarke expressed disappointment that WTO negotiations on competition policy had been dropped from the DDA as such rules can be used against such protectionist private sector practices.

G. The WTO's Record in Addressing Trade-Distorting Subsidies: An Assessment of its Record and Proposals for Improving its Performance, Organized by the International Institute for Sustainable Development (IISD)

Report written by Tara Laan, Assistant Researcher, Global Subsidies Initiative, International Institute for Sustainable Development and Charles Tsai, International Institute for Sustainable Development (IISD)

Abstract

Approximately half of WTO Members notify their subsidies to the WTO, as required under Article 25 of the Agreement on Subsidies and Countervailing Measures (ASCM). The poor performance of countries in this area undermines the effectiveness of the ASCM and disadvantages WTO Members that do not have the resources to investigate other countries' trade-distorting subsidies. The Global Subsidies Initiative of the International Institute for Sustainable Development has developed a new template for notifying subsidies to the WTO, and is overseeing its initial application in Germany. The template is intended to standardize the format in which WTO Members can report subsidies and thereby increase the amount and quality of the information that they provide. The template should be seen as a first step towards a process for improving the current system of subsidy notification in the WTO.

1. Presentations by the panellists

- (a) Pablo Klein, Permanent Mission of Mexico to the WTO

Overview of strengths and weaknesses of WTO on disciplining subsidies

Pablo Klein, Mexico's representative to the WTO Committee on Subsidies and Countervailing Measures provided the opening presentation on his impressions regarding the strengths and weaknesses (or successes and failures) of the WTO in disciplining subsidies. Klein emphasized two main messages: that (1) countries apply anti-dumping measures at 10 times the rate of countervailing duties (CVDs), suggesting that the amount of information required to implement a CVD is much more difficult to procure than for an anti-dumping action; and (2) only half of the WTO Membership has to date submitted subsidy notifications, as required under Article 25 of the WTO Agreement on Subsidies and Countervailing Measures.

Klein noted that support for multilateral trade liberalization in this and future rounds will depend heavily on the perception that there is a level playing field in international trade. Having to compete with foreign producers who are backed by deep-pocketed governments is unfair. Eliminating this unfairness requires stronger disciplines to address the harmful trade effects of subsidies.

He noted in conclusion that the most urgent step in this direction is to achieve higher standards of notification, which would improve the effectiveness of the ASCM. The second is to achieve more substantial disciplines on prohibited and actionable subsidies in the rules negotiations. This would better enable the use of CVDs to internalise the costs imposed by governments on industries based in other jurisdictions, and thus support a more level playing field in world trade. A third step would be to negotiate further disciplines on subsidies affecting trade in services, which is a rapidly growing area of world trade and the WTO system, and which plays an important role in many developing countries.

(b) Ronald Steenblik, Director of Research IISD Global Subsidies Initiative (GSI)

Review of issues related to notifications and plans to improve them

Ronald Steenblik provided an overview of the new Subsidies Template developed by the GSI for notifying subsidies to the WTO. The current notification scheme is evidently not working as well as intended. This fact has motivated the development of the Subsidies Template as an instrument to improve the ease with which WTO Members can report their domestic subsidies, and increase the transparency of their subsidy schemes. Typically, subsidy information reported to the WTO lacks clarity and consistency, which makes it difficult to assess subsidies particularly over a period of years. Without a method for eliciting information on all specific subsidies, countries might also continue, through omission, to avoid reporting information they would rather not divulge.

Steenblik explained that, while the new notifications template is designed to address these problems, it is not necessarily expected that the WTO would adopt the new model. However, some WTO Members might unilaterally adopt the Subsidies Template given its benefits and consistency with current WTO requirements. But, most importantly, the Subsidies Template should be seen as the first step towards a multilateral and multi-stakeholder process for improving the current system of subsidy notification in the WTO.

(c) Dr Michael Thöne, Cologne University – Finanzwissenschaftliches Forschungsinstitut (FiFo)

Challenge of providing a comprehensive WTO subsidy notification as seen from the notifying country's perspective

Dr Thöne outlined the challenges of providing a comprehensive WTO subsidy notification from the notifying country's perspective. He also described how his institute, the Institute for Public Economics (FiFo) at the University of Cologne, is applying the Subsidies Template in Germany.

There are significant differences among the levels of subsidies and amount of information provided by or to different institutions in Germany. The Kiel Institute, for example, reports that the German Government provided subsidies totalling approximately €150 billion in 2004. The Federal Government itself reports €55 billion, and the state aid scorecard of

the EU records €20.9 billion. Only €1.6 billion was reported to the WTO in Germany's notification for that year.

Dr Thöne indicated that the selection of subsidies notified to the WTO by Germany was skewed. The 2004 notification, for example, reported only eight programmes including one in Berlin worth a mere €30,629.70. Should a *de minimis* threshold be established in the WTO as in the case of EU State Aid notifications? There is also a significant gap in the information available on local incentives for attracting investment.

The question of non-specific subsidies was also raised in Dr Thöne's presentation. Many "horizontal" and regional programmes are non-specific in their design, but can be highly specific in their application. Since countries are notifying subsidies after disbursement, they could provide information on the actual distribution of subsidies to industries under these horizontal and regional programmes. A manual on how to distinguish between specific and non-specific subsidies would also be useful. This suggestion was endorsed by a member of the audience who is a current WTO delegate.

In summary, the panel noted that the GSI template, if applied more widely, would significantly improve transparency.

2. Questions and comments by the audience

The subsequent discussion provided useful comments and feedback regarding the Subsidies Template. One question asked by several people was whether the burden of proof could be shifted to non-notifiers. One participant complemented GSI on its efforts, but asked whether there was a contradiction between striving for greater compliance with the notification requirement and at the same time greater transparency. This was a concern expressed by several speakers. While GSI recognized that many countries seemed to fear self-incrimination, a lack of transparency and notifications could in and of itself be a source of recrimination over the longer term and thus engender greater scrutiny from civil society.

3. Conclusions and way forward

Mark Halle, in concluding the session, informed participants that IISD was planning to apply the new notification template to other countries in addition to Germany. He also noted that IISD would give serious consideration to the ideas raised during the seminar – e.g., whether a *de minimis* level of subsidy that should be reported should be established, and the suggestion that a guide to assist governments on how to differentiate between specific and non-specific subsidies be prepared.

H. Globalization and The WTO Doha Agenda: Impact on Development, Organized by Third World Network (TWN)

Report written by Third World Network (TWN)

Abstract

With the Doha negotiations reaching a crucial crossroads at this time, this session reflected on the development dimensions and implications of the proposals on the table. The session discussed development aspects in Agriculture and NAMA, and also examined these in the context of the place of developing countries in Globalization.

1. Presentations by the panellists

The session was chaired by Martin Khor, Third World Network.

(a) Martin Khor, Third World Network

Martin Khor introduced the speakers and gave an introduction to the issues to be discussed at the Forum. He said there were expectations that the Round would have ended by now, but there seems to be an impasse at present. The situation was compounded by the ending of the US presidential fast track authority and the Congressional discussions on the US Farm Bill, both of which affects the confidence of its partners.

Although the Doha work programme was launched, with the Declaration stating that the interests of developing countries are at its centre, the status of development issues (strengthening S&D provisions and resolving implementation issues) has been relegated to the margins, and there are also development problems in the market access negotiations.

On domestic subsidies, there is need to discipline the Green Box support because, as recent studies have shown, many of these subsidies are also trade distorting. Developing countries also require special products and special safeguard mechanism to shield their farmers from cheap and often subsidised imports. However the SP and SSM issues have yet to be resolved.

In NAMA negotiations, many of the present flexibilities that developing countries are able to exercise (such as having unbound tariffs or choosing the rates at which to bind tariffs) will be seriously eroded or eliminated and the Swiss formula will drastically cut the industrial tariffs of many countries, thus affecting the viability of local industries.

(b) Mehdi Shafaeddin, Former Senior Economist, UNCTAD

Development implications of NAMA

The speaker said that the economic concerns of developed and developing countries were different. For example, while the former are interested in opening the markets of the latter, the developing countries are more concerned about expanding their supply capacity and their growth.

The NAMA proposals made by developed countries, if accepted, will have detrimental effects on industrialization of developing countries. Liberalization, if it takes place at the right time and in the right way, can work for development. However, if liberalization is not properly planned or implemented, it can lead to major problems. The developed countries' NAMA proposals are pushing for premature liberalization in developing countries; they would cut tariffs across the board to low levels, reduce tariff dispersion, and bind individual tariffs and at low levels. The damage would include loss of policy space for having measures to build dynamic comparative advantage, to diversify and upgrade industries.

The speaker provided examples of successful cases of early and late industrializers. They made use of tariffs during their industrialization phases. Countries that were already mature industrially then pushed for the opening of markets of others. A study conducted by the speaker on the industrial experience of 46 countries found that 20 countries had rapid expansion in manufacturing exports but only a few had significant expansion in manufacturing value added, while 50% of the countries experienced deindustrialization. Liberalization was helpful to only a few industries that are near maturity.

There is need for trade and industrial policy. There should be a change in the philosophy behind WTO rules, with an acceptance of dynamic comparative advantage, and flexible rules.

(c) HE Oscar Carvallo, Ambassador, Bolivarian Republic of Venezuela

Development and the Doha negotiations

The speaker said that the multilateral trading system is poorly equipped to deal with the challenges of globalization. Instead of the MTS regulating economic globalization, it is constantly trying to adapt to its dynamics

An irony is that developed countries want to protect their declining industries and agricultural sectors and to gain market access for their expanding industries and services, those more closely linked to globalization. But these declining industries are precisely those that attract the offensive interest of developing countries, because of their comparative advantage.

By demanding market access for their expanding industries and services, developed countries are trying to consolidate their initial advantage into a dynamic long-term advantage. Developing countries' defensive resistance to those demands is related to their hope to move from traditional industries – where they have a comparative advantage – into dynamic sectors linked to globalization, the only way to catch up in the long term.

This fundamental contradiction is at the heart of the continuous stagnation of the negotiations. In the light of the fundamental tension in the negotiation we referred to in the beginning, it is clear that pro-development provisions are being put to test in these negotiations. There are attempts to undermine, weaken and re-interpret them.

Developing countries, on the other hand, have been forced to organize themselves around powerful alliances regarding these provisions, at the same time demanding the overcoming of the inequities of past rounds.

Can there be a fair deal for a fair globalization? If provisions assisting developing countries are not respected, there will be no fair resolution. Most developed countries seem to prefer to wait for the “right” correlation of forces, or to weaken the alliances of developing countries by creating incentives for division. The trade system as it now stands cannot provide an appropriate framework for a fair deal.

Suggestions for reform include: (1) Allow for non-competitive, managed agreements based on complementarities, and even pure solidarity; (2) There is a tyranny of the Single Undertaking: we should move against from agreements with compulsory rules of engagement (3) Allow democratic differences of opinion; (4) Develop a truly independent secretariat and chairmanship system: avoid conflicts of interest. (5) Avoid rounds overwhelmed by multiple issues, which places developing countries at a disadvantage.

(d) Anne Kamau, Permanent Mission of the Republic of Kenya to the UN at Geneva

Food Security and Livelihood Concerns in Agriculture and the WTO

It was agreed at Doha that this is a development round. What development content are we taking back to our constituencies? On S&D, discussion has not moved, and on implementation issues, we are very far from getting results.

The development content across all areas is disappearing or relegated to the backseat. The outcome at the end of day must be able to raise living standards. Will Africa create employment, increase production capacity? We should assist these countries to climb up the value chain and add value to their products. We shouldn't encourage continuation of export of raw material in this organization.

The negotiations are focusing on liberalization for all countries. Some developing countries have already liberalized further than what WTO required, including through the structural adjustment programmes. The process of liberalization should be sequenced.

(e) Esther Busser, International Trade Union Confederation (ITUC)

The NAMA negotiations: a trade union perspective

The speaker said that trade unions are concerned about NAMA because the proposals on the table will have an impact on employment, decent work and industrial development in developing countries. The proposals also do not respect the less than full reciprocity principle. Proposals for a coefficient of 15, 19 and 23 would lead to cuts in applied rates for a number of sectors and in a number of developing countries.

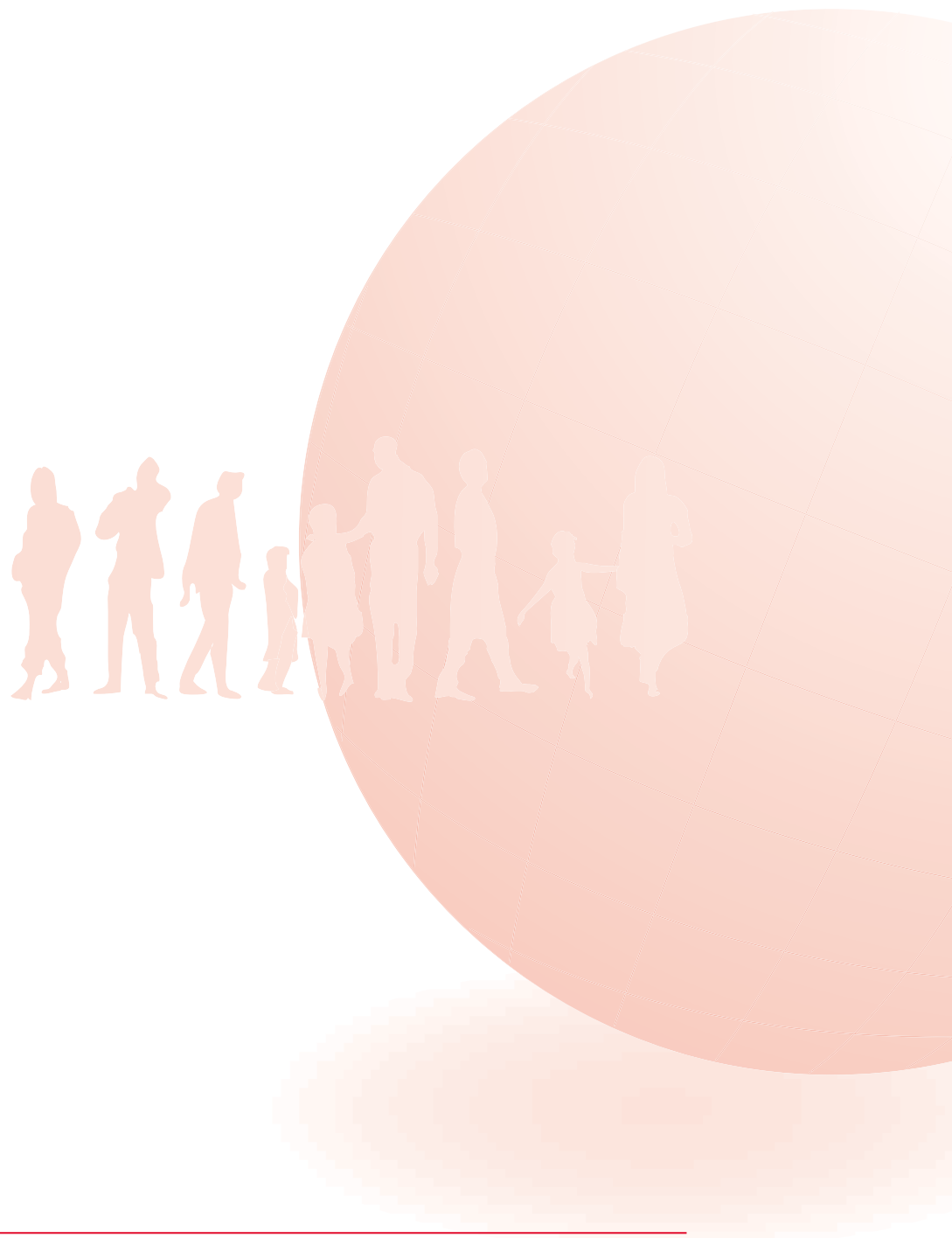
The speaker then presented several tables showing the impact of applying coefficients 15, 19, 23 and 30 on the following sectors: textiles, clothing, leather, footwear, plastic, rubber and automobiles.

The trade unions are campaigning for an approach in NAMA that uses average tariff cuts, or else a sufficiently high coefficient in NAMA. There should be increased flexibilities to protect labour intensive and strategic industries that have the potential to create productive employment. The unions are also against any formula that does not take into account the different tariff structures, different development needs and different economic structures,

(f) Aftabalam Khan, International Coordinator, Trade Justice & Stop Corporate Abuse Initiatives, Action Aid

Comments on agriculture

The speaker touched on the agriculture negotiations at the WTO. He explained the problem of import surges in food products in developing countries. The concerns of developing countries over food security and livelihoods of small farmers in developing countries are important principles that have been adopted during the negotiations. It was important that these concepts can be operationalised during the negotiations.





IV. SUSTAINABLE DEVELOPMENT

A. Restoring Morality to the Global Market, Organized by The Evian Group at IMD

Report written by The Evian Group at IMD

Abstract

Restoring morality to the global market is a broad subject that can be tackled through numerous lenses and perspectives. Therefore, all the interventions made during this session were as diverse as the people who formulated them. The different approaches offered by the panellists included: (i) a philosophical and humanistic vision of the issue with an emphasis on the notions of fairness and efficiency, (ii) the problem of rules of origin within the value chain and our role as consumers, and (iii) a strong ethical conundrum regarding medicines and their distribution worldwide. The main conclusion that came out of the panellists' interventions as well as the discussion that followed clearly was that market-based instruments could not alone tackle the moral disparities the global market suffers from and that rules and regulations had to wrap them up as well. And indeed, as one panellist from Jamaica, Rosalea Hamilton, reminded us at the outset, the global market economy was in good part built on slavery; it is doubtful whether therefore it is a question of "restoring" morality to the market, or injecting morality.

Introduction

A decade ago, Daniel Yergin and Joseph Stanislaw³⁵ posed some highly pertinent questions, which are today more relevant than ever. Here are some key extracts:

"A system that takes the pursuit of self-interest and profit as its guiding light does not necessarily satisfy the yearning of the soul for belief and some higher meaning beyond materialism. ...

Few people would die with the words free markets on their lips. Yet the essential morality of the market is twofold. The first is in the results that it delivers, in what it makes possible for people – which is based upon the premise that the pursuit of individual interest cumulatively adds up to the betterment of society.

The second lies in the conviction that a system based upon property, contracts, and initiative provides protection against the arbitrary and unchecked power of the state.

³⁵ Daniel Yergin, Joseph Stanislaw, *The Commanding Heights: the Battle Between Government and the Marketplace that is Remaking the Modern World*, concluding chapter entitled "The Balance of Confidence: the World After Reform" (1998).

Yet if the market is seen to fail on either of those two grounds – results and restraint – if its benefits are regarded as exclusive rather than inclusive, if it is seen to nurture the abuse of private power and the spectre of raw greed, then surely there will be a backlash.”

Today it is clear that these were very prescient words. Yergin and Stanislaw were writing before Seattle, before Enron, Parmalat, BAe and Al Yamamah. Their plea for inclusivity was penned before the now daily dosage of statistics underscoring the growing chasm between haves and have nots – and not just in poor countries: 52% of children in inner-London live below the poverty line. These are but a few drops in what is widely seen outside the charmed circles of the “cosmocrats” as a huge and rapidly spreading global swamp.

At a time when the global economy has been booming, it may be Cassandra-like to suggest an eerie sense of *déjà vu* that harks back to the 1920s, that truly euphoric bout of global economic activity before the Great Crash. When the Depression struck, the abuses and scandals of the capitalist order were such that it lost its socio-political support and collapsed. We have to work hard on the morality side of the actual global market economy in order to avoid an extra – and, for the moment, increasingly seemingly inevitable – crash.

1. Presentations by the panellists

- (a) Jean-Pierre Lehmann, Chair of the session, Professor of International Political Economy, IMD, and Founding Director, The Evian Group, Switzerland

In his introductory remarks, Jean-Pierre Lehmann questioned the premise lying behind the theme of the 2007 WTO symposium: How can the WTO harness globalization? In fact, the world would be in better condition if globalization could harness the WTO! A major cause for the fact that the Doha Round was failing was precisely because of the fact that the members of the WTO, especially the major “old” trading powers (EU, US, Japan) were not sufficiently recognizing the changing patterns of the global economic system. As pools have repeatedly shown, there is much more support for globalization in emerging countries than in the industrialized countries. Protectionist pressure groups in the West are the main obstacle to achieving a more dynamic process of globalization by thwarting the negotiation process of the WTO. They are the ones who are in need of “harnessing”. The global market economy does not need to be harnessed! It needs, in order to function properly, to be infused with strong institutional foundations, rules, a spirit of trust, and a playing field that is less tilted against developing countries than is the situation at present!

The trust element has clearly been lacking. In the past, when the Quad was predominant, this did not matter excessively, partly because ultimately they were held together by the Cold War. Today, there is no trust between North and South. The collapse of the talks in Seattle had little to do with the theatrics of the NGOs, but a lot to do with the growing chasm between those established powers who wished to maintain their prerogatives, privileges and unfair advantages and the newly aspiring trading powers that need a more

open global market agenda to ensure growth among their rapidly increasing populations. This is the big gap. Following Seattle, Doha would have failed too, had it not been for 9/11 which occurred shortly before the meeting and during that brief period of global solidarity, which rapidly dissipated vapour-like not to be restored.

The use of the term “Development” in the Doha Agenda was unfortunate mainly because it was very ambiguous, without any proper definition of what it meant and hence even less on how it could be measured. Nevertheless, the overall understanding was that the wrongs of the prevailing system that led to an un-level playing field discriminating against the South, especially in areas such as agriculture and labour intensive goods, should be righted.

Throughout history, it has been shown that a market-based economy is the best system the world has ever tested – although not a panacea. However, a market-based system can only be efficient if it serves the majority of the citizens concerned. If it is seen to be creating more losers than winners and that the gap between the two is assuming the proportions of a chasm, the result will be social instability and a massive backlash.

The reason why the international economy-based system is so fragile nowadays is due to poor leadership and the absence of a proper ideal. The global market economy has to be more than about the achievement of the goals of greed of a small minority. This is especially evident in light of the tremendous abuses that too many business leaders are engaging in by paying themselves huge incomes: Lehmann reminded the audience of the saying that “the problem with communism is communism, the problem with capitalism is capitalists”.

Another major problem currently is the absence of honesty and the excessive amount of hypocrisy that permeates the system and the manner in which the negotiations are held. There is an unacceptable gap between the liberal principles upon which the global trading system is based and the mercantilist rhetoric in which the negotiations are conducted. This is unsustainable.

In order to give some direction to the vast debate such a broad topic would generate, four questions were proposed to the panellists.

1. What are (should be) the innate moral attributes of the global market economy – if any?
2. What are the current morality failures of the global market economy which underlie its loss of legitimacy?
3. How can the failures be addressed, what are the priorities and who must bear responsibility for what, in order to restore and strengthen the moral attributes identified in (1)?
4. What are the risks and likely outcomes of not addressing these issues?

(b) Aldo Matteuci, Senoir Fellow, DiploFoundation, Switzerland

The discreet charm of imperfection

The first question to be addressed when we want to talk about restoring morality to the global market is, in fact: *do we need morality in markets?* The answer is clearly no. What we need in markets is efficiency.

The need for efficiency in markets is a postulate widely claimed by contemporary economists, who base their theory on Adam Smith's *An Inquiry into the Nature and Causes of the Wealth of Nations* (1776). However, this unilateral position is an imposture. Indeed, Smith's work *The Theory of Moral Sentiments*, written seventeen years before the *Wealth of Nations*, provides the ethical, philosophical, psychological and methodological underpinnings to his later works and is mainly based on the concept of fairness.

It was clear for the economist that **fairness first and efficiency then** are the necessary elements to found a well ordered and developing society. In order to survive, a society must have a common sense, made of rules and built on a sense of the common. The law (human driven norms) makes the market; markets do not make laws. However, most contemporary economists only remember the second part of Smith's story, based on efficiency, having forgotten the fairness side of it. And efficiency does not need morality!

The second question to be addressed is: *is a society based on the efficiency of the market sustainable?* The answer, again, is no –for two main reasons. First, a society based on the efficiency of the market is not sustainable because the natural resources as well as social factors do not permit to handle such a system. The market perpetually tests the society's limits, which leads to political as well as social consequences, among which: (i) the disapproval of public generosity – disparagingly labelled *moral hazard*, (ii) the axiom of *deserved and untouchable* –untaxable – wealth, and (iii) the ideal of *opportunistic materialism* of the individual. A great part of society can now be labelled as hereditary bureaucrats, which are people who take advantage of money they have not created but inherited from their ancestors. Therefore, we live now in a system similar to that of the French Revolution, an unsustainable situation as the history has proved it.

Secondly, the creation of wealth does not increase people's happiness. *Behavioural economics*, the actual probably most challenging branch of economics, studies how people think in a market-based society. Strikingly enough, the conclusion is that if, indeed, human beings want more wealth, they also get tired of it very quickly. Happiness is therefore not based on what we have in absolute terms, but on what we have in regard to others; individuals want to better themselves not in absolute terms, but in comparative terms. Whether this is justice or envy – it is a deep-rooted fact of life.

To answer the question *what are the priorities in order to restore and strengthen the moral attributes in the global market*, we should move away from religious or secular utopias, and

concentrate on the real task at hand. Ever since Plato, mankind has developed orthodoxies as guide to living. To achieve this we tend to discard diversity as “non-essential” and seek an underlying “fundamental” behaviour – a “one rule fits all” for all seasons and situations. This leads to sterile principle discussions that cannot be resolved. Without even thinking we rush into a legal and principle discussion that would map all situations. This is at best a waste of time, at worst a deeply conservative mindset. In order to survive, we have to try to avoid dystopia.

(c) Ximena Escobar de Nogales, Director a.i. & Senior Economic Counsellor, CASIN, Switzerland

Talking about the issue of restoring morality to the global market can be taken from a broad set of different angles depending on the audience to be addressed. Although it was impossible to know who and what professions would be in the room for this session, the one common denominator is clearly that we are all consumers. Indeed, all of us present in the room can wonder what we do know of the products we buy and the value chain that lies behind them, to what extent we care and how much information is given to us to make our consuming choices according to our values.

One issue to tackle when we talk about global markets is that of women. Whether one is wearing H&M, Benetton, Gap or Corte Ingles, the chances are a woman in a developing country has made your clothes. Indeed, women represent a fairly high percentage of production employees in most of developing countries: 65% in Honduras, 70% in Morocco, 85% in Bangladesh, 90% in Cambodia, 75% in Kenya, 87% in Zimbabwe. Women are precariously employed: excessive overtime, stress, health problems, no freedom of association and underpayment are recurrent in women’s working environment. For these reasons, the status of working women is very fragile and precarious and this precariousness is often used abusively:

“We have a very young work force of women. We prefer hiring women because they are more disciplined. At times, the women have to stay up working all night and they understand perfectly the need for that flexibility”. A garment factory manager based in Morocco. (Oxfam, 2004)

As regards the question of the rules of origin, the lack of information and transparency in the value chain is also a problem that should be resolved as quickly as possible. An etiquette found on a pair of Nike shoes bought in a store in Geneva said it was “Made in diverse”. The explanation to this “diversity” is that Vietnam, Cambodia and China make parts of these shoes that are eventually assembled in China and labeled in Zurich. This example shows how complex the value chain actually is. Furthermore, how can the consumer, located at the very end of it, access information related to the sourcing of raw material, production & assembly process, the finishing & packaging, the marketing, the branding and retailing that would guide its choices? Although the consumer is ready to change his or her habits – 91% of consumers have a more positive image of a company or product when it supports a cause, 90% will consider switching to another company if it’s aligned

with a cause, 70% of Americans are more likely to donate to non-profits that partner with businesses, 64% of consumers said they would pay slightly more for a product associated with a cause – transparency still needs to be seriously worked upon.

Efforts on traceability are being made. Several brands use labels in order to provide the consumer with a good produced decently: the (RED) Bono “Purchase Progress” – a global fund for aids -, “Look behind the Label” (Marks and Spencer), www.made-by.nl. Switcher’s www.respect-inside.org led by its CEO Robin Cornelius, goes beyond the concept of “traceability” it reveals “the product’s DNA”. This new generation of traceability aims at eliminating the blinder between the value chain and the consumer. They are all means to help the consumer become a ConsomAkteur, a consumer who can master the choices he makes as a consumer. However, without undermining the importance of transparent information throughout the value chain of each product, it has also to be pointed out that voluntary, consumer-driven initiatives will not deliver morality to the markets on their own. For that, enforcement of international labour standards must be promoted everywhere.

(d) Ravi Kanth Devarakonda, Geneva Editor, Washington Trade Daily and Deccan Herald (India), Switzerland

The access to medicines is a concrete example to analyze the innate moral attributes of the global market economy – if there are any. The WTO TRIPS agreement intends to provide market incentives to pharmaceutical companies for their research and development to invest in and develop new and useful medicines. However, the drugs developed by the companies for which markets allow prices to be determined according to what a consumer can bear are simply beyond the reach of poorer sections of the global society whether they are in the rich or poor countries. Is there a market-based solution to this dilemma? The answer is a clear “no”.

It is certainly true that there are public policy incentives to address this issue in the WTO rules, exemplified by an instrument such as Compulsory Licensing. The Compulsory licenses are given to a third party against the will of patented holders. Since these are granted by either governments or court-based interventions, they amount to a non-market based instrument. However, any attempt to use this instrument comes under fire from both the patented companies as well as their home governments. There are numerous instances of how the United States pressurized countries such as Thailand, Brazil and South Africa not to avail or use the Compulsory Licensing Instrument. In essence, we have a situation that even though the non-market interventions are legitimate under WTO rules, it is next to impossible to implement them in real life and death public emergencies.

How can these market-induced failures be addressed? Clearly, the solution is to have a global public pact. Governments, non-governmental organizations, as well as the research-based pharmaceutical companies and their generic counterparts should come together under one roof, sit down and agree on a **code of conduct** for essentially patented drugs, which is inclusive as well as a transparent and an implementable mechanism.

What are the risks if we do not have such a code of conduct? The world may face a critical situation in the future where new patented medicines or vaccines are priced out of the reach for billions of people affected by the Asian flu for example. They will simply die because the markets will not allow the drugs to be sold at prices which they can afford. This is a big risk and it is untenable that in the 21st century people will have to die because of market failures. It is then vital for the society to bring credible **non-market-based solutions or instruments**.

(e) Rosalea Hamilton, CEO, Institute of Law & Economics, Jamaica

There are two main considerations that follow up the interventions made so far and that need to be clearly formulated:

1. We have to wonder why we talk about restoring morality to the global market. Has the market ever been moral? Did the Caribbean not emerge from an unmoral market based on the slave trade? Highlighting the importance of individual pursuit of self-interest as the basic moral philosophy in capitalism, Adam Smith noted that English legislators were unlikely to abolish slavery since most of them were slave owners and would not act contrary to their self-interest.
2. Whose morality must guide global markets? Multi-national corporations dominate global markets and yield tremendous power over small island states. Some enterprises earn revenues that are two, three, four or five times greater than the GDP of some Caribbean countries. So far, corporate social responsibility (CSR) has been less reliable than a legal framework which enforces morality in global markets. This is a far more secure instrument than reliance on an ethical framework that people can transgress very easily. Also, we have heard from the panellists' interventions the importance for the consumers and the civil society as a whole to act morally. It is important to recall that the civil society is greatly empowered by a firm legal framework made of transparent rules that can be used to enforce morality in global markets.

2. Questions and comments by the audience

The questions raised by the audience can be summed up into three points:

1. Why is morality lacking in the framework of the global market?
2. Who should apply morality to the global market and who would be the beneficiaries of this morality?
3. How can we inject morality into the global market?

On the issue of “*why* is morality lacking in the framework of the global market”, a first remark was made about defining morality. It is important, before entering in any debate about morality, to know what we are talking about. Only then will we be able to identify the actors who have to be involved as well as the necessary means in order to institute morality to the market.

Why is there no morality in the market? Because global society is facing different types of moralities, completely incompatible the ones with the others. During the thirty years following World War II, western societies tried to constantly develop improved social systems. Being social was considered as a moral standard. For the last twenty years, confrontation has taken the lead: confrontation between rich and poor countries, between employed and unemployed, etc... As such, privatisation relates to delocalization, low prices, untaxable wealth. Therefore, there is no possible consensus between the privileges of certain categories of workers and others.

An extra difficulty to be taken into consideration when we try to understand why morality is lacking in the global market is the question of standards. Among any society, standards always constitute the basis of the legislative system. However, standards of morality differ among all the international stakeholders and vary according to time and geographic perspectives. Also, even if many countries are members of the WTO, ILO and other international institutions that are endowed with sensible international standards, the compliance of these norms fail most of the time. Therefore, instead of working on norms, we should focus more on their implementation and sanctions when their limits have been passed.

On the issue “*who* should apply morality to the global market and who would be the beneficiaries of this morality”, no specific actor came out as a unique reference. First, it was pointed out that **governments** have to take the responsibility to establish a strong legislative framework and a compliance system related to morality in trade. Governments are indeed perceived as the closest entities both to the market and to the citizens and must therefore cope with linking these two poles through moral issues. In the reality however, there is a great incoherence between the discourse and the action of the governments, both at the international as well as national levels. The talks they hold within the WTO are incoherent in comparison to those they have in the framework of the ILO, and the actions they undertake nationally are far beyond the promises they give internationally.

From the inconsistencies of the governments regarding morality, the role of the **civil society** was underlined. In Jamaica for example, civil society pressured the government to be elected to modify existing laws. The new minister of finance was asked for more transparency and will not be left in peace if he does not comply with his promises. Thanks to the debate raised by civil society, laws became a political issue. Civil society is therefore an efficient counterbalance to those who control the commanding heights, those who make the laws related to the functioning of the market.

The **Human Rights Council** was also perceived as an important stakeholder to take the lead in the issue. For the moment, it is the actor most involved in the edition of a value/moral system that controls the governments at the international level. The human rights system is central regarding the issue of morality in the value chain, in which we all participate, either as shareholders, employers, employees or consumers. It is based on the prerequisite that globalization has to be in humankind's service, not the contrary.

The **WTO** was also mentioned as an institution that has to deal with moral issues and social norms in general. It would be efficient to put market-related laws as well as social laws under the aegis of the same organization, which would prevent governments playing on different scenes, such as the WTO and the ILO. It would then ensure a greater coherence on their part. At the same time, an intervention was made about whether the WTO takes into consideration international texts where a sense of morality appears, such as the Universal Declaration of Human Rights. It was pointed out that privatization policies, driven by the WTO, often comes ahead of a deterioration of social conditions (health care degradation, salary drop). Is there a space in the WTO to reflect upon ethical questions underpinning its system of rules and regulations?

Finally, on the issue "**how can we inject morality into the global market**", it was stated that pragmatism and action were needed. Discussing on Utopias can go forever and, although it may solve a principle, it will certainly not solve a problem. If we take the HIV/AIDS issue for example, wondering how to establish the principle that AIDS medicine has to be given cheaply or not is not the good question. What is efficient is especially what is preventative: to be present in the societies concerned and propagate the measures to take to prevent individuals from contaminating themselves. Even if solving a pragmatic problem may not be the best thing, at least something is being done.

The importance of dialogue was also cited. Formal or informal dialogue allows stakeholders from different constituencies to remain open to different points of view and be confronted with new ideas and concepts. Dialogue fosters new ideas. That is what the Evian Group at IMD has been doing for several years now with success.

The panellists were finally challenged regarding the **strategies** we could work on in order to inject morality to the global market. In the concrete example of medicines, a code of conduct that would bring together governments, NGOs along with generic companies and pharmaceutical companies could be established. In broader terms, there is a severe need for

an extended global compact, in which multiple stakeholders would be brought under one single roof in order to implement further agreements in a constrained legal framework.

3. Conclusions and way forward

When we talk about “restoring morality to the global market”, we certainly miss a point. The market in itself cannot be moral, given that it is a tool created and used by mankind. In order to establish a sense of morality in the market, the target we have to focus on is therefore the actors who play in the market game, be they producers or users.

There has been a broad consensus to say that inciting market actors to behave ethically is not enough. The temptations issued from the market economy are too strong for men to resist. It is therefore crucial to build a forceful legislative framework and to impose sanctions for violations. Thus civil society, governments and international organizations need to implement non-market instruments in order to put order in the global market and inject morality into the scene.

B. Trade and Climate Change: Is Trade Killing Our Planet?, Organized by the Inter-Parliamentary Union (IPU) and the European Parliament

Report written by the Inter-Parliamentary Union (IPU) and the European Parliament

Abstract

Over a relatively short period of time, the subject of global warming and climate change has ceased to be the exclusive domain of scientists and environmental activists, and has been placed squarely on the political agendas of governments, parliaments and international organizations. In most countries, parliament has a constitutional responsibility to review policy options, oversee government action and draw up the necessary legislation and budgets. Therefore, parliamentarians bear their own share of responsibility for action or inaction with regard to global warming.

The panel examined, from a parliamentary perspective, the varied effects of trade liberalization on the environment, with a special focus on the nexus between seaborne trade and climate change. The event was attended by some 150 participants, most of whom were legislators.

1. Presentations by the panellists

The session was moderated by Patrick Baert, journalist, Agence France Presse. In his opening remarks, the moderator asked all panellists to explain their personal interest in the issue of climate change and to comment on the idea of levying a carbon tax on imports, which was introduced into the international debate only recently.

- (a) Ivonne A-Baki, Member of the Andean Parliament, former Minister for Commerce of Ecuador

As a member of parliament, former minister of commerce, former ambassador to the United States, a former presidential candidate and a renowned artist, Ivonne A-Baki said that she was well placed to confirm that there are many ways in which trade is already killing our environment. She cited two examples.

An oil spill occurred a few years ago near the Galapagos islands, which are known for their uniquely rich wildlife (Charles Darwin worked there on his theory of evolution). The oil spill became a real environmental disaster and endangered many species. There is no doubt therefore that trade – and particularly trade in oil – has already caused biodiversity loss.

Another example is the trade in shark fins, which are used for making soup in certain Asian countries. Because shark meat is worth very little, the still-alive but finless sharks are thrown back into the sea. This brutal practice is one of the primary factors contributing to the global decline of shark species. The driving force behind this phenomenon is, once again, commercial interest.

(b) Javier Moreno Sánchez, Member of the European Parliament, Spain

The European Parliament (EP) deals with questions of trade, environment and climate change on a permanent basis. Given the bi-directional nature of EP's relationship with the WTO, the views of Euro-parliamentarians are permanently present in trade negotiations. While recognizing the need for trade liberalization, the EP is in favour of promoting "clean" trade globally. This applies equally to emerging economies, whose contribution to environmental pollution is not negligible.

Europe aspires to put in place a system of air transport greenhouse gas emissions control by country and sector, reducing such emissions by one-fifth by 2020. Another ambitious target is to receive 20 per cent of energy from renewable sources by the same date.

Global problems are interconnected. Climate change is likely to have an impact on migration flows, for example. In dealing with all related problems, the development perspective is of primary importance.

(c) Shakeel Mohamed, MP Mauritius

Mauritius is widely perceived as a paradise island. However, it is faced with a rising number of environmental challenges, most of which it is not responsible for. With cyclones gaining in force and frequency, with coral reefs dying and beaches disappearing, the population has started to wonder what it has done to deserve such a fate. The problem is that Mauritius has done nothing wrong.

For small-island developing nations trade is of vital importance. Most goods are imported from overseas, while revenues depend on exports. The economy of Mauritius, for example, is largely dependent on trade in just one product, sugar.

The problem, therefore, is not trade per se. The problem is that trade and climate change are dealt with under separate legal regimes, without any divergence. If the current hype over bio-fuels results in higher food prices, a net food-importing country like Mauritius may plunge deeper into poverty.

(d) Awni Behnam, President, International Ocean Institute

Oceans represent 75 per cent of the surface of our planet. When we destroy the health of the oceans – the main providers of biodiversity – we destroy our planet's climate.

The gravity of the problem is largely underestimated. MDGs, for example, contain no reference to the extremely delicate nature of the relationship between human civilization and the ocean. Humans tend to take the sustainability of the oceans for granted. In the past 42 years, the overall fish catch has increased two-fold. Up to 75 per cent of fish stock is now either overexploited or recovering. The shark population alone is believed to have

shrunk by 100 million. Discarded fish amounts to 20 million tonnes per year, representing 25 per cent of all fish caught. Fish piracy is a major problem, estimated to cost US\$10 billion annually. Ocean pollution is omnipresent, with some 50 thousand pieces of plastic floating on every square mile of ocean surface. And yet another 8 million items are thrown overboard from passing vessels every day.

There is a plethora of ocean governance tools, but few enforcement and monitoring mechanisms. Greenhouse gas emissions from maritime shipping are basically unregulated and remain outside of the scope of the Kyoto Protocol. Flags of convenience make it even more difficult to put international environmental agreements into effect. As a result, by and large lawlessness prevails. In an effort to seek at least a partial remedy to this situation, the United Nations has been called upon to appoint an Ombudsman on Oceans.

2. Questions and comments by the audience

The ensuing discussion was very lively, with an active exchange of questions and answers between the panellists and the audience, as well as within the audience. Most delegates identified themselves as members of national parliaments.

The participants were quasi-unanimous in their view that climate change is a reality that has already produced an impact on economic growth, social progress and the environment. If current greenhouse gas emission trends are allowed to continue, there could be potentially large-scale population movements and decreased food security. This is why the issue of climate change is so high on the global political agenda.

While recognizing that the environment is a shared resource and that mitigation of the impacts of climate change is the responsibility of all, several delegates stressed the importance of the principle of common but differentiated responsibilities. They were sceptical about the readiness of the industrial North to understand the needs of the South. It was even suggested that the only way to awaken the North to the risks of climate change was to speak of the North “going under water”.

All too often, developing countries lack the technological and financial resources for required effective adaptation, which makes them all the more vulnerable. Some delegates emphasized that the least developed countries and small island developing States in particular are the most exposed to climate change impacts. It is necessary to take into consideration individual circumstances in dealing with climate change and to discourage one-size-fits-all solutions.

Several participants stressed the need to strike a balance between free trade and environmental protection. In cases where certain States wanted to do something about saving the environment, they should not have to stumble on WTO rules. Some delegates claimed that the expansion of trade was incompatible with long-term ecological interests

because the very rationale for trade was economic growth. They considered that the solution was to reduce economies, rather than expand them.

Some participants suggested that trade could help preserve our planet by making environmental goods available to everybody. Free trade can reduce poverty on the condition that it is fair trade. The general consensus was that there were no easy solutions and that simplistic approaches could only harm developing countries.

A number of questions were raised in this regard. Are we willing to pay higher taxes for the good of the environment? Are we ready to stop production of some goods because of purely environmental considerations? Are we ready to cause higher unemployment, even in some of the poorest countries?

As pointed out by one member of the European Parliament, parliamentarians should be asking themselves if their voters actually know what they want, and if all these questions should be automatically brought into WTO negotiations.

Time and again, the participants reverted to the problem of the enforcement of common rules. Representatives of developing countries complained that not all WTO Members were applying trade rules equally and that, in essence, it was up to the poor countries to comply. Regarding the environment, the countries that suffered the most were the least polluting ones.

Most delegates felt that the problem was not so much a lack of legislation as a lack of commitment to implement the agreements. Without a mechanism to enforce implementation, little can be achieved through international conferences and agreements, including the Kyoto Protocol and post-Kyoto, which is now in the making.

Most participants were sceptical about the proposed introduction of a carbon tax on imports as a means of cutting greenhouse gas emissions. Some delegates were of the view that taxes should be levied first of all on the main polluters, starting with the USA. They argued that any talk of export taxes and ecology-motivated abstention from consumption of transported products would penalize poor developing countries first and foremost.

Some delegates voiced their concern over the idea of taxing not only consumption but also production. Other delegates stressed the need not to rely blindly on the old rules of consumerism. They questioned whether any compelling evidence existed to prove that there had been a paradigm shift between product distribution and product consumption.

Most delegates noted that climate change not only presented challenges, but could also provide opportunities for technological innovation and business ventures. These include improving energy efficiency, transitioning to a low-carbon economy, increasing renewable energy development and mitigating greenhouse gas emissions. Most are linked to new trade opportunities.

3. Conclusions and way forward

Managing climate change is among the greatest challenges currently facing the international community. The panel presented an opportunity to raise awareness among national legislators of the delicate relationship between international trade and climate change, especially as it concerns seaborne trade. Most participants agreed that climate change considerations should be integrated into national development strategies and that parliaments should take the lead in these efforts.

C. Natural Resources, Sustainable Development and Trade Rules: New Instruments to Promote Sustainable Development Through Trade Agreements, *Organized by the Centre for International Sustainable Development Law (CISDL)*

Report written by the Centre For International Sustainable Development Law (CISDL)

Abstract

This session discussed new, innovative approaches to the difficult question of sustainable development in the area of natural resources trade and services. Several countries throughout the world are applying new instruments to promote sustainable development in this sector. Questions concern not only the environmental but predominantly the social dimension of natural resources trade and service. Impact assessment of trade has been tested but also information strategies and stakeholder consultations have been successfully implemented at the regional and more and more in a global context. What are the lessons for the world trading system from these new instruments? Do changes at the national or regional level affect global natural resources trade and investment? What is the role of subsidies? Are they harmful or supportive of sustainable development? How can the global trading system promote sustainable development without imposing priorities on individual WTO Members? How can international desertification and climate change problems influence the current Doha Development Agenda? Are there best practices in other forae, such as the UN Convention on Desertification that the WTO could adopt? How do multilateral agreements on natural resources relate to WTO law? Is there a role for private actors and private sector initiatives?

1. Presentations by the panellists

Dr Markus Gehring – CISDL Lead Counsel/Cambridge University Lecturer moderated the session and introduced the subject.

(a) Marie-Claire Cordonier Segger – Natural Resources, Government of Canada

Marie-Claire Cordonier Segger, though Director of Natural Resources Canada, is speaking in her personal capacity as an expert on international sustainable development law. Her remarks, she emphasised, do not reflect the Government of Canada's position on the issues discussed. The focus of the presentation is distilling some of the recent, innovative legal mechanisms aimed at achieving sustainable development goals through trade in natural resources. History has proven that trade in natural resources can be a double-edged sword pertaining to sustainable development; it has the potential to buttress the sustainable development of natural resources, or to exacerbate the degradation of resources with little benefit for the stewards of the resources. For forestry, mining and metals, renewable

and other energy development, geomatics, agriculture and fisheries, among other natural resources, the terms of a trade agreement may influence the ability of countries to ensure sustainable development. Examples include complications regarding the subsidization of renewable energy projects advocated under the UNFCCC but perhaps technically contravening the WTO regime; the potential for reduced effectiveness of forest certification schemes due to complications with technical barriers to trade stipulations; SPS measures influencing the viability of wild versus farmed fisheries; intellectual property rights enforcement could facilitate or frustrate technology for myriad sustainable development initiatives and government procurement rules could prevent green procurement policies (i.e. selecting winning bids based solely on economic considerations). Aware of these dynamics, states have committed to the promotion of sustainable development in trade agreements and begun to include innovative legal provisions to achieve this objective.

Substantive innovations: promoting sustainable development within FTA texts and institutional architecture

Making sustainable development promotion an explicit objective of FTAs

On an increasingly frequent basis, the promotion of sustainable development is evident in the “objectives” section of trade agreements. Not all FTAs contain such a section, but if present, adding language to support sustainable development would have the effect of integrating the concept within the preamble. Suggested text for insertion in objectives section could be the following phrase: “To implement the provisions of this Agreement in a manner consistent with the Parties’ commitment to promote sustainable development.”

Ensuring the primacy of MEA obligations in the event of interactions FTAs provisions

Another way in which FTAs can advance the attainment of sustainable development is through explicit efforts to ensure that the compact conforms and supports (as opposed to obstruct) Multilateral Environmental Agreements (MEA) commitments. In this vein, language clarifying the relationship between the FTA and the MEA helps to mitigate ambiguity. Cordonier Segger provides the illustrative example of the possible interactions between trade in natural resources and obligations for Parties to the Kyoto Protocol. Canada’s international obligations to reduce greenhouse gas emissions and to combat global climate change are specified in the text of the Kyoto Protocol. For the forestry sector, climate change poses many foreseen and unforeseen impacts (e.g. pine beetle infestation). For the energy, mining, and minerals sectors, the implications are numerous. On the one hand, companies operating in these sectors may be required to lower their emissions. On the other hand, the Kyoto Protocol establishes a framework for emissions trading that could eventually be advantageous for companies operating in these sectors. Since the establishment of international trade agreements, whether under the WTO or a bilateral/ regional FTA, legitimate concerns have been raised by governments and NGOs over the potential for conflict between the trade related measures in MEAs and the provisions of international trade agreements. If the Canadian government has sought to support and

ratify an MEA, then it would be counterproductive for future FTAs to establish a trading regime that could diminish the effectiveness of an MEA.

In the event of an inconsistency between a trade-related provision of an MEA and the FTA, the MEA shall prevail.

Article 104 of NAFTA provides a suitable precedent for such a provision:

1. In the event of any inconsistency between this Agreement and the specific trade obligations set out in:
 - a) the Convention on International Trade in Endangered Species of Wild Fauna and Flora, done at Washington, March 3, 1973, as amended June 22, 1979,
 - b) the Montreal Protocol on Substances that Deplete the Ozone Layer, done at Montreal, September 16, 1987, as amended June 29, 1990,
 - c) the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, done at Basel, March 22, 1989, on its entry into force for Canada, Mexico and the United States, or
 - d) the agreements set out in Annex 104.1,

such obligations shall prevail to the extent of the inconsistency, provided that where a Party has a choice among equally effective and reasonably available means of complying with such obligations, the Party chooses the alternative that is the least inconsistent with the other provisions of this Agreement.

The Canada-Chile FTA (Article A-04) and the Canada-Costa Rica FTA (Article 1.4) contain almost identical provisions. Since the finalization of NAFTA and the FTAs with Chile and Costa Rica two other trade related MEAs, with implications for the sustainable development of natural resources, have come into effect: the Cartagena Protocol on Biosafety (signed but not yet ratified by Canada), and the Kyoto Protocol.

Solidifying an expropriation and compensation regime in investment chapters of FTAs

NAFTA began a trend, followed by a large proportion of subsequent regional and bilateral FTAs, to include “investment chapters” in the body of an FTA. Such chapters are designed primarily to protect the investments of business enterprises of one Party to an FTA that do business in the jurisdictions of the other Party(s). Investment chapters typically contain provisions relating to, *inter alia*, National Treatment, Most Favoured Nation treatment, Standard of Treatment, Performance Requirements and Expropriation. However, from the perspective of sustainable development, it is the issues surrounding expropriation that have been the subject of the most intense debate and scrutiny. The central issue of concern is that an FTA’s investment chapter will require a government Party to pay compensation to an investor in the event they expropriate their investments either directly or indirectly

through measures tantamount to expropriation (see for example, Article 1110 of NAFTA or Article G10 of Canada-Chile FTA).

If broadly defined, the definition of indirect expropriation can include regulatory measures that deprive the investors of expected profits, even if the measures are non-discriminatory, and serve a public purpose such as the protection of the environment and human health. So for example, it is conceivable that (without appropriate safety mechanisms in the FTA) new emissions standards applicable to the energy sector, new logging quotas imposed on forestry companies, or new environmental zoning requirements that impact on a mining lease, might come within the definition of an indirect expropriation (in the event it is broadly defined) and trigger a right to compensation. In the context of sustainable development, a natural resources ministry is likely to have offensive and defensive interests arising out of the FTA's expropriation provisions. From an offensive perspective, the natural resources ministry might want to ensure that Canadian natural resource companies (e.g. companies operating in the forestry, energy, mining and minerals sectors) do not have their investments expropriated, either directly or indirectly, by the trading partner without payment of compensation. From a defensive perspective the government will want to ensure that the FTA's expropriation provisions do not inhibit the ability of Canadian governments to introduce laws and regulations designed to ensure the sustainable development of Canadian natural resources. The task at hand is to find the appropriate balance.

Using FTAs to advance corporate social responsibility

The vast majority of trade and investment between nations is undertaken by and between business enterprises. Accordingly, the way in which business enterprises conduct their activities, for example, whether they undertake their activities in an environmentally and socially responsible fashion – in keeping with the concept of Corporate Social Responsibility (CSR), will be a critical component of any efforts to promote the sustainable development of natural resources through an FTA. The linkages between CSR and sustainable development are borne out of necessity. In the production of goods and services, corporations make a significant contribution to many of the environmental and social problems that the global community is attempting to address through the sustainable development agenda. Paradoxically, due to their size and importance within the global economy, corporations also have a pivotal role to play in achieving sustainable development. Without access to the vast resources, wealth and ingenuity of the corporate sector, the ultimate goal of “sustainable development” might well be beyond reach. In this regard, CSR could rightfully be viewed as a prerequisite for achieving sustainable development.

The important role corporations have to play within the global sustainable development agenda was formally acknowledged through the Johannesburg World Summit of Sustainable Development (WSSD) Plan of Implementation 2002. Paragraph 49 encourages action at all levels to: Actively promote corporate responsibility and accountability, based on the Rio Principles, including through the full development and effective implementation of intergovernmental agreements and measures, international initiatives and public-private

partnerships, and appropriate national regulations, and support continuous improvement in corporate practices in all countries. Canada was a signatory to the WSSD plan of implementation. Accordingly, the promotion of CSR through the provisions of an FTA, is consistent with the WSSD's call for the promotion of corporate responsibility and accountability through "intergovernmental agreements and measures." The promotion of CSR through an FTA might also be an acknowledgment of the fact that many Canadian companies, including those operating in the natural resources sectors, are already showing leadership in CSR. Their knowledge and experience in this field, and that of the Canadian government, might prove a valuable commodity to share with a trading partner, particularly developing countries. Furthermore, the promotion of CSR through the FTA may help to create, for Canadian natural resource corporations, a business environment in the jurisdiction of the trading partner that is less exposed to environmental and social risks. This again, is particularly important in developing countries.

There are multiple avenues available for advocating the precepts of CSR within FTAs. One approach would be to support the introduction of text specifying that the Parties have a responsibility to promote CSR. For example: Recognizing their commitments under paragraph 49 of the Johannesburg World Summit of Sustainable Development Plan of Implementation (2002), the Parties agree to actively promote corporate responsibility and accountability through the full development and effective implementation of public-private partnerships, appropriate national regulations, and voluntary initiatives which support continuous improvement in corporate practices. A second approach would be to support cooperation between the Parties on issues surrounding CSR. For example, we might wish to support the introduction of text into the FTA as follows: Recognizing that corporate social responsibility has a central role to play in international efforts to promote sustainable development, the Parties agree to develop a program of cooperative activities designed for the purpose of promoting corporate social responsibility. With this second approach, we could assist in identifying, or even help facilitate, key CSR activities in the area of natural resources. For example, one can envisage a program of action to reduce greenhouse gas emissions amongst energy companies or CSR initiatives to promote sustainable forestry and mining practices. Where this could prove particularly valuable, is in an FTA with a developing country where CSR might not be as widely practiced by companies operating in that jurisdiction. A third approach, tailor-made for an FTA with a developed country, would be to make a formal reference to the OECD Guidelines for Multinational Enterprises within the FTA, via a provision similar to the following: The Parties reaffirm their commitment to adhere to the OECD Guidelines for Multinational Enterprises and will encourage enterprises operating on their territories to observe these Guidelines wherever they operate. In summary, there is a place for the promotion of CSR in every FTA.

Enshrining the imperative of sustainable development in an Environmental Chapter or Side Agreement

In a clear acknowledgement of the linkages between environmental protection and trade, many FTAs now contain environmental provisions. There are two major approaches that have been adopted. The first approach is an approach NAFTA pioneered, whereby the FTA is subject to a side agreement on environmental cooperation. In NAFTA's case the side agreement was called the North American Agreement on Environmental Cooperation (NAAEC). This approach has since been replicated in the Canada-Chile and Canada-Costa-Rica FTAs to differing degrees. Important aspects of these side agreements include:

- A range of environmental commitments, including, *inter alia*, a commitment by the Parties to ensure that their laws and regulations provide for high levels of environmental protection (e.g. NAAEC Article 3), to enforce environmental laws (e.g. NAAEC Article 5), to provide access to remedies for private individuals (e.g. NAAEC Article 6), certain procedural guarantees (e.g. NAAEC Article 7);
- The establishment of an institutional framework (such as a Commission and or Council) to promote environmental protection and facilitate cooperation between the Parties with respect to environmental matters (e.g. NAAEC Part 3);
- The establishment of a citizen's submission process with regard to allegations that the Parties are failing to effectively enforce their environmental laws (e.g. NAAEC Article 14);
- A dispute settlement procedure which can result in a Party being subjected to a "monetary enforcement assessment" (max US\$20 million) for failing to effectively enforce its environmental laws (e.g. NAAEC Article 34).

The second approach is, in some respects, a retreat from the NAFTA model. It involves the integration of an environmental chapter within the text of the FTA itself. Examples include post NAFTA US FTAs with: Singapore, Chile, Australia, Bahrain, CAFTA and Morocco. This in-itself is not a negative development. If anything, bringing the environment provisions into the FTA text itself will give them greater prominence. Where the difference lies is in the strength of the approach. For example these FTAs: do not have a citizen submission process and do not establish a comprehensive institutional framework, instead relying on points of contact or a sub-committee on environmental affairs. These departures from the NAFTA model have the potential to weaken the environmental provisions of an FTA. The integration of strong environmental commitments into the FTA is critical if the FTA is to be used as a vehicle through which to promote the sustainable development of natural resources – both in Canada and the jurisdiction of the trading partner. What's more, the importance of such provisions increases should the potential trading partner not have an effective regulatory framework/capacity to ensure the sustainable management and use of its own natural resources.

In order to make certain that an environmental chapter or side-agreement to an FTA will be effective in promoting the sustainable development of natural resources, we might wish to consider ensuring that the FTA includes the following:

- Environmental commitments by the Parties to ensure that their laws and regulations provide for high levels of environmental protection (e.g. NAAEC Article 3), to enforce environmental laws (e.g. NAAEC Article 5), to provide access to remedies for private individuals (e.g. NAAEC Article 6), certain procedural guarantees (e.g. NAAEC Article 7);
- The establishment of a strong institutional framework (such as a Commission and or Council) to promote environmental protection and facilitate cooperation between the Parties with respect to environmental matters. (e.g. NAAEC Part 3);
- The establishment of a citizen's submission process with regard to allegations that the Parties are failing to effectively enforce their environmental laws (e.g. NAAEC Article 14);
- A dispute settlement procedure which can result in a Party being subjected to a "monetary enforcement assessment" for failing to effectively enforce its environmental laws (e.g. NAAEC Article 34).

With respect to the environmental cooperation, the insertion of specific language into the FTA would be efficacious: encouraging cooperation aimed at ensuring the efficient use of natural resources, with a view to ensuring sustainable development (see Chapter 44 of the Euro-Med Agreement with Egypt, which incorporates similar language). Through the framework of the FTA, different parts of the government could also assist in identifying, or even help facilitate cooperative activities in the area of natural resources.

Conducting ex-post sustainable development reviews of trade policy

Canada, the European Union, and the United States have all developed methods of assessing the impact of trade agreements on the environment and, in the case of the EU, social and economic development. These assessment processes fall into the category of ex ante processes. In other words, they are primarily conducted prior to the trade agreement coming into effect. While playing an important role in identifying important sustainable development impacts arising from FTAs, such processes are not ongoing and, therefore, cannot identify or mitigate environmental, social and economic impacts that come to light only after the trade agreement has come into effect. Some FTAs have mechanisms that can partly address this gap. For instance, the Commission for Environmental Cooperation has a mandate under Part 3 Article 10(6)(d) of the NAAEC to consider on an ongoing basis the environmental effects of the NAFTA. It would be fair to say, however, that very few FTAs have built in mechanisms of this nature. The lack of precedent in this area should in no way be viewed as supporting a claim that an ex-post sustainable development review of an FTA lacks merit. By way of comparison, a practice is emerging within Canada to conduct a comprehensive review and assessment of the provisions and operation of Federal legislation five years after it having come into force. See for example, section 89(1) of the Canada

Revenue Agency Act (1999), which mandates a five year review of this nature. Accordingly, integrating a sustainable development review mechanism within the provisions of an FTA (e.g. five years after commencement) would be consistent with current best practice in Canadian domestic legislation and would be an important means of identifying and mitigating sustainable development impacts that only come to light after the FTA comes into force. The phrasing might be construed as follows: Five years after the coming into force of this Agreement, a comprehensive review and assessment of the economic, environmental and social impacts arising from the operation of this Agreement must be undertaken by each of the Parties.

Procedural options for the concomitant advancement of sustainable development and trade liberalization

Trade agreements have the potential to promote sustainable development in both general and specific manners. In general terms, TAs can be utilized as an opportunity to promote sustainable development, and therefore enhance the sustainable use of natural resources, environmental protection, corporate social responsibility, human rights and the rights of workers. Specifically, if drafted with the sustainable development ethos in mind, TAs can include appropriate mechanisms (e.g. exclusion clauses) that will ensure that the Parties are not prevented from adopting or enforcing measures designed to promote sustainable development. For example, measures designed to protect human, animal or plant life or health, or for the conservation of living or non-living exhaustible natural resources. Moreover, the TA may inaugurate mechanisms that will help to eliminate government practices and policies that unduly threaten sustainable development, such as perverse subsidies (e.g. subsidies that harm the environment and the economy).

Cordonier Segger's team undertakes a sustainable development assessment framework that identifies the key risks and opportunities arising from a trade agreement in the context of sustainable development of natural resources and present a series of "options". Although a procedural tool such as this one is currently used by the EU, US and Canada, this particular tool differs in timing and scope from the existing alternatives. The assessment framework has the following analytical components: 1) Objectives; 2) A Mapping Process to Identify Sustainable Development Interests; 3) A Draft Text Assessment and Options Tool. The final stage of the assessment tool is to draft provisions that promote sustainable development informed by the risks and opportunities set in to relief by the previous steps. Each section will be covered in greater detail below:

Part 1 consists of a list of proposed negotiating objectives, focusing on sustainable development, that could be drawn upon to form recommendations and advice to Canada's negotiating team in the preliminary stages of trade negotiations. Important characteristics of the objectives include:

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- Holistic character: other important elements of sustainable development in addition to environmental protection are integrated such as human rights, labour standards, corporate social responsibility, and anti-corruption;
 - Promotion of the positive aspects of a TA in addition to minimizing the negative ramifications (these may emerge from public consultations with a diverse set of stakeholders);
 - Application at earliest stages in negotiations of a trade agreement. There is little that can be gained by treating objectives relating to sustainable development as a mere afterthought to be pursued once the draft text is already on the table.

Part 2 revolves around seeking the answers to upwards of 40 different questions through a mapping exercise. In this way, the framework considers a number of important “threshold sustainability issues” – specifically tailored to the interaction between the Parties – that should be addressed at the very outset of a governmental decision to enter into negotiations with a proposed trading partner. Areas of investigation include but are not limited to:

- Potential for the TA to foster special sustainable economic development opportunities for both Canada and the proposed trading partner.
- Potential environmental impacts (relating to natural resources) on both Canada and the proposed trading partner which could arise out of the TA.
- Could the TA weaken Canadian laws designed to protect natural resources?
- The preparedness of the trading partner to achieve sustainable development of natural resources in its own jurisdiction (e.g. strength of environmental laws, human rights position, labour standards and corruption).

Carrying out a mapping process that assesses the three pillars of sustainable development is an important element of Part 2.

Economic questions may include:

- What is the extent and type of natural resources located within the jurisdiction of the proposed trading partner?
- What are the major trade flows between Canada and the proposed trading partner for natural resource products and services?
- What are the major tariffs and other non-tariff barriers restricting market access within the proposed trading partner for producers/providers of Canadian natural resource products and services?
- What are the investment (FDI and CDIA) flows between Canada and the proposed trading partner for natural resource products and services?

Social questions may include:

- Has the proposed trading partner ratified the eight fundamental conventions of the international labour organization (ILO)?
- Have corporations (including *inter alia* Canadian companies) operating in the jurisdiction of the proposed trading partner been cited for significant breaches of internationally proclaimed labour standards?
- Has the proposed trading partner sought to protect human rights through its Constitution or, alternatively, via regulatory means such as a Bill of Rights or other specific human rights legislation?

Environmental questions may include:

- Has the proposed trading partner ratified important multilateral environmental agreements (MEAs) relevant to sustainable development of natural resources?
- Could the trade agreement result in the importation of goods and services from the proposed trading partner with the potential for negative environmental impacts on Canada's natural resources?
- What unique or special environmentally responsible technologies being developed/ utilized by the proposed trading partner might be of potential benefit to Canadian natural resource sectors?

The final part of the analytical framework is the TA (Draft Text) Assessment Tool. The tool is designed to address a problem that relates to most, if not all trade negotiations: Trade agreements are complex legal instruments yet policy advisors and decision-makers at all levels of government, who are often without formal legal training, are somehow expected to arrive at an informed view on the positive and negative ramifications of these agreements. The tool, therefore, creates a framework through which a policy/decision-maker (lawyer or non-lawyer) can analyze the draft text of a TA with a view to identifying the key risks and opportunities that might arise in the context of sustainable development.

The tool goes into a level of detail which identifies the key articles of a TA where the risks and opportunities are most likely to arise, citing examples from numerous existing TAs both in Canada and abroad. The tool then presents a series of "options" to address those risks and opportunities. Options might include examples of "best practice" articles selected from FTAs from around the world that would best address the opportunities and risks identified. Where no pre-existing article could be located, a draft article is proposed for consideration.

The draft text assessment tool covers key areas/chapters within a standard TA which might have implications for sustainable development:

- Preamble of the TA
- Objectives of the TA
- Consistency with Multilateral Environmental Agreements
- General Exceptions
- Investment
- Services
- Technical Barriers to Trade
- Sanitary and Phytosanitary Measures (SPS)
- Government Procurement
- Environmental Chapter/Side Agreement
- Labour Chapter/Side Agreement
- Dispute Settlement

The tool also addresses sustainability issues that could be addressed in a TA but have not yet made it on to the “radar screen” of most TAs, e.g.:

- Perverse Subsidies
- Corporate Social Responsibility
- Human Rights
- Corruption
- Ex-Post Sustainability Review (e.g. after five years of FTA being active)

The draft text assessment tool draws on responses from the preliminary assessment questions/mapping tool to assist in identifying and prioritizing appropriate options in trade policy to address sustainability issues. For example, if contemplating the inclusion of Corporate Social Responsibility (CSR) in a TA, the report advises: if an analysis using the TA mapping tool set out in Part 2 identifies socially or environmentally harmful corporate practices within the jurisdiction of the trading partner, then the promotion of CSR should be viewed as a priority. It then indicates the appropriate indicators to consider such as:

- Have corporations been implicated in human rights violations on account of their activities within the jurisdiction of the proposed trading partner?
- What is the level of corruption within the jurisdiction of the proposed trading partner? Does the level of corruption (or lack thereof) create an environment that inhibits or, alternatively, is conducive to maximizing the economic, environmental and social benefits of the free trade agreement for the sustainable development of natural resources?

Concluding thoughts

There is a significant need for “trade assessment tools” that are designed for policy and decision-makers with no formal legal training. Without such tools, how can they be expected to come to a truly informed position on the sustainability impacts and opportunities of legally complex trade agreements? To date, much of the focus of sustainability assessment of trade agreements is on identifying and minimizing negative impacts. There is a need for trade assessment tools that also identify and help realize the opportunities for trade to play a positive role in sustainable development. Consideration of sustainability impacts and opportunities needs to take place at the earliest opportunity in trade negotiations, even before draft text is on the table. Otherwise strategic opportunities are missed and sustainable development is treated as nothing more than an afterthought. The sustainable development agenda is not just about the environment. We continuously have to remind ourselves of this fact. Human rights, corruption, labour standards, poverty, health and corporate social responsibility all need to be given greater prominence in any trade negotiations.

(b) Tara Laan, Global Subsidies Initiative (GSI), International Institute for Sustainable Development

Tara Laan introduces the Global Subsidies Initiative (GSI). It is a program established by the International Institute for Sustainable Development (IISD) that aims to illuminate the nature of governmental subsidies provided to various sectors including biofuels, energy and irrigation. The GSI seeks to provide detailed information about subsidies so that policy-makers can make enlightened choices when selecting strategies in this issue-area. All public expenditures supporting industry cannot be grouped together and labeled inappropriate; support for research is a prime example of beneficial subsidization. However, perverse subsidies (extending beyond the support for new technologies) proliferate in agriculture, natural resources and the energy sector. Beyond the opportunity costs of allocating public funds elsewhere, perverse subsidies may distort trade and frequently fail to achieve their state objectives. Mechanisms in place to discipline subsidies are often inadequate; the notification system to the WTO omits myriad policies that are technically subsidies.

Subsidies can actually undermine the optimal management of natural resources and sustainable development in general through invoking distortions within the trading system. In this context, Laan has chosen to focus on the topic of biofuel (ethanol and bio-diesel fuel) subsidization. Biofuels are generally produced by from plant products including crops, grains and soy oil. GSI recently reported that OECD support for the production of biofuel was in excess of 11 billion USD annually in 2006 alone. These subsidies are provided on top of existing agricultural subsidies and distortions in the agriculture and energy sectors. Recent efforts to decouple production from subsidies within the agricultural sector have coincided with a new set of subsidies tied directly to production and consumption that are amongst the most trade distorting forms of support. A recent report noted that the €3.7 billion spent on biofuels within the EU (covering less than 2% of the its road and transport needs) has the potential to increase five-fold by 2020 in order to meet the Commission’s objectives for

expanding the biofuel market. The US provides US\$6 billion in annual subsidies currently; Congress is mulling over plans to increase this amount six-fold. Moreover, biofuels are covered by high tariffs that exacerbate the trade distorting effects of subsidization. The high tariffs prevent efficient producers in developing countries from competing within the biofuel market. As a consequence, any positive windfalls generated from expanding the use of biofuels are not meaningfully realized by developing countries. For example, Brazil – the world’s premier biofuel producer in terms of efficiency and quality (in terms of GHG emissions) – is locked out of the markets of the US, EU and Australian markets due to high tariffs. In summary, key policy objectives underpinning biofuel support in developed countries are undermined by their methods of subsidization.

The tariffs levied on biofuels have another insidious implication: they distort the world food market. The price of staples such as maize has doubled since 2005; the price of vegetables has climbed steeply as has the price of palm oil. Further, food production in many regions has been at an all time low due to droughts. The urban poor of developing states are likely to be the most vulnerable to these price escalations as this group spends a comparatively high proportion of their income on food. The sustainability implications of choosing between planting crops to generate biofuel as opposed to food for consumption are very grave.

To what degree could this negative scenario depicted be remedied by a mechanism that allows for the free trade of biofuels between OECD and developing countries? Could such a mechanism improve sustainable development? Undoubtedly, some biofuel producers such as Brazil would benefit. However, given the long history of subsidization it is debatable whether many biofuel industries would survive in the absence of subsidization and tariff barriers, or whether it would be economically or environmentally beneficial for further countries to establish domestic biofuel industries. Increased biofuel production can have negative environmental impacts (deforestation and increased use of water, pesticides and fertilizers). It is also important to consider whether subsidization of biofuel production is an efficient use of resources. Indeed, the fact that biofuel production has only been possible through subsidization is a testament to the fact that the process is an inefficient one.

Thus, the formulation of new trade instruments has to be made with careful analysis that extends beyond strictly economic considerations. Close examination of an “environmental good” may reveal lower than expected environmental benefits, inefficient use of resources and distorted markets. While tariff reduction would remove some market distortions, it would not necessarily create a level playing field in the face of heavy subsidies by some countries, and could actually undermine sustainable development by causing environmental damage and directing government funding towards an inefficient industry.

A “carte blanche” opening of trade liberalization might actually have manifold negative consequences and exclude some developing state producers from the market. In advance of altering the subsidy regime surrounding biofuels, a detailed analysis of internationally comparable data is required.

(c) Dr Moustapha Kamal Gueye, International Centre for Trade and Sustainable Development (ICTSD)

The main theme of the presentation is the interaction between agriculture, desertification and natural resource policy. The UNCCD COP-8 took place in September 2007. One of the results of the discussion was a 10 year strategy plan that set out a framework for the implementation of the Convention over the next decade. Areas of strategic intervention included a trade component that was developed at inter-sessional meetings with NGO participation. In the context of the UNCCD, the debate surrounds the use and recovery of arid and semi-arid lands which encompasses about 40% of the earth with 2 billion inhabitants. Arid lands are disproportionately located in developing states. Fundamentally, sustainable use and management of arid lands requires preserving the fragile ecosystems and the services they provide whilst ensuring that the livelihoods of local populations are not obstructed. Particular concern needs to be given to agricultural activities (i.e. cotton, millet, maize, livestock) as it is the dominant activity in these regions in developing states. In many states, a significant proportion of the GDP is earned through agricultural exports in arid lands. In addition, a high per centage of the labour force (often in the 50-90% range in Africa) is employed in these activities and food security is predicated on the products produced.

How does trade interact with agriculture in arid regions? If trade facilitates the expansion of revenues, funds are available to re-invest in the vulnerable land. The global mechanism of the UNCCD is designed to find methods to generate greater investment into dry lands in a manner that supports sustainable development. One of the main obstructions to achieving sustainable development is the high concentration of agricultural activity in a few commodities (i.e. cotton in West Africa). Additionally, many of these commodities tend to be subject to trade distortions that magnify vacillations in export earnings and have tremendous social and economic consequences. The UNCCD explicitly acknowledges the role of trade (especially in the realm of market access) in pursuing the objectives of the treaty and gives special consideration to states with a high proportion of dry land. However, the provisions are construed in a general way and require detailed operationalization.

Trade distorting subsidies are rife in agriculture; total funds allocated towards support is thought to be equal to seven times the amount spent on ODA and more than the aggregate GDP of sub-Saharan Africa. The commodities where subsidies are concentrated are frequently produced in dry regions. The stated objectives of the Doha Round regarding domestic support and export subsidies are to phase out both policies, but the specific terms remain highly contentious. Undoubtedly, achieving reforms in these areas would have a tremendous impact on the states heavily dependent on arid agriculture. Trade instruments placed in the “amber box” (trade distorting production subsidies) are ostensibly going

to be cut; using the subsidies located in the “green box” for sustainable development purposes would be very beneficial moving forward (green box payments are made by both developing and developed states). There is a trend of decline in the former category and recent increases in the funds derived from the latter. However, the increasingly common practice of shifting boxes has ambiguous implications and requires investigation. Another important area of negotiations involves environmental goods and services (para. 31(3)), but agricultural products have not been featured thus far. However, the Doha mandate does not expressly exclude agriculture from the issue-area. The rewarding of farmers that produce goods organically (“environmentally preferable products”) with better market access is an example of how trade can facilitate sustainable land use practices. The temporary special products mechanism (self-designation by WTO Members is required) could be harnessed to shield some products originating from dry lands (especially from small producers) that may be negatively impacted by fast-track liberalization. Other areas to consider include the special safeguard mechanism; duty free access for LDCs; tropical products liberalization; impeding tariff escalation and addressing questions of supply-side capacity. Agricultural products generated for niche markets (i.e. medicinal plants) are often levied with non-tariff barriers (i.e. SPS).

In summary, an overhaul of trade distorting subsidies; reform of the green box to focus on poverty mitigation; securing the offensive and defensive interests of developing states in terms of environmental goods and services; securing livelihoods through the special products and safeguards mechanisms are all viable options moving forward. However, better coherence and convergence between trade and environmental policy (especially within the remit of the UNCCD) is a necessary foundation for long-term change.

(d) Dr Carolyn Deere, Global Economic Governance Programme, University of Oxford

Dr Deere presented a range of mechanisms relevant to promoting trade and sustainable development in the fisheries sector, including both formal trade-related instruments and also market based mechanisms relevant to trade. She observed that while the reduction of subsidies is the most immediate priority in the WTO context a consideration of the range of additional trade-related mechanisms relevant to fisheries is important. The world’s fisheries are in a tremendously precarious position; latest scientific evidence gathered by the FAO indicates that 80% of the world’s commercial fisheries are in trouble. Merely 20% of the world’s fishes are classified as being “moderately exploited”; only 3% are under exploited. Moreover, 90% of the world’s big fish (tuna, marlin and swordfish) have been depleted and 29% of the world’s fish species have collapsed. If the rate of exploitation does not change, the population of the entire world’s currently fished wild seafood will be exhausted in 50 years.

Many factors contribute to stock depletion. The fact that fisheries are an open access resource contributes to regulatory and enforcement complications. Over-fishing is the consequence of *inter alia*, over-capacity stemming from subsidies, new technologies and fishing that is unreported, unregulated and illegal fishing. Besides the natural resource

and biodiversity implications of depleting fisheries, indirect environmental consequences abound from unsustainable practices. Examples of collateral damage include ecosystem degradation through by catch and habitat destruction (trawling, dynamite and cyanide fishing is particularly problematic). Problems of pollution in coastal and marine environments are also relevant because they support habitat vital for spawning and other ecosystem functions which contribute to healthy fisheries.

There is a range of public policy objectives in the environmental, economic and social domain that impact the fisheries sector. Collapsing fisheries can negatively impact employment, livelihoods and food security in the poorest communities and reduce government revenue to provide public services. From a trade point of view, fishing is a 60 billion dollar export industry, nearly half of which is generated by developing countries. The net export of fish is greater than all the other major crops from developing countries and 200 million are employed in the fisheries sector (the majority of which are landless fish workers and artisan fishermen).

The regime governing fisheries is extremely complex and includes environmental conventions (i.e. arrangements dealing with straddling stocks and endangered species); codes of conduct for fisheries management; compacts about illegal, unreported and unregulated fishing and discussions in sustainable development fora. At the regional level, there are 25 different applicable bodies that manage both bodies of water and particular fish stocks. There is also a set of economic fishing agreements (for instance, compacts between the EU and West Africa; Japan and various countries in the Pacific, as well as private fishing arrangements) and regional and bilateral trade agreements with provisions relevant to fisheries. Loans from global and regional development banks also impact the viability of fishing in different locations. Within the WTO, fisheries issues arise in the context of agreements relevant to subsidies as well as tariffs (handled under the non-agricultural market access regime and treated as industrial goods); non-tariff barriers (TBTs and SPS); rules of origin and labelling.

Outside the trade regime there is an assortment of market and regulation based approaches to assist in the management of fish stocks and international trade in fisheries products. Eco-labelling initiatives (i.e., the Marine Stewardship Council) certify fish that were captured from sustainably managed fish stocks. Issues remain regarding the disparities in the respective abilities of developed and developing countries to attain certification. There are also efforts to create best practices guidelines for aquaculture and retailer-based initiatives (advocates include Whole Foods, Walmart, Unilever and Sainsburys). Environmental groups publish seafood guidelines with the objective of informing consumers about the ramifications of their purchasing habits. Tracking all the proliferation of schemes and getting a sense of the various criteria involved is a complicated process and can pose high barriers to entry, especially for developing country exporters. Importantly, fisheries management organisations at the regional level have undertaken a range of trade-related measures to improve fisheries management. These generally fall into three categories: certificate of origin schemes; import bans (used infrequently) and vessel lists. The regime surrounding

the fishing of blue fin tuna is one of the most extensive. Regarding bans, efforts at CITES to ban particular species of fish have not yet been successful, at least in part because of the commercial value attached to the fish stocks.

2. Questions and comments by the audience

In the discussion several interesting points were raised. The precise nature of subsidies was discussed first and the panellists answered that some of the points raised did not confine to the narrow definition of subsidies or support under the WTO agreements but included all forms of governmental protection or transfer of funds.

The question was raised as to whether assessments as proposed by Cordonier Segger are not far too costly to be viable. Cordonier Segger answered that certainly there are examples of very costly assessments but she also referenced examples of very efficient and least costly examples of assessment methodologies as proposed in the CISDL WTO Public Forum event in 2006.

Current WTO negotiations in the area of fishery subsidies were also discussed. Dr Deere emphasised the critical importance of progress on fisheries subsidies, noting that developing countries had most to gain from the long-term sustainability of fish stocks. The participants and panellist urged governments to take more action in this field.

3. Conclusions and way forward

Dr Gehring concluded that innovations in natural resources trade and sustainable development can be identified in three fields: Governmental action – and here the presentation by Ms Cordonier Segger provided ample examples; activities by intergovernmental organizations and international NGOs, and here the presentation by Dr Gueye and Laan were particularly important; and last but not least innovation also exists in the area of international business, and Dr Deere presented various examples with reference to sustainably managed fisheries. He then thanked the panellists and the audience.

D. Slow Trade – Sound Farming: A Multilateral Framework for Sustainable Markets in Agriculture, *Organized by Misereor and the Heinrich Boell Foundation*

Report written by the Heinrich Boell Foundation and MISEREOR

Abstract

Agriculture is at the centre of the Doha Round negotiations, at the centre of the conflicts between the negotiating parties and at the centre of the growing public critique and resistance against deregulated trade and globalization.

Against the background of the pitfalls of current agricultural trade rules, it was the aim of the session to discuss new perspectives and concrete proposals for new agricultural trade rules that take into account the multifunctional character of agriculture and regulate international agricultural trade in a way that contributes to a globally socially and environmentally sustainable model of agriculture, meeting the main challenges of our time: feeding a growing population, climate change, volatile commodity prices, ongoing concentration processes in agricultural and food markets, the end of the era of cheap oil etc.

The presentation of the “EcoFair Trade Dialogue” and its report “Slow Trade – Sound Farming” served as the basis for the discussion. The report “Slow Trade – Sound Farming” is the outcome of an extensive consultation process around the world. The report and the continuing “EcoFair Trade Dialogue” process aim to foster an alternative to the current free trade paradigm which largely ignores the close linkages between trade, agriculture, equity and environmental aspects.

Overall, the audience welcomed the report and its proposals. The discussion was constructive and many shared the position that in view of the repeated collapses of the negotiations at the WTO and the surrounding political setting, it is now a good time in history to discuss and promote alternatives.

1. Presentations by the panellists

(a) Alicia Kolmans, MISEREOR

Alicia Kolmans gave a brief overview of the EcoFair Trade Dialogue project and the process that led to the Slow Trade – Sound Farming report:

The EcoFair Trade Dialogue was launched by the Heinrich Böll Foundation (linked to the German Green Party) and MISEREOR (The German Catholic Development Agency) – both based in Germany but with offices and partner organizations around the world – together with the Wuppertal Institute in the wake of the WTO Ministerial Meeting in Cancun in

September 2003, when agriculture figured as an important bargaining chip for concessions in industry and services and became ever more clear that the Doha Round was not delivering adequate proposals for development.

The report “Slow Trade Sound Farming” is the product of consultations and workshops that were undertaken with an enormous number of civil society organizations across all of the continents. The 12 authors themselves come from the Americas, Australia, Africa and Asia, from small countries and large trading powers, from South and North; they work as trade analysts for non-governmental organizations, as promoters of sustainable agriculture at the grass-roots level, as researchers in universities, or as policy advisors for parliaments and governments. The report contains a multilateral reform proposal for socially and ecologically sustainable agricultural trading rules. It aims at fostering an alternative to the current free trade paradigm in the agricultural sector.

Challenges like climate change, declining and highly volatile commodity prices, the ongoing concentration processes in agricultural markets and continued marginalization of weak economic players, among others, require new and innovative political efforts in order to protect goods and sectors of public interest. Addressing these challenges, the report *Slow Trade – Sound Farming* puts forward innovative and far reaching changes in the agricultural trading system and proposes concrete instruments and institutions for a new agricultural trade regime that supports sustainable development.

The EcoFair Trade Dialogue is a continuing process. Following up on the report *Slow Trade – Sound Farming* with a number of events and in-depth publications, the dialogue is being taken forward, making a contribution to influence relevant political processes and to foster change.

For more information, visit the website: <http://www.ecofair-trade.org>.

(b) Dr Wolfgang Sachs, Wuppertal Institute on Climate, Environment, Energy

Dr Wolfgang Sachs presented the main contents and proposals of the *Slow Trade – Sound Farming* report:

The reform of agricultural trade rules is at the centre of negotiations at the World Trade Organization (WTO) regarding a multilateral framework for the global economy. However, the reforms envisaged do not bode well for the future of agriculture across the globe. They will deepen the desperation of small farmers and undermine local and global ecosystems. Moreover, they will make agriculture unfit for productivity leaps in the upcoming post-fossil age. With their gaze fixed upon the reduction of tariffs and subsidies, protagonists from both the North and major Southern countries largely ignore the challenges posed to agriculture and rural communities by poverty, environmental decline, and dwindling oil resources. While farmers everywhere will have to respond creatively to these challenges, trade and structural adjustment policies drive change into the wrong direction.

For this reason, the Ecofair Trade Dialogue Project proposes in the report “Slow Trade Sound Farming” political perspectives and policy instruments for a trading system that offers genuine opportunities for the poor, preserves the environment, and helps agriculture to shift to a solar resource base.

In allusion to the international movement “Slow Food” that champions the cause of good, clean, and fair food, the report is called “Slow Trade – Sound Farming”. The title graphically conveys the report’s view that trade in favour of people and the planet will de-escalate trade competition that favours power and profit.

In its first part, the report sets out seven principles for the design of an agricultural trade architecture. The principles are based on the conviction that public interest values are to be placed before private interests, and that markets are to be framed by politics. The principle of *Multi-functionality* emphasizes the fact that farming is embedded in social and natural webs; the principle of *Human Rights* underlines that trade reform must improve the plight of the least advantaged citizens on the globe; the principle of *Environmental Integrity* reflects agriculture’s mission to regenerate soils, water and biodiversity while producing food, fuel and fibre; the principle of *Democratic Sovereignty* defends the rights of citizens to express their collective preferences on how to shape trade and investment policies that impact their day-to-day lives; the principle of *Extraterritorial Responsibility* expresses the global responsibility – in particular of powerful countries – not to inflict harm on citizens beyond their borders; the principle of *Economic Subsidiarity* implies that economic exchanges in the food system should preferably be carried out at the local and national level, while exchanges on the continental or global level should have only a complementary function; and finally, the principle of *Trade Justice* suggests that reversing present asymmetries calls for an inequality of opportunity in favour of the weak rather than an equality of opportunity which favours the strong.

The second part of the “Slow Trade – Sound Farming” report surveys the most pertinent problems that are connected with the deregulation of agricultural trade. *A business lens on agriculture* points out that trade talks are governed by the narrow vision of agriculture as a money machine generating growth and foreign currency. However, agriculture’s role goes far beyond the accounting sheet; it is the mainstay of rural life, just as it is part and parcel of the biosphere. When these contexts are systematically neglected, trade policy generates mistaken decisions. More specifically, the chapter *In disregard of livelihoods* highlights the fatal consequences of this neglect for small farmers and rural societies in many countries. People have been pulled and pushed off their land and into urban agglomerates; globalization and trade liberalization are in part accountable for the current demise of the peasantry. The authors of the report, however, reject the hidden assumption of free trade diplomats that small farmers are on their way out – a price of progress. Instead, small-scale family farms hold the key for more productivity, environmental sustainability, and more employment. The chapter *Forgetful of nature* demonstrates how the business vision of agriculture has generated potentially ruinous consequences for both nature and farming. An increase in cross border trade in agricultural goods will most likely

lead to a further spread of large-scale industrial agriculture, hungry for water and land. In addition, this puts the future of farming itself at risk, as the environmental base crumbles, and one of the main ingredients of industrial agriculture – cheap oil – disappears. Putting the spotlight on trade negotiations, *Leeway for corporations* argues that the free trade philosophy is grounded in the assumption that the only barriers to open trade come from state actions. However, corporate concentration and unchecked market power is at least as much of a problem. Where corporations are dominant, producers are hampered in selling their products not because of tariff barriers or public subsidies, but because corporations control prices and standards. As a result, deregulation of markets coincides with corporate interests. While liberalization dismantled national border protections, it ended up strengthening transnational cartels. And finally, the chapter *Enduring asymmetries* addresses the huge inequalities in the present trade system. The “one-size-fits-all” prescription of eliminating trade barriers puts less competitive countries at a disadvantage since it forces weak and strong players to compete in the same league. Moreover, what has euphemistically been called a level-playing field in trade competition is actually a set of rigged rules that tilt the field to the advantage of powerful cartels and countries. In such a setting, it has proven to be a fallacy for too many countries to direct their agricultural production towards exports and the global market. Yet de-rigging the rules is not sufficient since free trade plays into the hands of the strong. Instead, trade rules will only become fair if they favour the weak over the strong.

In the last part the report “Slow Trade – Sound Farming” sketches out solutions.

These include options for redesigning agricultural trade rules along with a number of instruments for steering transnational flows in farm goods. The proposals rest on the view that the concerns for human dignity and the integrity of the biosphere must be incorporated into the architecture of trade rules. It is an expression of structural irresponsibility when the WTO restricts its competence only to trade issues, calling on national governments to take charge for social and ecological concerns while at the same time diminishing their authority through the politics of deregulation.

- First, countries need a *larger national policy space*. After decades of disempowering national politics, power has to be returned to national governments and communities to shape trade flows according to their collective preferences. Above all, they must regain the authority to govern the import of goods, services, and investments. As agriculture remains the main source of livelihood for the majority of people in developing countries, import liberalization has to take a back seat when domestic livelihoods and food security are at stake. This is why countries require a free space with respect to international trade rules in order to protect domestic markets from import surges through border control policies, including tariffs, quotas, and price- and volume-triggered safeguard measures. Furthermore, countries need to retain some authority, for instance, to influence flows of foreign investment, to direct the activities of transnational corporations, to link domestic production to strict food safety or environmental standards, or to design support schemes for maintaining a healthy rural economy.

It is neither effective in terms of the common good nor legitimate in terms of democratic sovereignty if trade concerns drive politics and society. “Obstacles to trade” are welcome as long as they are provisions for the public benefit.

- Second, agriculture – in providing both private wealth and common wealth – is unlikely to prosper unless there is sufficient investment in multi-functionality. However, ensuring environmental as well as social multi-functionality calls for granting support to agriculture. It is therefore misleading to advocate the removal of all domestic support schemes. The adequate level and structure of investment and regulation for agriculture is the issue, not the elimination of the state’s role. Support can be institutional or financial. Institutional support may include tax policies, promotion of knowledge, infrastructure, and provision of research – all tools that are of core importance in the transition to sustainability. Financial support, in contrast, may include payments to farmers, albeit under tight conditions. Under the principle of extra-territorial responsibility, support schemes should not unduly harm the opportunities of others in foreign markets. Export subsidies are in any case illegitimate. If agricultural dumping is not to be strictly prohibited, a multilateral institution should establish a “Dumping Alert Mechanism” that warns governments when dumping threatens to undercut the economic base of farmers in importing countries.
- Third, farmers everywhere, whether poor or prosperous, in the South or in the North, suffer from low and volatile prices for their produce. Stabilizing prices at sufficient levels is arguably the single most important measure to enable small farmers to support themselves and to save them from gradual extinction. Due to the uniqueness of agriculture as a business, however, supply responses to changes in price are usually slow and imperfect. Supply management offers a powerful tool to help support reasonable prices for both producers and consumers. Supply management has been practiced in many countries; it attempts to balance production with market demand. Key to its proper functioning is a flexible adjustment mechanism that determines the amount of quota and the price per product with a view to matching production capacities to market needs. If a legal framework supports such a scheme, if all stakeholders are guaranteed a fair say, and if monitoring and enforcement mechanisms ensure compliance, supply management can offer a viable solution to the price crises in agriculture. For the international level, a “Multilateral Cooperative Framework for Balancing the World Market Supply” is proposed as a platform for collaborative supply management on part of the major agricultural export countries.
- Fourth, Setting standards, namely sustainability process and production standards, will be an essential part for any public policy that seeks to align the pursuit of private gain with the protection of the biosphere and of fundamental social rights. For too long, the dismantling of protectionist measures has had the

effect of actually protecting the ruthless. As long as production costs are not required to incorporate the cost of safeguarding common goods, free trade will continue to accelerate both the marginalization of the poor and the decline of the biosphere. Trading internationally has to be understood as a privilege to be offset by internalizing social and environmental costs. As a first step, countries are advised to promote the development of independent sustainability standards and certification systems for farmers and processors in the national economy; standards for organic agriculture serve as one example. As a second step, they must mainstream such standards as mandatory requirements for all domestic producers. Having done this, they may set up corresponding sustainability standards for qualified market access to grant preference for sustainable commodities over those that are produced in an environmentally and socially harmful manner. Such qualified market access schemes should conform to “Meta-standards” at the multilateral level that define common criteria for the process of participatory standard-setting. At the same time, a “Centre for Dispute Mediation in Conflicts Over Standards” would mediate disputes on different sustainability standards between countries. Finally, revenues from tariffs on harmful products in richer countries are channelled into an international “Sustainable Rural Development Fund”, which would support the transition to sustainable production practices and exports in developing countries.

- Fifth, Democratizing the food chain is the reform perspective that responds to the fact that it is often corporations and not governments that structure markets to the disadvantage of small producers and local businesses. The idea is to shift more power to producers and artisans while ensuring that any intervention in local markets by foreign corporations is made subject to competition control and domestic investment policies. Three multilateral instruments are proposed to shape the conduct of corporations: first, a publicly accessible data bank containing information on size and scope of large agribusinesses, as well as on mergers, acquisitions and joint ventures in the food system; second, an “Anti-trust Body” that scrutinizes mergers and acquisitions, and forestalls the abuse of market power; and third, a range of “Development Contract Boards” that supervise contracts concluded among various actors in transnational commodity chains for establishing a fair distribution of benefits. In addition, measures for re-regionalizing trade flows are recommended, including policies for local content management, requiring corporations to purchase from local suppliers, to involve local processors or to sell to locally based retailers.
- And finally, Redressing asymmetries outlines proposals on export and market access policies that aim at strengthening the position of small farmers when it comes to international trade flows. It is doubtful that completely free trade – premised on the assumption that Northern protectionism is abolished – could create anything close to a real level playing field because the asymmetries among nations and within countries are just too great. To begin with, the attention

lavished on export promotion tends to hide the fact that exports often fail to benefit the majority of producers, in particular small farmers, just as they often imply major environmental cost. In response, this report offers guidelines for a sustainable export policy. Such a policy will in particular place national food security before exports, and prioritize subsistence production or domestic markets over the production for foreign markets. Furthermore, to realize greater equity among nations, weaker players need a system of preferences, not just equal chances. Following the principle of trade justice, special and differential treatment should therefore become a structural characteristic that is embedded within the trade regime. Market access rules are proposed that use a combination of tariffs and quotas. Tariff rates differentiate products according to their quality, while quotas for products from weaker economies are provided for within each tariff rate should a country wish to import a product. Last but not least, it is not set in stone that cross-border trade is necessarily animated by the search for profit; it can also be conducted in the spirit of reciprocity and mutual solidarity. What if Southern countries opted out of trade competition, weaving together regional trade agreements that seek to implement solidarity exchanges?

- **By way of conclusion, the last part of the report highlights the broad contours of a post-WTO architecture of agricultural trade.** The authors hold the view that a multilateral framework for trade is indispensable. However the WTO in its present institutional make-up fails to meet the requirements for such a framework. As a consequence the WTO faces the challenge to reinvent itself – or to ultimately leave the institutionalization of agricultural trade rules to other settings in the context of the United Nations. Given the analysis and recommendations of this report, a new institution would include at least five branches: the coordination branch, the quality branch, the price management branch, the anti-trust branch, and the dispute settlement branch. They would perform the five functions of a trade organization that truly works for the public interest: to provide a setting for intergovernmental negotiations, to guarantee a floor of quality of trade flows based on multilateral metastandards, to control international market prices through a cooperative mechanism based on supply management, to supervise competition through anti-trust measures, and to offer a mechanism for settling disputes. Above all, while at present the overall objective is the removal of barriers to trade for the sake of creating a unified global market place, a future institution will place the coordination of differing interests among nations at the center of attention. Its essential objective will be to manage trade and not to deregulate trade.

(c) Aileen Kwa, Consultant, Member of the Expert Panel of the EcoFair Trade Dialogue

Aileen Kwa presented some results of a case study on Uganda: Agriculture and the Trade System. The study is being carried out in the framework of the EcoFair Trade Dialogue (in a dialogue with organizations and stakeholders in Uganda) and analyzes the importance and the feasibility of some of the proposals contained in the Slow Trade – Sound Farming Report, looking at the specific case of Uganda:

Even though Uganda has been enjoying an impressive gross domestic product (GDP) of over 5% annually, farmers remain in a precarious situation, with poverty rates falling, then rising and then falling again, only in a spate of the last seven years. Most farming families – over 80% of the population – have a subsistence existence. The impressive GDP rates do not seem to have touched their lives. Farmers face daunting problems, accessing domestic markets; accessing export markets, low farmgate prices and exploitation by middlemen; the difficulties in accessing credit; the lack of farm inputs, equipment and post-harvest facilities; the challenge of AIDS; land insecurity; inadequate access to health services and drugs; the changing weather patterns which affect farming; banana and coffee plant diseases which have reduced incomes; the threat of supermarkets which bring in South African, European and other produce; and also the worries about their young people – many of whom are on drugs.

Uganda's policy-making in agriculture and trade recounts the main features of the structural adjustment process the country has undergone since 1992. Farmers were most affected by the dismantling or privatization of the marketing boards. Overnight, without the support of these marketing boards, the cooperatives also collapsed. Marketing structures which the government had been central in supporting disappeared. Price supports and input subsidies were also abolished. The agricultural sector has not yet recovered, and since then, has remained underdeveloped. The second pillar of "structural adjustment" is implemented today through the government's Poverty Eradication Action Plan (PEAP) policy framework, and the Plan for the Modernisation of Agriculture (PMA). The PEAP and PMA prioritizes exports, particularly in the new lucrative sectors of fish, floriculture and horticulture. There is an explicit policy within PEAP not to support domestic industries since this, it is reasoned, creates inefficiencies, the costs of which are eventually borne by the poor. Uganda's investment policy is also problematic. Most worrying is its lack of regulation of supermarkets. There are no zoning policies, limits on the number that can be set up, nor any regulation requiring investors to purchase a certain proportion of their products from local producers. The domestic market is particularly valuable to small producers since many cannot access export markets due to stringent standards and other constraints. As such, the import of food becomes a critical issue that should be carefully monitored. One other problem in Uganda are the food import surges that have penetrated the local market as a result of liberalized tariffs and the dismantling of import controls by marketing boards. Surges have occurred in milk, cereals including wheat, rice, maize, vegetables, fruits, fruit juices, sugars, margarine, non-alcoholic beverages, oilseeds and even in cotton. The UN's Food and Agriculture Organization (FAO), documents a total of 93 import surges between

1982 and 2003. This is based on calculations of a surge as a 30% increase in volume over a previous three –year average. In the four years between 2000-2003, there were sixteen such cases. It is important to note that surges of less than 10% can already debilitate local economies. Imports of rice have been particularly significant, with volumes rising from 4,000 tons annually in the 1980s and early 1990s, to 37,000 tons by 2003. This is likely to have impacted on domestic rice production.

Further, the impact of the World Trade Organization (WTO) on Uganda’s trade is of interest. The WTO, embodying a set of multilateral liberalization agreements, has had a profound global impact as a norm setter. It has contributed to the dominant hegemony that tariffs should only be pushed downwards and import governance measures such as quantitative restrictions are undesirable; that strong intellectual property rules are the norm, even in agriculture (i.e. monopoly rights over natural resources are acceptable); and that foreign investors should not be constrained by regulation such as local content requirements. Lastly, the WTO has done the global community a signal disservice by legitimizing the dumping of agricultural produce from the US and EU into developing country markets. US and EU have managed to retain their agricultural subsidies, and export their artificially cheap food. This has decimated farmers’ livelihoods, local economies and agro-industries throughout the developing world.

What will be the impact of the Doha Round on Uganda? A number of studies have predicted losses for East African countries resulting from the loss of preferential access into certain developed country markets. (As tariffs are brought down globally, the current more favourable access Uganda and other African, Caribbean and Pacific countries have to the European market is eroded and taken over by more competitive exporters). The opportunities of liberalization simply will not be reaped by most African countries. In fact, losses in both the industrial and agricultural sectors are predicted. We can also expect revenue losses as a result of reduced tariffs. A problem is also the pressures that Ugandan ambassadors to the WTO have experienced when they remain in integrity with the agenda and interests of their country in WTO negotiations.

The Economic Partnership Agreement (EPA) negotiations between Uganda and the European Union, will have a profound influence on Uganda’s trade policy, one that is even more far reaching than the WTO. Whilst WTO agreements reduce tariffs, the EPA, as envisaged by the EU, is a free trade agreement that eliminates tariffs.

Uganda needs a new trade system that can work for small farmers at the national, regional and international levels. The system should be premised on two guiding principles – human rights and equity. Putting these objectives central forces governments to look at the micro and differentiated effects of their policies, not only the macro-economic statistics.

At the national level, increasing the purchasing power of the rural poor majority is important if the domestic economy is to grow. One of the best ways to do this is by encouraging people to produce for and buy products from their locality. This will also encourage diversification in production.

There should be adequate levels of import controls if small farmers are to be guaranteed access to their domestic or regional markets. Import governance can take the form of tariff hikes, quotas, bans, licensing requirements, non-tariff barriers, innovative procurement rules, as well as price bands.

Small farmers should also be empowered along the production chain. This is important today given the tendency towards market concentration. Some instruments to this end include national anti-trust policies; supply management – matching supply to demand so that farmers are given fair prices; the use of price supports; marketing boards and cooperatives.

If exports are to be a component of the national development strategy, there should be criteria for exports so that they contribute, rather than detract from sustainable, broad based development. Such criteria would include placing national food security objectives above exports; avoiding the concentration of export benefits in the hands of a few large operations; ensuring that the export sector does not utilize the country's natural resources at the expense of the food sector etc.

Lastly, it is also important for Uganda to have a strategy for diversifying and strengthening its industrial and services production base. This necessitates border controls and the deliberate creation of comparative advantages.

Regional integration should be based not on an open regional approach, but one that uses regionalism as a defensive instrument to protect local economies and industries from wider competition – at least until such time the region becomes more competitive. That is, tariffs within the region may move downwards (although caution is needed and sensitive sectors should be adequately protected), but tariffs for the outside world should go up.

2. Questions and comments by the audience and Conclusions

A number of questions and comments followed to the presentations. Overall, the audience supported the proposals contained in the Slow Trade – Sound Farming report. Critical points were put forward in a constructive manner. The discussion addressed the following issues and questions:

- Potential contradictions and frictions in preserving policy space at the national level while negotiating rules at the multilateral level. Don't rules at the multilateral level automatically reduce national policy space?

Wolfgang Sachs argued that it has not to be necessarily like that. Democratic national policy space can and should be supported by multilateralism. However, in the current system globalization (multilateralism) has consisted in debilitating the national level. Therefore it is ironic to ask national levels to harness globalization. You can't have it both ways: at the one hand

debilitate national governments and at the other hand ask this very same governments to harness globalization.

- The report only addresses the multilateral level. Isn't also the need to address the national level? Many governments are not interested in promoting sustainable food and agriculture production and trade patterns.

Aileen Kwa and Alicia Kolmans argued that the EcoFair Trade Dialogue proposals are not the “magic bullet”. Certainly, the national levels also need to be addressed, but with activities like the Uganda study and dialogue process, we are bringing things into attention also at national levels and supporting local civil society organization and lobby work towards their national government.

- How to make the proposals of the Slow Trade – Sound Farming report operational? And how to get political commitment?

The panellists admitted that the proposals are not boiled down to a very operational level, but they serve as an orientation and it will be the task of the second part of the EcoFair Trade Dialogue to promote operationalizing them by tackling and trying to influence concrete relevant political processes. Furthermore voices from the floor added that at the current point in time there seems to be the right moment for promoting alternatives. The continued collapses at the WTO create a window of opportunity and there are a number of governments who are willing to explore alternatives. To exert political pressure and find new coalitions is important – and it is happening.

Finally, the organizers, Heinrich Boell Foundation and MISEREOR underlined that the Slow Trade – Sound Farming report and the EcoFair Trade Dialogue is only one contribution which adds to thinking and activities taking place more broadly at different levels. It pretends to be complementary to these activities and a valuable instrument and space in support of these activities.

E. The Role of Trade in Supporting International Efforts to Mitigate Climate Change, Organized by the Trade and Environment Division, WTO

Report written by the Trade and Environment Division, WTO

Abstract

Trade is one of the enabling factors that come into play in the complex process of fighting against climate change. Within the multilateral trading system, the core functions of the WTO – development and administration of global trade rules and provision of a negotiating forum for further liberalization – have an important place in the trade and climate change debate. As well, among the range of options being contemplated by policymakers in the effort on climate change are some that have been debated from the perspective of the rules-based multilateral trading system.

The objective of the session was to provide an opportunity for information-sharing on the abovementioned processes and for dialogue on links between trade and climate change and the potential role of the WTO in supporting climate change mitigation and adaptation efforts. Presentations and discussions ranged over such aspects as: the scientific evidence of climate change and need for action at all levels to address the global problem; current multilateral efforts to reach agreement on a roadmap for a new climate change arrangement beyond 2012, when the first commitment period of the Kyoto Protocol ends; the interface between climate change mitigation and the multilateral trading system; different policy instruments available to address climate change and their potential significance in terms of WTO disciplines; economic arguments of trade and climate change; and functions and current work of the WTO bearing upon climate change efforts.

The session was moderated by Mrs. Vesile Kulacoglu, Director of the Trade and Environment Division, WTO. Main speakers were Dr Rajendra Pachauri, Chairman of the Intergovernmental Panel on Climate Change (IPCC); Mr Feng Gao, Director of the Legal Affairs Programme, UN Framework Convention on Climate Change Secretariat; and Professor Joost Pauwelyn, Professor of International Law, Graduate Institute of International Studies, Geneva. Two WTO officials, Mr Robert Teh, Economic Research and Statistics Division, and Ms. Ludivine Tamiotti, Trade and Environment Division, served as discussants.

1. Presentations by the panellists

- (a) Dr Rajendra Pachauri, Chairman of the Intergovernmental Panel on Climate Change (IPCC)

Participating by way of video-message, Dr Pachauri presented some major findings from the Fourth Assessment Report of the IPCC. He said human society had made a major impact in terms of altering the composition of the atmosphere of the planet. In particular, the global atmospheric concentration of greenhouse gases had increased markedly as a result of human activities. This in turn had led to increases in global average temperatures and global average sea level and a reduction in the northern hemisphere snow cover. As indicators, during the 20th century, there was an average surface temperature increase of 0.74 degrees centigrade and the sea level had risen by around 17 centimetres.

Of particular concern was the reduction in glacier mass balance throughout the world. During the 20th century, glaciers and icecaps had experienced widespread mass losses which had contributed to sea level rise. The reduction in the size of glaciers also had implications for water supply in several parts of the world. As an example, in the case of South Asia it was expected that the lives and livelihoods of around 500 million people would likely be affected because a number of rivers flowing through the northern part of the sub-continent originated in the Himalayan glaciers.

There would also be alterations in precipitation patterns. For instance, in temperate regions in the northern hemisphere there would be an increase in rainfall, as had been occurring; in tropical, sub-tropical and Mediterranean regions, there would be a decline. Also, across almost all the globe there would be an increase in extreme precipitation events – which meant large quantities of rainfall taking place in short periods of time. This too had implications for water availability.

Dr Pachauri referred to IPCC projections of climate change during the 21st century. At the lower end of the scenarios assessed, there was a best estimate of a temperature increase of 1.8 degrees centigrade. At the upper end of the scenarios assessed, the best estimate of temperature increase was around 4.0 degrees centigrade. These projections also needed to be seen in the context of the temperature increase (0.74 degrees centigrade) that had already taken place in the 20th century.

Dr Pachauri said the IPCC had assessed a number of climate change mitigation measures and their costs and it was clear the costs would not be burdensome. For instance, IPCC data showed that the cost of stabilizing the concentration of greenhouse gases at between 445 to 490 parts per million of CO₂ equivalent by 2030 would not exceed 3 per cent of the GDP of the world as a whole. There would be differences across regions but in the aggregate the 3 per cent cost was not too heavy a price to pay; it amounted to a reduction in GDP of 0.12 per cent per annum and would postpone the level of prosperity that would otherwise be reached in the time period to 2030 by only a few months. Pursuing this part

of stabilization – which meant limiting temperature increase to 2 to 2.4 degrees centigrade – would require by 2050 a 50 to 85 per cent reduction in current emissions levels; a stiff target but not beyond the means of human society to achieve.

Dr Pachauri said a mix of policies was required to achieve this level of stabilization. First, it was essential to have a price placed on carbon. With carbon priced appropriately, this would lead to research and development expenditure that would result in the development of low carbon technologies and also allow for the dissemination of such technologies on a large scale. An important part of mitigation strategies would also involve changes in lifestyle and human behaviour – which should also lead to changes in consumption patterns. On the latter point, this did not necessarily mean reducing consumption from current levels, but essentially bringing about a shift towards those technologies, products and services that were lower in carbon intensity.

A further important policy area had to do with transfer of technology. Despite provisions in the UN Framework Convention on Climate Change, it had not yet been possible to put in place effective mechanisms or measures to facilitate the transfer from developed to developing countries of technologies that could help reduce emissions. Also, there was a need to explore means by which research and development could be carried out jointly between developed and developing countries. This would ensure the highest levels of science, technology and knowledge in the pursuit of solutions; it would also ensure technologies were relevant and suited to the needs of those countries where they would be used. Dr Pachauri submitted there was a need to look at a new regime by which flows of knowledge, technology and collaboration between different parts of the earth could take place for the benefit of the planet.

Dr Pachauri said the role of trade in supporting international efforts to mitigate climate change would be critical in the future. In one example, he referred to the need to consider carefully the impact of climate change on agriculture. Presently, there were parts of the world where agriculture was not able to survive because of competition from farmers in developed countries who receive significant subsidies. Given that the impacts of climate change would have very unfavourable results in several parts of the world, there was a need to take into account the whole issue of subsidies and how they impact the lives of those in the poorer regions of the world. More broadly, there was a need to look at the implications of climate change in terms of changes in economic activities across the world and how those changes might impact future global trade. There would be losses and gains; the challenge would be to ensure the poorest societies on earth were not the ones to suffer the losses.

(b) Mr Feng Gao, Director, Legal Affairs Programme, Framework Convention on Climate Change Secretariat

Mr Feng Gao said the IPCC findings indicated that the warming of the climate system was unequivocal, accelerating and attributable to human activities. At the centre of the

global response was the UN Framework Convention on Climate Change (UNFCCC); its long-term objective was the stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous human intervention with the climate system, while allowing economic development to take place. As well, the Kyoto Protocol constituted a first step under the Convention to set legally binding emission reduction targets for industrialized countries. In December 2007, the 13th session of the Conference of Parties (COP) to the Convention and 3rd session of the COP/MOP under the Protocol would be held in Bali, Indonesia. The central issue of the Conference would be to reach agreement on the roadmap for a new climate change agreement beyond 2012, when the first commitment period (2008-2012) of the Protocol would end.

Mr Feng Gao said the new climate regime would need to aim at a broadened effort to allow all aspects of a global solution to climate change to be addressed, including: a long term global response to climate change compatible with long-term investment planning needs of business; deep emission cuts by industrialized countries, which must continue to take the lead in line with their historic responsibility and economic capabilities; further engagement of developing countries, in particular those whose emissions will soon significantly contribute to atmospheric greenhouse gas emissions; incentives for developing countries to limit their emissions while safeguarding their goals of economic growth and poverty eradication; and flexibility through an enhanced carbon market.

Within this framework, the regime would also need to address a series of key issues. These include: the urgent need to advance adaptation to climate change, particularly in countries most vulnerable to its impacts, such as least-developed countries and small island developing states; achieving an improved, innovative approach to international technology cooperation between the North and South that would constitute a major push to make existing cleaner technologies economically viable and deployed rapidly, and to generate new technologies; policy directions for deforestation in many developing countries; and finding ways to allow proactive involvement of the private sector, and to support public-private partnerships in addressing climate change.

Mr Feng Gao said 2007 was a crucial year and there had been many encouraging political signals building momentum for action on climate change, including in such fora as the UN Security Council, UN General Assembly, G8 and APEC. Most recently, the UN Secretary-General's High-Level Event on Climate Change (September 2007) had concluded with a clear call from 80 heads of state and government for a breakthrough in Bali, namely, an agreement to launch a global negotiation on a new climate framework to be in place by 2009.

Mr Feng Gao noted that the role of trade in addressing climate change had long been debated at different levels, but no formal intention to include trade measures as part of the current or future climate change regime could now be registered or foreseen in the near future. Countries had been extremely prudent about using trade measures for climate goals. The reason was simple: energy use and externalization of greenhouse gas emissions were a worldwide phenomena and all the major exporters were at the same time big emitters of

greenhouse gases. Thus, trade measures for climate could turn against those same countries. Mr Feng Gao said that, unlike some other multilateral environmental agreements, neither the Framework Convention nor Kyoto Protocol contained trade provisions. He added that the APEC Declaration adopted in September cautioned that an equitable and effective post-2012 international climate change arrangement must promote open trade, investment and environmental policies so as to advance climate change and energy security goals.

Climate change had not been picked up as a trade issue and Feng Gao observed that it was unrealistic to fix climate change in the Doha Round negotiations. That said, by the nature of climate change and trade, global efforts addressing both challenges were bound to affect directly and deeply all economies of the world. It was essential, therefore, to discuss how the two challenges were linked and how solutions thereto could be supportive of each other. Mr Feng Gao offered some general thoughts in this regard, as follows.

First, he recalled that while neither the Framework Convention nor Kyoto Protocol were trade agreements, the Convention contained in Article 3.5 an important principle on international trade.³⁶ This principle, which illustrated the relationship between sustainable economic growth, effective response to climate change, and an open, fair and non-discriminatory international trade system, would guide the current and future climate regime. Under the principle, it was clear to Mr Feng Gao that measures taken to combat climate change should not derogate Parties' rights and obligations under the WTO agreements. At the same time, the principle also highlighted that climate change rules and WTO rules should not undercut each other; rather, they should be mutually supportive. Mr Feng Gao said the same principle of "mutual supportiveness" was enshrined in the Doha Ministerial Declaration and some other key WTO documents. He added that to some extent the negotiations under the Doha Agenda and Framework Convention were aiming at the same goal – namely, mainstreaming of the respective subjects into national development strategies and contributing to higher and healthier economic development and growth of global welfare.

Mr Feng Gao observed that climate change was already having significant impacts in certain regions, particularly in developing countries, and on most ecosystems. He further observed that developing countries had contributed less but would be most affected by climate change. Sustainable development could enhance capacities in both adaptation to, and mitigation of, climate change. In this regard, it was essential that the Doha Round reach agreement on those issues under its agenda – including opening markets for agricultural and manufactured goods, services, environment, anti-dumping regulations, and special and differential treatment for developing countries – in a way that contributes to sustainable economic growth and development in general, but particularly in developing countries.

³⁶ Article 3.5 of the Framework Convention reads: "The Parties should cooperate to promote a supportive and open international economic system that would lead to sustainable economic growth and development in all Parties, particularly developing country Parties, thus enabling them better to address the problems of climate change. Measures taken to combat climate change, including unilateral ones, should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade."

Second, and related to the last point, Mr Feng Gao expressed hope for substantial progress in the Doha negotiations on liberalization of environmental goods and services. He observed too that leaders from the G8+5 and APEC had recently highlighted the importance of this aspect.

Mr Feng Gao said there was an urgent need to develop, deploy and foster the use of sustainable, clean energy and climate-friendly technologies. There was also a need to develop supportive market conditions for accelerating commercialization of new technologies. As well, to ensure sustainable investment decisions worldwide, countries needed to collaborate to accelerate the widespread adoption of the new technologies in developing countries and to promote developing country participation in international technology partnerships. According to estimates from the International Energy Agency, total investment requirements for the energy-supply infrastructure worldwide over the period 2001-2030 would be US\$16-17 trillion, with around half that amount in developing countries. By another estimation, costs of abating greenhouse gas emissions ranged from less than US\$10 billion per year to about US\$200 billion per year, depending on variants of different factors. Thus, the investment involved was huge and the G8, for example, had already signalled its intention to scale up national, regional and international research and innovation technologies, undertake strategic planning, and develop technology roadmaps to strengthen the role of advanced technology in climate change.

Given the above processes and given also the fast growth of the emerging carbon market – which provides a vehicle to channel investments and technologies towards projects reducing greenhouse gas emissions in developing countries and countries with economies in transition – Mr Feng Gao anticipated a significant expansion of trade in environmental goods and services in the upcoming decades. He said the approach to defining environmental goods and services would thus need to be living or dynamic to take into account *inter alia* technological advances in this area.

In concluding, Mr Feng Gao noted that discussion and economic work was proceeding, looking at both negative and positive trade incentives to countries. Some had suggested trade measures be included in the next global climate change regime; others considered trade measures would likely remain outside the Framework Convention and be used only as political leverages (rather than as tools directly for climate protection purposes). Expressing a personal view, Mr Feng Gao reiterated that the objective in Bali would be to launch a global negotiation on a new climate regime beyond 2012; then, in the following two or three years, Parties to the Convention must try to reach agreement on further actions to address adaptation to and mitigation of climate change. He added that while trade was not included as an element of the existing package, a new climate change regime without trade clauses might still provide a clear framework for further exploration of the role of trade in climate change in the future, and hopefully also for facilitating solutions for climate change disputes, if any.

(c) Professor Joost Pauwelyn, Professor of International Law, Graduate Institute of International Studies, Geneva

Professor Pauwelyn began by summarizing different types of interface between trade and climate change measures. First, the interface could be harmonious. Succeeding to liberalize environmental goods and services and to cut subsidies for fossil fuels would be two instances of harmonious interaction – both helping to address climate change while promoting more trade. A further instance could be seen in the way the climate change system had used trade – through emissions trading – to more effectively and efficiently deal with the climate change challenge. Another instance had to do with the potential of political trade offs; for example, according to press reports, there was a trade off between the Russian Federation and European Communities such that when the Russian Federation agreed to ratify the Kyoto Protocol, the Communities agreed to the Federation’s accession to the WTO.

Second, the interface could be less than harmonious. For instance, more trade means more transportation which means more carbon emissions. Similarly, while trade increases economic growth, such growth engenders more carbon emissions. A second instance of less-than-harmonious interaction had to do with the possibility that certain climate change policies may contradict (and therefore be prohibited by) WTO rules: for example, the aspect of technology transfer, as strongly pushed in the climate change regime, could raise certain questions under the TRIPS Agreement; also, the Clean Development Mechanism, which is essentially an investment mechanism into developing countries, could raise questions under the TRIMS Agreement.

A third instance of how the interface may be less harmonious had to do with the practice of some countries or international regimes to use trade as either a carrot or stick. For example, the European Union had trade preferences for developing countries that signed the Kyoto Protocol and their procurement rules extended certain preferences to countries (or companies) dealing with climate change. These were examples of the carrot approach but the use of the stick approach could also be imagined – that, is, the use of trade sanctions to seek or enforce compliance with, for example, the Kyoto Protocol.

Professor Pauwelyn next considered certain policy instruments that governments could use to deal with climate change and explored them from the perspective of the WTO/legal questions they might engender. Broadly speaking, in dealing with climate change there were two types of approaches that could be taken: the first would be to reward or stimulate green energy; the second would be to punish or tax carbon emissions (“bad energy sources”). Both approaches potentially had WTO implications: for example, providing rewards through subsidies could raise legal questions under the Agreement on Subsidies and Countervailing Measures; punishing or taxing carbon emissions might lead to trade restrictions that could raise questions under the GATT, general prohibitions on discrimination and quantitative restrictions.

Professor Pauwelyn said one set of measures was straightforward and had not raised many problems; it concerned those measures taken by a country to deal with emissions within its own territory. Such measures focused on locally-emitted carbon and would impact on imported products only to the extent of bringing those imported products into the fold of domestic regulations on climate change, targeting the carbon they emitted within the country. These measures did not raise difficult trade questions.

The bigger question, however, would be – what if countries start to regulate emissions outside their own territory? In the first instance, Professor Pauwelyn explored why countries might be motivated towards such action. He said the political reality was that climate change was a collective action problem; however, if certain countries did not participate in international agreements, then the “free-rider” problem emerged. Thus, companies in those countries committed to reduce emissions would say “why do we have to cut our emissions while our competitors in other countries do not have to cut their emissions?” In this context, policy instruments/measures targeting carbon emitted outside the country might be considered as a means of addressing the free-rider/competitiveness issue.

Professor Pauwelyn suggested a number of caveats that countries might consider before deciding to engage trade restrictions to address climate change and deal with competitiveness concerns. First, in his view, the ideal situation to deal with climate change was through an international agreement. Second, the competitiveness concern raised by climate change policies should not be exaggerated; a lot of products do not engender many carbon emissions and the biggest concern was for a limited number of bulk products such as cement, glass, steel and aluminium that create considerable emissions when produced under certain processes. Third, there were ways, other than trade restrictions on imports, to make climate change legislation more palatable for domestic industries – for example by grandfathering current emission levels, through flexibility mechanisms such as emissions trading, and by putting in place a price on carbon.

Professor Pauwelyn recognized that notwithstanding the above caveats, certain countries were actively considering whether or not to impose trade restrictions on imports. In this context, it was very important to define the instrument to be used. This was because certain instruments could clearly be illegal while others might have a better chance of surviving WTO scrutiny. For example, according to most commentators, imposing anti-dumping measures on products that do not internalise carbon would be problematic. Similarly, imposing countervailing duties on products not incorporating carbon costs would also be problematic. Other possible measures such as imposing a carbon tax, cap and trade allowances and carbon labelling, also would raise serious legal issues.

In considering these legal issues, Professor Pauwelyn focused on three key questions. The first key question was whether there could be some kind of carbon tax at the border in terms of what was normally known as border tax adjustment. To explore this question, Professor Pauwelyn used the following example: if the United States exports cigarettes to Switzerland, it is quite normal for the Swiss government to impose its internal tax on those

cigarettes coming into its territory. Some people believe it possible to impose a similar tax for carbon on imports and domestic products; thus steel from the United States exported to Switzerland would be subject to a tax adjustment at the border. In the same way as the tax is imposed on cigarettes at the border, a tax could also be imposed on steel with high carbon content.

Would this be WTO consistent? Professor Pauwelyn said many people would say this was not a situation where the tax could be adjusted at the border because the carbon was not actually in the steel; it had been emitted in the United States (or China or some other steel exporting country). So the tax would in fact be a producer tax and not a product tax, whereas the legal rule is that only product taxes could be adjusted at the border. A further argument might be that an adjustment could be made at the border on the basis of the destination principle – that is, the steel is consumed in Switzerland, hence the tax could be imposed within or at the place of consumption. In this context, Professor Pauwelyn said the ultimate question was whether there was a sufficient nexus between the carbon emissions in the United States, on the one hand, and the eventual product that crosses the border, that is the steel coming into Switzerland.

Professor Pauwelyn said the second key question had to do with the issue of discrimination. In particular, even if border tax adjustment were permitted and assuming also a sufficient relationship between the measure and the product, would the importing country be discriminating between products, in violation of the national treatment rule? So, for example, a United States company exporting (high carbon) steel to Switzerland might face a high carbon tax or restriction, whereas (low carbon) Swiss or EC steel might be subject to a lower tax or no restriction: in such instance the United States might assert that the two steel products are the same and there is, therefore, differential treatment and a violation of the national treatment rule. Professor Pauwelyn said the crux of the problem was whether the two steel products were alike and whether there would be discrimination.

The third key question concerned environmental exceptions present within the WTO system. Professor Pauwelyn described the issue in the following way: even if border tax adjustment would not work, and even if there was violation of the national treatment rule, the WTO has certain exceptions for environmental measures and in particular GATT Article XX(g) dealing with conservation of exhaustible natural resources. The issue then would be – if a country imposes measures to mitigate climate change, would the measures relate to conservation of exhaustible natural resources? In this regard, one argument might be that the composition of the atmosphere and the extent to which it includes greenhouse gases is actually an exhaustible natural resource – that can be addressed through trade measures, hence Article XX(g) could be triggered. Then the question would be – can countries impose these measures extra-territorially with respect to carbon emitted in the United States or China or elsewhere? In this regard, Professor Pauwelyn argued that a case might be constructed based on *US – Shrimp*, where the Appellate Body accepted extra-territorial measures enacted by the United States.

Professor Pauwelyn said the biggest problem lay in the details of any proposed trade restrictions or trade measures; in particular, how to define and frame the trade restrictions to be applied. For example, following the precedent of *US – Shrimp*, a country would clearly not be able to impose trade restrictions unless it had first engaged in “serious, good faith efforts” to negotiate an international agreement (e.g., to reach a deal in Bali on how to deal with the climate change problem collectively, and to reach a post-2012 Kyoto deal). Only after such efforts had been made could a country move to unilateral measures.

A further problem had to do with the need for flexibility in any measure to be imposed. A country would not be able to impose on all countries its standard; there would need to be flexibility to enable the measure to be adapted to local conditions in the country of origin. In Professor Pauwelyn’s view, this would include lower, less strict conditions for developing countries and also some kind of sliding scale to take into account what the government in the exporting country was doing in terms of its own efforts on climate change. Professor Pauwelyn said a final but important challenge had to do with how the carbon tax was defined. The manner in which a country would impose a levy or allowance requirement would need to be done in a fair and non-discriminatory manner. For example, from the precedent of *US – Gasoline*, it would be important to give individual baselines – that is, to let individual exporters tell the importing country how much they emitted in their country of origin.

2. Questions and comments by the audience

(a) Mr Teh, Counsellor, Economic Research and Statistics Division, WTO Secretariat

Robert Teh expressed agreement with several points made by previous speakers. First, he concurred with the view that trade and climate change mitigation efforts were mutually supportive, although he also stressed that national environmental measures which placed a correct price on carbon were essential to maintaining or strengthening this mutual supportiveness. Second, he agreed that the WTO could contribute to mitigation efforts through a successful Doha Round, and as part of that outcome, through significant liberalization of environmental goods and services. Third, while there were numerous opportunities for win-win outcomes for trade and environment, he also recognized there were bound to be tensions between the two objectives of expanding trade and mitigating climate change. This was particularly likely if countries pursued different climate change policies. Nevertheless, in Mr Teh’s view, the efficient response would be to address the externality at its source and not to employ trade measures, which were ultimately second-best or third-best measures, to try and correct the externality.

Mr Teh highlighted the dramatic expansion of international trade in the past half century and saw this as one reason why trade was increasingly being included in climate change discussions. Between 1950 and 2005, international trade expanded 27-fold in volume terms. This expansion had occurred at twice the rate of global GDP growth; thus, the share of trade in global GDP increased from about 5% in 1950 to 19.4% in 2005.

This explosive growth had naturally raised concerns about whether trade was contributing to the increased volume of greenhouse gases in the atmosphere. Mr Teh said the relationship between increased trade and greenhouse gas emissions was not so straightforward. He pointed out that trade economists had decomposed the impact of trade on the environment, in this case greenhouse gas emissions, into three independent components. There was first of all a scale effect – which involves an increase in economic production because of trade. This increases the use of energy, and as a consequence, greenhouse gas emissions as well. The second effect was the composition effect – which refers to the change in the composition of production as countries specialize in products where they have comparative advantage. It is possible for the composition of production to change in a direction where there is less production of energy-intensive products and, hence, less emissions. But it is also possible for the composition of production to move in a direction of more energy-intensive products and, thus, more emissions. Mr Teh explained that it was difficult to predict the direction of the composition effect. Finally, there was the technique effect – in which the expansion in trade leads to technological improvements that lower the intensity of energy use. This could come about in two ways: first, trade increases the incomes of people who then demand a better environment; second, trade can lead to an increase in the availability of environmentally-friendly goods, services and technologies which also leads to a reduction in the energy intensiveness of production. Mr Teh said taking these three independent effects into account, it was difficult *a priori* to say whether an expansion in trade leads to more or to less greenhouse gas emissions. It depended on how strong the individual effects were.

Mr Teh pointed out that the mutual supportiveness of trade and climate change mitigation efforts involved strengthening the technique effect so that it outweighs the first two effects. The technique effect could be strengthened if countries adopted appropriate environment policies, i.e. applying a tax on carbon. To illustrate, Mr Teh presented a simulation of the widely-used Global Trade Analysis Project (GTAP) model. According to him, the simulations showed that there was a range of policies involving liberalization of trade and carbon taxes which produce win-win outcomes – expansion of trade and reduction in greenhouse gas emissions.

(b) Ms Ludivine Tamiotti, Legal Affairs Officer, Trade and Environment Division,
WTO Secretariat

Ms Tamiotti recalled that the issue of trade and climate change, *per se*, was not part of the WTO's ongoing work programme and there were no WTO rules that were specific to climate change. This being said, the trade and environment negotiations and the work of various WTO bodies were relevant to the debate on mitigation of, and adaptation to, climate change.

First, in multilateral trade and environment negotiations launched in the Doha Round, WTO Members were working on the liberalization of environmental goods and services. The aim was to reduce or eliminate import tariffs and non-tariff barriers on environmental goods.

The goods discussed so far covered a number of key climate change mitigation technologies that could contribute positively to the fight against climate change. Ms Tamiotti noted that the recent report of Working Group III of IPCC identified a number of key mitigation technologies that had been discussed in the negotiating group on trade and environment, for instance: hydropower turbines, tanks for the production of biogas, solar water heaters, and landfill liners for methane collection. A recent World Bank study on trade and climate change also noted that 40 of the products proposed so far could broadly be categorized as climate friendly.

As for negotiations on the liberalization of environmental services, Ms Tamiotti recalled that Members had explicitly sought commitments on some climate change related activities, for instance: cleaning services of exhaust gases, nature and landscape protection services and environmental consultancy services.

In the context of the trade and environment negotiations, WTO Members were also discussing ways to ensure a harmonious co-existence between WTO rules and the specific trade obligations in various multilateral environmental agreements. Members were also exploring avenues for enhancing information exchange and cooperation between the WTO and MEA secretariats. Concrete elements were being discussed to improve or complement existing practices and cooperation mechanisms.

Second, Ms Tamiotti noted that the activities of several regular WTO bodies could be relevant to the issue of climate change. The work programme of the Committee on Trade and Environment covered issues indirectly related to climate change, such as the environmental benefits of removing restrictions in the energy sector and forestry sector, and the effect of energy efficiency labelling on market access.

The Committee administering the Agreement on Technical Barriers to Trade provided an important forum to discuss technical regulations adopted by governments to mitigate and adapt to climate change. In recent years, this Committee had had before it a number of product standards and labelling requirements targeted to energy efficiency or emission control – for instance regulations on vehicle emissions, energy conservation standards, and methods of measuring the performance of air conditioners, refrigerators and freezers with regard to their energy consumption efficiency.

Finally, Ms Tamiotti recalled that a number of WTO rules could be relevant to measures aimed at mitigating climate change, *inter alia*, disciplines on tariffs, the general prohibition of quantitative restrictions, the non-discrimination principle, etc. She noted that the design of climate change programmes and the pursuit of international cooperation in this field would need to take into account the potential impact of these measures on trade.

Following the presentations, a useful discussion took place involving the speakers and session participants. In some instances, clarifications were sought on aspects of the respective presentations. In addition, a range of comments and questions were put forward

by participants covering such matters as: the position of the United States on the Kyoto Protocol; possibilities for expanding the WTO agenda in the areas of GATS and TRIMS (given that climate change issues have greatly to do with investment); the possibility that by promoting economic growth, trade was in fact accelerating the depletion and destruction of the environment; current global discussions on the gas and oil sector; whether there might be greenhouse audits of the Uruguay Round and current Doha Round; and the role of the WTO and Secretariat in promoting wider sustainable development goals. One participant commented that while it was true that as incomes rise people become more demanding regarding the environment, what was often overlooked was that they seem to displace environmental degradation into other countries (i.e., they import goods which cause environmental degradation – thus the degradation occurs elsewhere). Also, while energy efficiency may have risen due to technological progress, people were also now consuming more. Throughout the presentations and discussions, there was a keen awareness that climate change is a global problem requiring an urgent global response. It was also recognized that international leaders were now aware of the fundamental importance of cooperation and achieving an effective multilateral solution.

F. An Agreement on Agriculture that Promotes Global Development, Organized by the International Federation of Agricultural Producers (IFAP)

Report written by the International Federation of Agricultural Producers (IFAP)

Abstract

The session brought together leaders from national farmers' organisations throughout the world with ambassadors from the G-4 countries: Brazil, European Communities, India and the USA. The objective was to explore whether the development ambitions of the Doha Round are being achieved in the WTO negotiations on agriculture, and how these impact on farmers in different regions.

After some opening remarks by the President of IFAP, each of the four WTO ambassadors presented their views on "what needs to be done to ensure that the Doha trade negotiations promote global economic development that is inclusive of developing countries". During the questions and discussion that followed the presentations, farmer leaders from different regions, and others from among the 200 participants in the session, reacted to the interventions of the panel of negotiators. Closing remarks were delivered by the Deputy Director General of WTO, Harsha Singh.

This was a very substantive panel discussion in which participants agreed that agriculture is very important for development. It was also agreed that the Doha Development Agenda could play a significant role in promoting trade for development if the negotiators keep this as a primary focus. There were intensive discussions among negotiators during the session, showing that progress is being made. However, interventions from the floor of the meeting showed the high expectations of farmers, members of parliament and others from developing countries for the outcome of the Doha Round negotiations. This session highlighted the need for new trade opportunities created by the WTO negotiations to be translated into real income growth for developing countries and developing country farm families.

1. Presentations by the panellists

(a) Jack Wilkinson, President of IFAP

Opening the session, the IFAP President said that there are not only great changes taking place in global trade, but there is also a revolution taking place in the global food industry. Supermarkets dominate the food sector, even in developing countries, and they require farmers worldwide to meet European or North American traceability and food safety standards. Farmers therefore need to be organized, through grouping their products for sale and showing that they have good traceability systems, or they can be frozen out of even their own domestic markets. WTO must leave space for farmers to organize themselves,

President Wilkinson insisted. It is important not only to have a good trade deal for the farmers of the world, with particular emphasis on farmers in developing countries, but also to leave space for countries to meet national policy objectives, and build farmers' organisations and cooperatives. One size does not fit all. Governments need the flexibility to address particular problems that they have. How else will the benefits of trade turn into real income growth for farmers, particularly farmers in developing countries whose interest are supposed to be central to this WTO round.

(b) India – WTO Ambassador HE Ujal Singh Bhatia

Ambassador Bhatia stressed that agriculture means development for India. In most developing countries the bulk of the population depends upon agriculture for their existence. Farmers have small holdings, have low use of technology and have negligible government subsidies. In order to ensure a “development outcome” for the Doha negotiations, it was necessary to do at least three things, according to Ambassador Bhatia. These are;

1. Substantially reduce trade-distorting subsidies;
2. Make market access regimes more transparent, especially for administration of tariff quotas (TRQs) and reduce high and complicated tariff rates in developed countries; and
3. Do not constrain developing countries in making development policy interventions to protect the precarious livelihoods of their farmers against import surges.

The Ambassador gave a rapid review of progress to date in the negotiations, as follows:

- Export competition – good progress. Export subsidies will be eliminated by 2013. Details concerning other forms of export support are incomplete but are not problematic.
- Domestic support – there will be a large reduction in trade-distorting domestic subsidies. However, it is critical to have a mechanism to ensure that there is no circumvention – green box payments have not received adequate attention.
- Market access – the question of sensitive products is unresolved. There cannot be too much flexibility or it will negate the gains of tariff reductions. Tariff simplification and tariff caps are also important parts of the negotiations.
- Industrial products – proposed tariff caps for developing countries are around 20-30 per cent. In agriculture, tariff caps allowed for the developed countries are much higher, so there is an imbalance. It has been accepted that developing countries make only two-thirds of the reduction commitments of industrialized countries, but the operational modalities of this still need to be finalized. There is no clarity, he said, in the extent of flexibility for developing countries.

Ambassador Singh Bhatia concluded that the objective for his country was to have significant development outcomes from these negotiations. However, it is still not possible to quantify from the negotiations so far what these outcomes would be.

(c) Brazil – Deputy Permanent Representative in Geneva, Paulo Mesquita

Brazil wanted to make agriculture more like other sectors in order for it to play a greater role in development, said Paulo Mesquita in his remarks. In the Uruguay Round, agriculture was integrated into the multilateral trading system, but with very complicated rules that did not provide for much in terms of liberalization. Replying to the opening comments of the IFAP President on the need for “policy space”, he said that this exists already, but it can create distortions. For example, subsidy limits are based on past performance, so the richest countries have the most subsidy allowances. Counter-cyclical payments pay out most subsidies when prices are low and so encourage production to increase when prices are going down. Developed country subsidies can lead to over-intensive production systems of production and damage to the environment. There is therefore a fundamental need for the greening of subsidies. Developing countries need space in this Round to deal with their special circumstances since a large part of their population is in agriculture.

In terms of market access, Mesquita said that markets are growing strongly in the developing countries but high tariff barriers to trade are stopping such growth in developed countries. Markets regulated by tariff quotas (TRQs) are complicated and non-transparent, he concluded.

(d) European Communities – Director General for Agriculture and WTO Chief Negotiator for Agriculture, Jean-Luc Demarty

Jean-Luc Demarty stressed that the EU wanted a positive outcome from the Doha negotiations that took into account the particular interests of developing countries, since this is a development round. It was important to create new trading opportunities for developing countries, he said, while remembering that a lot of future growth will come from south-south trade. Duty-free quota-free access for all export from the least developed countries was an important part of the agenda.

Every country had to face the political reality that it could not take home an “unsaleable” package, said Demarty. In order to obtain a successful result in the Doha Round, the EU had made proposals for major reductions in agricultural support and protection, including:

1. An 80 per cent cut in trade-distorting subsidies if the US goes to 70 per cent. This is at the maximum of the range of the G-21 proposal and is the absolute limit for the EU. It will not go beyond 80 per cent. Also there must be no changes in the “green box” that call into question the CAP reform. The EU agrees to the African proposals on cotton;
2. Elimination of all forms of export support; and

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3. Increased market access on the basis of Crawford Falconer's latest paper, which is 3-4 times what the EU was prepared to accept in its October 2005 proposals. However, the EU needs to have a successful outcome on geographical indications (GIs) before it can agree to a deal.

(e) USA – Lead Negotiator for Agriculture, US Trade Representative's Office,
Joseph Glaubir

Throughout the agricultural negotiations, the USA has emphasized the market access pillar, said Glaubir. Improved market access does most for global economic gains. He recognised that trade liberalization can cause serious adjustment problems and affect livelihoods, especially in developing countries. In the USA, agriculture involves less than 1 per cent of the workforce; this contrasts dramatically with the situation in developing countries where 50-60 per cent of the population is in agriculture. This has given rise to the establishment of a "Special Products" category and a "Special Safeguard Mechanism (SSM)" for developing countries in the negotiations to address their livelihood concerns, food security concerns and development concerns. The important thing for the USA is to find a balance between the protection of livelihood concerns and the gains that might occur through tariff reductions. For example, studies show that poultry is a "special product" for many developing countries. But if every developing country treats poultry as a "special product", what would that mean for tariff reductions and trade. Also for the SSM, no one disputes the need for an SSM he said, but the question is how often could it be triggered, and how large are the additional duties– not above the Uruguay Round bound rates according to the USA?

Concerning the other pillars, Glaubir felt that a lot of progress had been made in the negotiations since July 2006. On export competition, there still has to be convergence on export credits, state trading enterprises and food aid. On domestic support much progress has been made too, with cuts being discussed in trade-distorting support of 60-70 per cent compared with 20 per cent in the previous Round.

The US negotiator concluded that there are now texts on the table, and the ranges and flexibilities in these texts will be where a negotiated solution will be found.

2. Questions and comments by the audience

Much of the discussion after the presentations concerned a new period of uncertainty and volatility facing agriculture, from climate change, structural changes in demand, and production of biofuels. Participants were looking for policy space in the WTO to be able to cope with this new situation. There were also concerns about EU Economic Partnership Agreements by ACP countries, and questions about cotton.

US Lead Agriculture Negotiator Joseph Glaubir responded that in the mid-1990s agricultural prices also rose to similar levels as today, but the difference is that now biofuels are a very real phenomenon that will sustain prices for farm commodities in the future. Strong prices

are demand-driven today rather than the result of supply shortages. Production of biofuels takes 25 per cent of the US maize crop at the present time, and this will continue.

The Chief EU Agriculture Negotiator Jean-Luc Demarty said that farmers are the principle victims of climate change even though they also contribute to it. The move towards decoupling farm support will help to mitigate climate change effects from agriculture. Since the 1990s, EU agriculture has reduced its production of greenhouse gases by about 10 per cent. Demarty said that there were several interventions from the floor concerning the effects of the EU Common Agricultural Policy (CAP) on developing countries. These interventions were based on the situation as it existed 15-20 years ago, said Demarty. The Policy has changed a lot. Today, 68 per cent of agricultural imports into the EU come from developing countries.

Paulo Mesquita, Brazilian representative in Geneva, said that discussions on climate change and “air miles” must take into account the carbon balance of both the production and transport of a product, and not only the transport part. This carbon balance for exports could be less than that of local production in certain importing countries. He encouraged African countries which would be greatly affected by climate change to develop their own agricultural sectors instead of importing so much from Europe. On cotton, he said that the US needed to go further in implementing the WTO panel decision; cotton has taken a huge symbolic place in the WTO negotiations.

Ambassador Bhatia from India agreed that agriculture has entered a new era of uncertainty. Climate change most affects those countries which are least prepared for it, which are the developing countries. Agriculture is a strategic sector, he said, with 700 million people in India depending on agriculture and most of them at the margins of subsistence. He said that it was critical that the power of governments in terms of policy space to intervene on their behalf would not be circumscribed. On cotton, India fully supports the cotton producing countries of Africa.

Other comments from the floor covered: reform of domestic farm policies, bilateral trade agreements, the increasing dominance of multinational companies in global trade, the level of ambition between the agricultural and industrial sector negotiations, the effect of environmental goals on developing country exports, the particular situation of ACP countries, survival of agriculture in net food-importing countries, double standards for imported products relative to locally-grown products that have to face the costs of meeting more severe phytosanitary standards and social and environmental rules.

Ambassador Bhatia from India insisted on less-than-full-reciprocity in the reduction of both industrial and agricultural tariffs for developing countries, as agreed. Also the mandate requires some sort of parity between market opening in agriculture and industry.

Paulo Mesquita from Brazil said that many exporters have to meet double standards too, with higher requirements to be met than for local products.

Jean-Luc Demarty from the EU said that by accepting the Falconer paper as a basis for negotiations, the EU is prepared to accept a tariff cut in line with the G-20 proposal. However, he stressed the legitimate right for all countries to take care of their farm sector and rural economies, but in a non-distortive way. Thus beef would be designated as a sensitive product in the EU and it would keep some reasonable tariff protection. The EU prefers multilateral negotiations rather than bilaterals.

Joseph Glaubir from the USA said that the 2002 Farm Bill expires at the end of this crop year, so the Congress has to pass a new Bill with or without a Doha agreement. However, policy-makers in both the House and Senate have indicated that they would change farm legislation to meet any requirements of a Doha agreement. The USA has signed many bilateral agreements over the last 15 years; today its NAFTA neighbours, Canada and Mexico, are taking an increasing share of both agricultural imports and exports with the USA.

3. Conclusions and way forward

(a) Closing remarks by the Deputy Director-General of the WTO, Harsha Singh

In his conclusions, Harsha Singh said that the discussions were very intensive, showing that countries are not losing interest in the Doha Round. Referring to the title of the session, “An Agreement on Agriculture that Promotes Global Development”, Singh said that everyone had agreed that agriculture is very important for development, and everyone had agreed that the Doha Development Agenda will play a special role in this regard. The ambitions of the speakers and interventions from the floor were very varied. If we see ambition in terms of progress from the previous situation, he said, then there is a lot. However, improving market access and capacity augmentation are critical for development.

Nearly all the concerns raised at the session are very much part of the substantive negotiations, said Singh. They include: special arrangements for the least-developed countries, special access for tropical products, consideration of preference erosion, livelihood security, food security, and rural development which are embodied in Special Products, and many more.

The Deputy Director-General saw in the panel discussion more dynamism than even three weeks back. This shows the onward momentum of the negotiations, he stressed, coverage of the mandate, ambition with a balance, and sensitivity to the demands of other constituencies. We are in the final stretch of the negotiations, he said, coming out with a better focus. Therefore, farmers should keep interest in the Round. Finally, Harsha Singh noted that, in the context of global warming, WTO is a legal treaty that deals with trade issues, but it needs to have coherence with other international treaties in order to promote global economic development in a coherent manner. Global issues need multilateral, not bilateral, solutions.

G. What Role Can the WTO Play in the Fight Against Climate Change?, Organized by DLA Piper UK LLP

Report written by DLA Piper UK LLP

Abstract

International governments are adopting a wide range of policies in order to tackle climate change including: the subsidization of green technologies; the introduction of differentiated taxation regimes; the development of carbon trading and eco-labelling schemes; and the drafting of procurement guidelines for both industries and governments. Many academics and lawyers are now beginning to question whether some of these policies are in breach of certain provisions contained within the WTO Agreements. This session will explore the validity of these concerns and discuss practical solutions for resolving these conflicts.

Objectives of the session:

- *This session will discuss the various types of policies that have been introduced to tackle climate change and question whether and to what extent existing WTO rules support or constrain these policies.*
- *It will consider whether the urgency of the climate change threat justifies the use of policies that may not comply with WTO rules.*
- *It will highlight where potential disputes may arise and outline how this conflict could be minimized.*
- *It will consider whether the WTO should take a more active role in tackling climate change in the long term.*

The first presentation covered the current WTO arrangements for trade and the environment; focused on the main trade and environment cases before the WTO Dispute Settlement Body; and discussed the progress of the current Trade and Environment Committee negotiations.

The second presentation discussed the EC approach to climate change, trade policy contribution and mutually supportive trade/environment action. The EU approach to climate change is to reduce emissions at a global level through international agreement to reduce emissions, global carbon markets and energy efficiency/renewable energy. As regards the contribution of trade policy, the author states that multilateralism provides the best approach to this global issue. There is consequently a role for the WTO which are liberalization of environmental goods and services and relations between WTO and MEAs. A global comprehensive framework post-2012 is basically the aim to launch in the UNFCCC COP-13 in Bali in December based on the principle of common but differentiated responsibility and further essential elements should be brought together into an effective and appropriate framework allowing us to avoid climate change.

The third presentation discussed the global energy landscape and emission scenarios, trade related climate change and energy policies, and the functions of the International Trade System.

The final presentation raised the question of whether climate change measures, such as carbon taxes and energy efficiency standards, affect competitiveness negatively. It focused on carbon leakage from the point of view of the import and export ratio of energy intensive products in US and EU and in East Asia and China. The presentation also discussed the use of trade measures and related emerging issues such as climate change and trade, technology transfer to developing countries, clean energy technologies and its liberalization. Finally, the author exposed some options for negotiating a climate friendly package within the WTO framework.

1. Presentations by the panellists

The session was moderated by Miriam Gonzalez, DLA Piper's Head of Trade in the EU. Gonzalez introduced the subject and described the objectives of the session.

- (a) Dr Doaa Abdel Motaal, Counsellor, Office of the Director-General, World Trade Organization

The World Trade Organization and the Environment: Friends or Foes?

There has never been a formal dispute between the WTO and an MEA. However, there is concern that, with the present framework, this may happen.

- There were some GATT (unadopted) panel decisions (including *Tuna Dolphin I and II*) which ruled that trade law had to be interpreted and applied strictly within the language of trade treaties, rejecting the need to reference other norms of international law, such as MEAs.
- However since then the Appellate Body, in a series of decisions, has unequivocally rejected the inward-looking approach of the pre-WTO GATT panels, and held that trade law must be interpreted in the light of public international law more broadly.
- The *Chile – Swordfish* case, which was suspended before the composition of the Panel, illustrated the risk of conflicting judgements. In this case it is likely that both adjudicating bodies would have examined whether Chile's measures were in compliance with the United Nations Convention on the Law of the Sea (UNCLOS). The WTO dispute settlement system and the International Tribunal for the Law of the Sea (ITLOS) could have reached different conclusions on factual aspects or on the interpretation of the provisions of the Convention.

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- The September 2006 Panel Report in the *EC-Biotech Products* dispute demonstrates the confusion around the WTO-MEA relationship. The final decision reached by the Panel represents a departure from the jurisprudential respect previously afforded to the objectives of sustainable development, mutual supportiveness, and the preference for multilateral solutions, verging on a blanket rejection of MEAs as having any independent legal significance in the context of the WTO.

In terms of resolving the conflict between MEAs and the WTO, the most ambitious outcome to date was reached in 1996, in conclusions of the WTO Committee on Trade and Environment.

The resolution of the conflict between MEAs and the WTO was also cited as a key negotiating issue and mandated as a topic of discussion in paragraph 31(i) of the Doha Ministerial Declaration (DMD). In particular, members agreed to negotiations on: (i) the relationship between WTO rules and specific trade obligations set out in MEAs; (ii) procedures for regular information exchange between MEA secretariats and relevant WTO committees, and the criteria for granting of observer status; and (iii) liberalization of trade in environmental goods and services.

The Doha Round negotiations provide an opening for Members to ensure that the multilateral trade rules support climate change policy. New opportunities include negotiations on the accelerated liberalization of trade in environmental goods and services (EGS) – conducted with a view to phasing out tariffs and non-tariff barriers – which could be harnessed for the promotion of sustainable forms of energy use and trade. Subsidy reform, an essential liberalization component in the Doha Round negotiations, suggests potential lessons for the energy sector. Based on the experiences in agriculture as well as the fisheries negotiations, the feasibility of disciplining energy subsidies within the WTO context could be explored in future negotiations.

Many believe that the mandate in paragraph 31(i) was flawed in that it dealt only with parties to MEAs – and precluded an outcome that would change WTO rules. Moreover, the 31(i) negotiations under the DMD have been held up, mainly over definitional issues. All Members agree that goods and services whose “end-use” is for an environmental purpose are legitimate (end-of-pipe technologies). Apart from this, there is no consensus. Developing countries have opposed incorporating process and production methods (PPMs) into the definition on the basis that this would create a de facto trade barrier for them, since only the wealthier countries have the financial and technical resources to comply with high standards. Carbon dioxide emissions during the production process and their impact on climate change could only be acknowledged if PPMs were considered in the definition of an environmental good. Members also disagree on the desirability of including EPPs, such as energy efficient products, as environmental goods, in part because this would require a dynamic list because of the fact that technologies are constantly updated and improved.

The relationship between MEAs and the international trade regime has also been considered outside the WTO, specifically in the context of the UN Environment Programme (UNEP) and in connection with specific MEAs, such as the Biosafety Protocol. Efforts to strengthen the decision-making process on environment within the UN may well lead to bolder action on matters relevant to the WTO.

The current Director General of the WTO has called for a new “Geneva Consensus”, which would locate the WTO more closely with other elements of the international institutional architecture. He has also stated that: “it is undoubted that greater coherence between different bodies of international law, and in particular between the trade and environmental regimes, could lead to improved global governance”.

(b) Ditte Juul Joergensen, Head of Sustainable Development at DG Trade in the European Commission.

Trade and Climate Change: EU approach

The EU approach to climate change aims at: obtaining deeper absolute emission reduction commitments by developed countries; promoting further fair and effective contributions by other countries, reducing the greenhouse gas emission intensity of economic development; extending the carbon market; increasing the cooperation on technology research, development, diffusion, deployment and transfer; enhancing the efforts to address adaptation, including risk management instruments, finance and technologies for adaptation; addressing the emissions from international aviation and maritime transportation, and reducing the emissions from deforestation and enhancing sinks by sustainable forest management and land use practices.

Regarding the emissions trading and global carbon markets, the EU is committed to a global carbon market to tackle climate change. The European Commission is preparing a review of its Emissions Trading Scheme (ETS). Emission trading does not imply new environmental targets, but allows for cheaper compliance with existing targets under the Kyoto Protocol, (currently, over 160 countries, representing over 90% of the global population, can engage in the emerging carbon market either through ETS or through the Kyoto Protocol’s project-based mechanisms).

Regarding the developing countries, the EU ETS is engaging them in concrete actions to reduce greenhouse gas emissions through the Clean Development Mechanism (CDM). European companies covered by the EU emissions trading scheme will be allowed to convert credits from Joint Implementation (JI) and CDM projects for use towards meeting their commitments under the trading system. JI will allow for projects in other industrialised countries with Kyoto targets.

CDM will take place in countries without targets, i.e. developing countries. A condition for the issue of credits in respect of the reductions achieved is that the projects result in real, measurable and long-term climate change benefits.

Contribution of trade policy:

Members of the WTO should agree to a market opening deal for products specifically linked to addressing climate change. They should agree to eliminate tariffs for key climate change related goods. Negotiations are ongoing in the WTO CTE SS to agree on a list of products that would be subject to such liberalization. The EU will also look at this in the ongoing FTA negotiations.

WTO rules and MEAs: The overall objective under this mandate is to enhance the mutual supportiveness of T&E. One specific suggestion is that MEAs should be granted observer status upon request, automatically and that WTO committees and panels should call upon and defer to the expertise of the MEA in question when addressing issues that relate to a particular MEA. Better information exchange between MEA secretariats and relevant WTO committees is also a suggestion which could help to ensure coherence and mutual supportiveness between trade and environment.

Sustainable forest management: This is addressed as part of bilateral relations under the FLEGT (Forest Law Enforcement, Governance and Trade initiative). The FLEGT Action Plan proposes the development of Voluntary Partnership Agreements (VPAs) between the EU and individual timber-producing countries (FLEGT Partner Countries).

Finally, the author states that coherent action is required in environmental and trade policies at domestic and international level. Further efforts are needed in the DDA environment related negotiations.

This should all be seen in the context of the wider sustainable development agenda, including specific developments concerns. There are several instruments – common but differentiated responsibility in environmental context, SDT in WTO, TRA and assistance more broadly and in Kyoto, the CDM, which can help investment and technology transfer in relation to climate change.

- (c) Ricardo Meléndez-Ortiz: co-founder and Executive Director of the International Centre for Trade and Sustainable Development (ICTSD)

Making the international trading system fit for purpose: governing trade in the context of climate change and the transition to sustainable energy

The global energy landscape and emission scenarios

World trade is dominated by imports and exports of oil and gas. Developments in renewable technologies and a global expansion in the production and trade of agrofuels are expected to bring new dimensions in energy trade at the multilateral level. Additionally, energy related emissions account for more than 80% of global carbon dioxide emissions responsible for climate change.

On the other hand, fossil energy will remain dominant energy source until 2030, accounting for 83% of the overall increase in energy demand between 2004 and 2030, despite the increase of renewables. Non-hydro renewables will also grow very fast but in a smaller scale. Finally, the share of biomass will fall marginally due to the fact that developing countries are increasingly switching to modern commercial energy.

As a result, energy will be the central aspect of climate change mitigation where policy intervention is likely to concentrate. The energy sector will remain as main source of GHG emissions with future increases originating in developing countries. Consequently, there will be shifts in production and trade and trade patterns, and an intensification of goods and services.

Trade-related climate change and energy policies

According to the Kyoto Protocol to the UN Framework Convention on Climate Change, parties should take a number of measures to achieve the reduction of GHG, such as enhancement of energy efficiency, and the promotion of sustainable agriculture. To achieve these goals, there are trade related policies like regulatory, fiscal and market based and incentive measures. Regulatory measures can be divided into energy efficiency standards and series of regulations, standards and targets for renewable energy. Energy efficiency standards have already been introduced in most OECD countries, but it is unclear whether standards can be set on production and process methods that do not affect the final characteristics of products. As regards the regulations, standards and targets for renewable energy, they have been made a requirement for energy producers and electricity generators under feed-in-laws and renewable obligations. However, it remains unclear whether energy companies sourcing internationally are bound to them.

Fiscal measures can be divided into three main groups. The first one, domestic carbon and energy taxation, which are implemented in few countries and do not raise concerns as long as national treatment and non-discrimination principles apply. Secondly, carbon and energy tax on imports or exports, which are not yet implemented and it is unclear whether adjustment can be made for indirect taxes on unincorporated input during the production of goods. Lastly, subsidies and domestic support mechanisms, some of which are prohibited by the SCM agreements.

Market-based and incentive measures are grouped into emission trading, joint implementation and clean development mechanism. Such measures are already introduced in developing and developed countries; lower tariffs on low-carbon goods and services and the negotiations are still going in the Doha Round; and government procurement which according to the WTO Agreement on Public Procurement allows consideration of non-economic factors in procurement decisions.

Functions of the International Trade System

There are three main functions: regulating, rewarding and incentivising, and arbitrating.

1. Regulating:

- Energy subsidies. As there is no specific disciplines or negotiations at the present time, most of them tend to be industry or sector specific. Therefore, their reform is likely to be a medium to long term goal.
- Standards and labelling. WTO rules applying to private and non mandatory standards need to be clarified and the non-discrimination and minimal trade distorting effects must be ensured.
- Energy carbon taxation. According to the SCM agreement, the equivalent of internal taxes can be imposed on imports of “like” products. Based on the principle of destination of international taxation, indirect taxes can be adjusted at the border as long as the tax is based on physically incorporated inputs. Moreover, the WTO rules regarding border adjustment taxes on non incorporated inputs still need to be clarified.

2. Rewarding and incentivising:

- Preferential market access for low carbon goods and services: The negotiations on the liberalization of environmental goods and services provide opportunities such as pollution control equipment and carbon capture technologies. The challenges are evolving technologies, dealing with NTBs and agricultural products, technology transfer, energy-efficiency standards, single and “dual-use”, impacts on domestic industry and tariff-revenue, clarifying product coverage, HS-codes and products descriptions and prioritising products for CDMs. According to this, there are three possible models for a “climate package”, namely “successful” liberalization in the Doha Round, ITA-type agreement within “Single Undertaking”, and finally GPA-type plurilateral agreement outside “Single Undertaking”.
- Positive discrimination in energy subsidies.

3. Arbitrating:

- The main issues concerning this measure are trade distorting unilateral measures (e.g. antidumping), border tax measures and carbon foot print and international trade. The main question is how to deal with the increasing market practice to factor CO2 emissions and carbon footprint, such as from international transportation, into encouraging or not discouraging sourcing.

(d) Mani Muthukumara: Senior Environmental Economist in the World Bank's Environment Department

Warming up to trade? Harnessing international trade to support climate change objectives

The main climate change measures are carbon taxes and energy efficiency standards. Carbon tax is a fiscal measure which taxes the content of carbon on fuels. It increases the costs of polluting inputs and may significantly increase production cost, leading to lower profits, either through lower margins or through a reduction in sales or sometimes both. The impact of a carbon tax would be different across the different sectors of the economy because of different input combinations and emission profiles. Subsidies and other exemptions on energy intensive industries may overcompensate the disadvantages arising from the imposition of the carbon tax. As a conclusion, carbon taxes do not affect negatively competitiveness.

On the other hand, energy efficiency standards, which can be defined as regulatory measures, do affect competitiveness negatively. The cost and time needed to comply with the different requirements could add the cost of internationally traded products. However, since regulations in principle could be applied equally to imports and locally manufactured products, effects on trade in countries with higher standards could be nullified to some extent.

Regarding carbon leakage, the possible relocation of some carbon-intensive industries to developing countries and wider impacts on trade flows in response to changing prices may lead to leakage in order of 5 to 20 per cent. Location is determined by the relative energy prices, land and labour costs and access to raw materials and markets. The convergence of the import/export ratio suggests some evidence of leakage of carbon/energy-intensive industries. Some relocation of energy-intensive could be attributed to climate change policies. The ratio continues to be greater than 1 for developing countries, suggesting that developing countries continue to be net importers of energy-intensive products.

Use of trade measures are defined in articles XX (b) and (g), which allow WTO Members to justify these measures if these are either necessary to protect human, animal or plant life or health, or if the measures are related to the conservation of exhaustible natural resources. Otherwise, if a country imposes a ban on products from countries that do not have carbon restrictions or impose tariffs on such measures, it could violate WTO rules. This applies when such measures are not arbitrarily or unjustifiably used.

Technology transfer to developing countries is key to reducing the energy intensity of the production. This is because the reduction of and NTBs within the Doha Round could provide further opportunities to accelerate diffusion of key technologies.

Regarding the clean energy technologies, impacts of trade liberalization can be reasonable, even within a small subset of clean energy technologies and a select group of countries. It has to be noted that the analysis does not take into account other barriers of IPRs, government distortionary policies, and investment barriers which, as seen through specific cases, continue to impede technology diffusion.

H. How Business – NGO Partnerships Can Contribute to Conservation and Promote Sustainable Livelihoods: A Look at African and Latin American Experiences, *Organized by Rainforest Alliance*

Report written by Rainforest Alliance

Abstract

This session shared the experience of an international NGO – Rainforest Alliance – in partnering with business to harness globalization through promoting sustainable agriculture, alleviating poverty, conserving natural resources and protecting biodiversity.

The three presentations on the topic from an NGO, business and African farmer view sparked off an engaged and lively discussion. Among the many issues raised were green washing, child labour, costs of certification, building on traditional knowledge, setting the example for other industries etc.

The audience appreciated the panels’ “down to earth” practical information and demonstration through successful cases that globalization can be harnessed in a sustainable way.

1. Presentations by the panellists

- (a) Roland Higgins, Policy advisor to Rainforest Alliance

What is the Rainforest Alliance?

Roland Higgins gave a comprehensive overview about the diverse activities of the Rainforest Alliance. This international NGO has a focus on transforming land-use and business practises and consumer behaviour.

The Rainforest Alliance was founded in 1987 and was the first organization to implement a certification program for responsible forestry management. Later, Rainforest Alliance helped to create the now well established and respected Forest Stewardship Council (FSC). In 1992, Rainforest Alliance used similar best management principles to create, together with a coalition of conservation NGOs in Latin America, a certification program for sustainable agriculture. The Rainforest Alliance is active in over 50 countries worldwide, with staff working from the USA, Central America, Europe and Indonesia. Last year’s organizational budget was in the range of 16 million US Dollars.

Higgins highlighted three main working areas of Rainforest Alliance:

Sustainable Forestry

The Rainforest Alliance's certification program, SmartWood, was founded in 1989 to certify responsible forestry practices and now focuses on providing a variety of certification tools. In January 2007, forestlands certified by the Rainforest Alliance as meeting Forest Stewardship Council (FSC) standards surpassed 100 million acres, about half of the global FSC total, and a nearly 50 per cent increase over the previous year. Companies who buy Rainforest Alliance FSC certified wood products include Gibson Guitar, Domtar paper, and Klabin.

Sustainable Agriculture

The mission of the sustainable agriculture program is to integrate productive agriculture, biodiversity conservation and human development. Farmers, companies, cooperatives and landowners who participate in the program meet comprehensive, rigorous social and environmental standards. Almost 350,000 hectares of farmland, nearly 10,000 farms, have been certified as sustainable to date, growing products such as bananas, coffee, citrus, cocoa, tea, and flowers. The program certifies 1.3% of the world's coffee and 18% of the world's banana production. Business partners in the agriculture program are Kraft, Chiquita, Tchibo, KLM airlines, Wholefoods, Nespresso, Innocent Drinks, and many others.

Sustainable Tourism

In the field of sustainable tourism the Rainforest Alliance has created the Sustainable Tourism Network of the Americas; a network of local certification schemes who agree on baseline standards and share a common marketing platform. Rainforest Alliance does not certify tourism operations, but rather encourages sustainable tourism practices by encouraging tour operators to source sustainable packages, and training small and medium tourism operations in Central American in implementing best management practices.

Rainforest Alliance Certification is an independent, third party audit of farm or forestry management. It is a strictly voluntary, non-governmental process; guidelines are comprehensive and balance ecological, economic and social considerations. If farm and forestry operations meet our guidelines they are awarded our seal of approval, which in turn is a guarantee to consumers that the products meet our set of criteria for sustainability.

The Rainforest Alliance is a founding member of ISEAL, an association for all the NGO certifiers and accreditors to set best practise and standards for certification schemes.

Rainforest Alliance certification focuses on farm management; the farms have to demonstrate compliance with the standards and show continues improvement. Certified producers are improving holistic farm management, protecting forests and wildlife, reducing water pollution and chemical use, reducing and recycling farm waste, increasing

productivity and quality while reducing costs, treating their workers fairly, and making a positive environmental and social impact on their community.

More information about Rainforest Alliance on www.rainforest-alliance.org

(b) Boers Brita Westelius, Manager EU Category Communications Coffee, for Kraft Foods

Sustainability at Kraft Foods – the example of coffee

Boers Brita Westelius presented the background to the partnership between the Rainforest Alliance and Kraft Foods, focusing on coffee.

The overall objective for the Kraft sustainable program is to work holistically and work on all the three pillars of sustainable development. The three pillars are environmental, economic and social factors. The system also has to be sustainable for all parties involved in the chain – all the way from the farmer to the consumer.

Kraft has been working in partnership with the Rainforest Alliance since 2003. Its decision to work with this particular NGO was based on a series of reasons but mainly because the Rainforest Alliance program matches the company's needs in terms of:

1. Certification of all origins and sizes of farms possible
2. Pricing system
3. Quality

Kraft pioneered its first sustainable coffee program in 1993 originally targeted in improving Peru coffee quality. In 2003 Kraft launched its partnership with the Rainforest Alliance. Two years later Kraft was able to offer its first 100% Rainforest Alliance certified coffee in its retail brands in France, Sweden, Italy and the United Kingdom. In 2006 Kraft bought the first Ethiopian coffee from Rainforest Alliance Certified farms. The same year they also signed a European agreement with McDonalds to launch Kraft branded coffees made from beans sourced from Rainforest Alliance Certified farms.

Since then the volume of coffees grown on farms certified by the Rainforest Alliance that Kraft Foods buy has grown from 2,500 tons in 2004 to 6,500 tons a year later and has reached an impressive 12,000 tons in 2006. Kraft is currently buying almost half of the amount of coffee certified by Rainforest Alliance that is sold on the world market.

The speaker confirmed the commitment of Kraft to continue walking the road of sustainability ... in partnership with the Rainforest Alliance.

(c) Julius Ng'ang'a, Sustainability coordinator of the ECOM coffee group in Kenya

Challenges faced by African coffee farmers in implementing sustainable coffee practises and accessing good markets

Julius Ng'ang'a gave an overview about the role and importance of coffee production in Africa, where it is mainly grown by smallholders and has a history of more than a century. Although there has been a production decline recorded in the last 20 years, coffee remains very important to the African economy.

The speaker highlighted the challenges facing coffee farmers by looking at socio-economic, environmental, institutional and governmental and sustainability challenges.

Some of the challenges highlighted included that most farmers do not have sufficient scale to participate fairly or adequately in the set of production and trade standards and that they are dependent on crop sales to generate cash flow need. There is also a lack of credit facilities and low coffee yields.

For the African farmers low coffee prices and their fluctuation according to the supply and demand in the world is a big problem. The low prices lead to low incomes lowering the ability of farm families to provide basic needs. Another important challenge is the over reliance on export markets and limited value adding at origin.

Among the environmental challenges highlighted were deforestation and loss of soil fertility. Also the impact of climate change seems already adversely affecting farm activities and raising coffee production costs.

It was further stressed that the history of government control and monopolistic trading boards for milling and marketing eroded returns to producers for many years. Governments influence on farmers institutions also led to mismanagement of farmer associations, low or delayed payments or even worse non-payment of coffee. The accumulation of debts rendered cooperatives bankrupt.

Continuous division of production units into increasingly uneconomic sizes are another challenge to be tackled.

The speaker stressed the fact that sustainable coffee practises come with additional costs for training and extension services, improving traceability and farm records and the cost of certification as well as the required continuous improvements.

Among the market constraints and challenges mentioned, it was also emphasized that only a per centage of the certified coffee is sold as such and that premium prices are not guaranteed. Also in Africa farmers move towards costly multiple certification to increase chances of selling coffee as certified.

Partnerships as the one presented between producers, NGOs and the business sector are seen as a way ahead into a sustainable future ...also for African farmers.

2. Questions and comments by the audience

The presentations were followed by some 45 minutes of lively discussion and exchange of opinions. Among the issues addressed were the challenges of mainstreaming sustainability and the inherent risks of greenwashing (using the example of WalMart). A number of questions and conclusions centered around incentives and price premiums, particularly regarding the shares of the retail price. Other issues covered were child labour, costs of certification, building on traditional knowledge, setting the example for other industries etc.

3. Conclusions and way forward

The session was considered by participants unique within the program because of its presentation of concrete and successful examples of how business-NGO partnerships can harness globalization and achieve sustainability.

It is recommended that the WTO present more concrete and solution-oriented sessions at its Public Forum. It was also felt that business and trade is under-represented in the program.

The delegation of the Rainforest Alliance appreciated the fruitful networking opportunities of the Forum and noted its intention to participate in next year's WTO Forum. Rainforest Alliance will submit a proposal for a new, informative and lively panel session.

I. Trade and Climate Change: Peril or Promise?, Organized by the Center for International Environmental Law, Friends of the Earth Europe, German Development Institute, German NGO Forum on Environment and Development, Germanwatch, Greenpeace, and International Forum on Globalization

Report written by Greenpeace and Friends of the Earth Europe

Abstract

Climate change is the greatest threat our world faces. However, the debate on trade and climate change is still new. Looking at trade's contribution to the problem as well as trade's potential role in combating climate change the session showed that trade liberalization exacerbates climate change and that the WTO is ill-equipped to identify and provide flexible incentives for the most efficient technologies to combat climate change.

In order to provide maximum flexibility in implementing measures to combat climate change developed countries' efforts to impose a global energy regime upon developing countries must end. In the energy services negotiations, developed countries have to stop their liberalization pressure on the energy markets of developing countries. Expanding the WTO's powers over energy and climate policy would be a bad policy choice.

1. Presentations by the panellists

The session was moderated by Daniel Mittler, Political Advisor, Greenpeace International.

(a) Vicente Paolo B. Yu III, South Centre

Development, Trade and Climate Change Policy

Vicente Paolo B. Yu noted that the climate change debate is fragmented. His presentation "Development, Trade and Climate Change Policy" provided context while highlighting a development approach.

Yu stressed that, if we talk about climate change, we must be aware that many developing countries are still marginalised in the global arena: economic imbalances are still prevailing, social distress and conflicts arising from poverty are a reality. There are great disparities in ecological footprints between the North and the South and the climate change debate must take account of these differences. A lot more needs to be done to achieve the Millennium Development Goals (MDGs) in terms of delivering on equity and poverty reduction.

We need global approaches to deal with global problems such as climate change. The actions on a national level also require an enabling international policy framework to be fully effective. The United Nations Framework Convention on Climate Change (UNFCCC) can be used as the foundation for multilateral action on climate change. But we have to ensure coherence for sustainable development in the international economic and social policy architecture on trade, finance, debt, employment, development cooperation, health and humanitarian assistance.

According to Yu, the key concepts for a development and climate change policy framework are first to operationalize the Rio principle of “common but differentiated responsibilities” and, second, to build a supportive and enabling international economic policy architecture and framework for the sustainable development of developing countries. Developed countries should effectively reduce greenhouse gases (GHG) and go beyond Kyoto commitments (mitigation) to prevent global warming above 2 degrees Celsius (compared to pre-industrial levels); and help developing countries, especially Small Island Developing States (SIDS) and Least Developed Countries (LDCs), to cope with the impacts of climate change through compensatory adaptation financing.

To get this supportive and enabling international economic policy architecture the developed countries have to provide room for the sustainable development of developing countries by:

- allowing them the needed development policy space for industrial, trade, finance, and economic policy flexibility;
- supporting multilateral cooperation on, *inter alia*, development financing, debt relief, humanitarian assistance, disaster and risk prevention and mitigation, and technology transfer;
- addressing development and climate concerns of the SIDS and LDCs as an urgent global priority; and
- enhancing South-South cooperation and integration on development and climate change.

Trade policy has to offer the development policy space and flexibility needed for development. The WTO negotiations currently are in intense debate between developed and developing countries over role, appropriateness and extent of trade liberalization *vis-à-vis* development policy space which could be used to put in place climate-friendly development policies (e.g. appropriate tariff and subsidy structures to support economic diversification of developing countries, the development of their supply-side capacity and increased access to rich countries’ markets). The regime of the WTO’s Agreement on Trade-Related Intellectual Property Rights (TRIPS) limits the ability to maximize flows of climate-friendly technologies to developing countries under conditions which allow them to adapt, innovate, and produce such technologies. Yu urged that ways must be found to overcome these limitations.

Yu provided a long list of other policies for an integrated policy framework for development and climate change. These domestic and global adaptation measures for climate change should focus on minimizing the risks and enhancing the opportunities for development, especially in developing countries and their poorest communities. Policies should focus on grassroots and community-based approaches and use sustainable practices – energy, agriculture, natural resource management, environmental protection, etc. – to reduce unsustainable consumption and production. An international policy framework for the equitable use and sharing of global public goods such as water and energy should be developed. The development of domestic demand- and supply-side capacity for climate-friendly (including renewable energy) goods, technologies and services, in both developed and developing countries must be supported by appropriate policies. The non-commercial transfers of climate-friendly technologies, goods and services to developing countries, with an appropriate policy package for host developing countries to innovate on transferred technologies and make them more appropriate to local conditions has to be facilitated. A compensatory adaptation financing to developing countries, especially for SIDS and LDCs has to be provided. As a first step, we need:

- enhanced debt relief for developing countries;
- action from developed countries on their commitment to enhance development assistance; and
- increased South-South regional integration and cooperation.

Up to now energy, trade, migration and agriculture have been treated as different regimes. According to Yu it is critical that we step back and find a way to integrate these regimes so that climate change policy and development policy are at the centre of the debate. A global problem such as climate change requires global solutions. Developed countries must take immediate, effective measures to combat climate change while developing countries should take efforts based on the principle of common but differentiated responsibilities. For example, developing countries should focus their efforts towards decreasing energy intensity while developed countries should focus on reducing total GHG emissions drastically.

(b) Tobias Reichert, Germanwatch

Market Liberalization of Environmental Goods and Agrofuels – A Panacea for Measures to Combat Climate Change?

Tobias Reichert presented a contribution entitled “Market Liberalization – A Panacea for Measures to Combat Climate Change? The Case of Environmental Goods and Agrofuels”. He directly addressed the issues of whether international trade exacerbates climate change and looked at the problems inherent in defining an “environmental good”. He noted four links between trade liberalization and climate change: transportation, economic growth, relocation of production, and access to technology and cleaner products:

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- Transport accounts for a third of global carbon emissions³⁷, more trade normally means more transport, and the effects of trade liberalization are likely to be negative from a transport perspective;
 - Economic growth is historically linked with increasing carbon emissions, via higher energy consumption. There is no systematic decoupling, let alone reversal yet, and the effect of growth through further liberalization is likely to be negative;
 - The effect of the relocation of production on climate change depends on relative energy/GHG efficiency between domestic production and imports. Pure market mechanisms do not ensure that environmental costs are taken into account – on the contrary: shift of manufacturing to China with relatively low energy efficiency is negative from the perspective of GHG emissions. So trade liberalization is only positive if the right conditions are in place; and
 - Currently, trade barriers for climate-friendly energy production technologies can increase prices for these goods. Liberalization of climate-friendly goods, or environmental goods, could therefore help mitigate climate change.

Elaborating on the last point Reichert then addressed the question: How do we define environmental goods in a manner that promotes trade of environmentally friendly products?

Liberalising trade in “climate friendly” goods and technologies faces various challenges in the WTO. The tariff reduction negotiations are based on the “Harmonised System” of the World Customs Organization and the used categories are usually too broad to identify specific climate-friendly technologies. Furthermore, many components for environmentally-friendly technologies, e.g. for power plants, can also be used for conventional technologies (e.g. coal fired plants). Also, the goods classification is based on physical characteristics, not on the end-use or method of production. Especially problematic is the generic definition of environmental/climate goods, which goes beyond looking at a few technologies. Considering the end use of a product is relevant for “dual use” goods (such as turbines, which can be used in many energy technologies). Considering the production process is key to define “eco” or climate-efficient products, but the WTO system does not allow for “process and production methods” (PPMs) to be taken into account by trade negotiators. Another problem is technological progress: efficiency is also a “moving target” – the most energy efficient fridge or TV may be only average in 5 years, which means that the criteria of environmental efficiency need to be constantly updated. In other words, tariff reductions implemented for climate-friendly products will soon be outdated as new technology emerges, but the WTO system makes it

³⁷ “Transport using carbon-based fuels is an inherent part of modern trade and transport accounts for about a third of all carbon emissions.” Speech on “Trade and climate change” by EU Trade Commissioner Peter Mandelson, Brussels, 18 December 2006. Other sources are using lower figures, for instance according to the World Resources Institute “transport accounts for about 14 per cent of global GHG emissions, making it a major contributor to global climate change” (see Kevin A. Baumert et al, Navigating the numbers. Greenhouse Gas data and International Climate Policy, Washington 2005, World Resources Institute Report, page 63).

very difficult to repeal tariff reductions, since the WTO is a static system. Nevertheless, as technology and knowledge on climate effects and efficiency evolve rapidly, there is a growing need for adaptation of incentives and preferences based on a flexible regime.

Agrofuels (often misleadingly named “biofuels”) provide an excellent example of environmental goods that have turned out to be less climate-friendly than initially thought. Plant-based fuels have been touted as a clean burning alternative to fossil fuels and there has been significant investment in agrofuel production operations. However, as recent studies suggest, the energy and GHG balances of agrofuels can actually be negative. For instance, one recent study shows that the production of agrodiesel from rapeseed can release more GHG than using fossil diesel.³⁸ In any case they are less efficient than other forms of agro-energy. Liquid fuels are more “tradable” than other agro-energy forms – therefore trade liberalization may lead to demand being shifted to less climate efficient use. The scientific uncertainty and constant evolution involved in environmental goods makes a flexible adaptive system a necessity.

Reichert concluded that liberalization has beneficial effects only if efficiency gains outweigh negative growth and transport effects of trade. WTO is ill-equipped to identify and provide flexible incentives for the most efficient technologies. Trade in selected technologies (wind, solar) should be liberalised – but not necessarily in the WTO.

(c) Dalindyabo Shabalala, Center for International Environmental Law (CIEL)

Intellectual Property Rights: A Barrier to Technology Transfer?

Dalindyabo Shabalala focused on the role of Intellectual Property Rights (IPRs) in the technology transfer of climate-friendly technologies. The framing question of his presentation was: presume that climate change is a global emergency of potentially catastrophic dimensions and government and firms are willing to take measures addressing climate change – are or will IPRs be a barrier to technology transfer? In other words, are environmental products and services available at a price that most people are willing and able to pay, and if not, is this market failure due to the international patent system?

Shabalala provided a short description of the IP mechanism. Intellectual property creates a monopoly (of a kind), reduces competition, maintains high prices of a product above normal competitive market value and allows licensing and transfer of knowledge securely and predictably. But it is important to distinguish between the price of a product and the price of the knowledge embodied by the product. Goods are easy to sell and can include the price paid for the access to the knowledge. So the question is: what are we talking about when we talk about technology transfer? Access to the goods or access to the knowledge? And to what end? Regarding the IP landscape Shabalala differentiated between

³⁸ See Lewis Smith: Rapeseed biofuel “produces more greenhouse gas than oil or petrol”, The Times, September 22, 2007, <http://www.timesonline.co.uk/tol/news/uk/science/article2507851.ece>

existing and future technologies. How many of the existing technologies are patented and how many are unpatented? Are existing incentives for future technologies enough and do developing countries present sufficient markets such that private investment will create technologies suited to them and do we have alternative (public) incentive and funding mechanisms not reliant on IP?

Shabalala called for further research to answer these questions and offered two “branching trees” for consideration in the meantime:

- 1) Patents are a problem: If the majority of existing products are patented (in developing countries especially) and they are not available at a low enough price in the international market to ensure speedy and broad adoption of climate-friendly technologies, then we look at the international IP system to examine the interplay between technology transfer and IP.
- 2) Patents are not an issue: If the majority of products are not patented (in developing countries) and they are not available at a price in the international market to ensure speedy and broad adoption, then we need to think about the other reasons for this market failure and what solutions present themselves.

If existing environmental technologies are patented and unavailable at a reasonable price on the international market then the international IP system must be re-evaluated. If the technologies are unpatented then the WTO may be the wrong forum to pursue reform. But then we have to ensure availability of goods and processes embodying technologies as well as knowledge embodied in technologies. And we have to deal with the information problem (do technologies exist and if they do are they in a form useful to developing countries?), the incentive problem (production of new technologies) and the competition issue (climate change is seen as new market in which technology transfer is arming your competitors).

Shabalala’s conclusion: It is clear that more work needs to be done. In particular the patent landscape needs to be determined so that energy is not wasted on the WTO if we do not need to and we do not focus on fighting licensing battles where licensing is not an issue.

(d) Victor Menotti, International Forum on Globalization (IFG)

WTO Energy Services Negotiations and Fuel Efficiency Standards – What’s at Stake for Stable and Sustainable Energy Supplies and Climate Policies?

Victor Menotti made a presentation on WTO Energy Services Negotiations and Fuel Efficiency Standards debating the question “What’s at Stake for Stable and Sustainable Energy Supplies and Climate Policies?”. He views globalization as the globalization of corporate power, and the WTO as the multilateral mechanism by which corporations reduce the ability of governments – whether democratically elected or not – to shape their economies to achieve social and environmental goals. Implementation of the policy tools most useful for putting a price on carbon are not only being delayed by our hyper-competitive global economy but in fact the very rules of world trade can and are being used to either chill or challenge climate measures. Risks from catastrophic climate change present unprecedented challenges to the world trading system. The global imperative to shift to socially stable and ecologically sustainable energy sources will force changes in today’s trade rules. World trade rules must change to adequately and equitably address concerns about climate chaos and energy security.

Menotti explained how the term “technological neutrality” (coming from the Singapore Communication Technology Agreement of the WTO³⁹) might be used to hamper measures needed to combat climate change. Essentially, developed countries do not want to pin down the energy sector into specific energy sources or technologies. The belief is that a deregulated energy sector will promote clean energy in the most efficient manner. However, the reality is that technological neutrality prohibits countries from providing incentives and restricts sources and technologies for energy. The more equitable view is that we should defer to every country’s right and ability to choose.

The second topic of Menotti’s presentation dealt with the WTO negotiations on energy services⁴⁰ and the comprehensive requests made by the United States and the European Union within these negotiations. Seventy per cent of proven petroleum reserves are “restrained” by state-owned energy companies. The International Energy Agency claims that the major obstacles to global energy security are the barriers to foreign investment and services suppliers in energy-exporting countries. Energy-importing countries want to bring energy-exporting countries under a system of global rules to limit the rights of governments to determine which energy resources to exploit, how much to exploit, which technologies to use, which workers can work, and other basic policy decisions. The United States Trade Representative

³⁹ The principle of “technological neutrality” was first established in the GATS Telecommunications Annex of 1996 to prevent governments from treating one communications technology differently than another, such as cable versus wireless. See: Victor Menotti, *The Other Oil War: Halliburton’s Agenda at the WTO*. See also: International Forum on Globalization, Policy Brief on the Energy Services negotiations in the World Trade Organization, June 2006, available at <http://www.ifg.org/reports/WTO-energy-services.htm>

⁴⁰ Energy services are included in the new WTO services negotiations, which began January 2000. For details see http://www.wto.org/english/tratop_e/serv_e/energy_e/energy_e.htm

has declared the liberalization of Energy Services to be one of the breakthrough issues in the negotiations. Certainly for the Bush-Cheney administration, which views the world through the lens of access to energy, opening markets is one of the biggest priorities. Seven OPEC members are already in WTO. With Saudi Arabia recently joining, Russia finalizing its terms of entry, Iraq's membership being fast-tracked, and Iran entry offered as the main incentive in exchange for ending its enrichment of uranium, we see the prospect of new global rules on energy-exporting economies to control their energy decisions. In addition to energy-exporting nations, emerging economies, such as China, India, Brazil, Malaysia, South Africa and others are being targeted. The current state of play shows collective requests by 22 nations sent to 29 target nations. The reactions of the targeted nations will depend essentially on what the US and the EU are offering in agriculture negotiations.

Menotti also mentioned efficiency standards for cars like the US "corporate average fuel efficiency (CAFE)" standards, which are important for conserving energy use, but could be seen as a non-tariff measure (barrier) by the WTO dispute settlement system. This climate measure of the world's largest emitter can increase the fuel efficiency of cars, but risks a challenge by European luxury auto exporters who already challenged the CAFE standards in 1994 under the GATT dispute settlement system.

Expanding WTO's powers over energy and climate policy poses real risks. Regarding the energy services negotiations Menotti urged demandeur governments to stop pressurizing the requested governments to submit offers. He also called for an assessment of trade policy constraints on climate measures to be part of the Bali Mandate to be agreed at the UN climate negotiations in December 2007. Menotti concluded with a clear statement that world trade rules must change to accommodate climate and energy sovereignty concerns. The trade regime has two options: get a new mission or being replaced. Another multilateralism is possible, but not one that reduces peoples' sovereignty.

2. Questions and comments by the audience

The contributions from the floor covered a broad range of issues and comments. One participant expressed concerns with introducing energy in WTO negotiations and another saw a contradiction between the lifecycle assessment mentioned by Tobias Reichert and the concept of food miles which is now popular in some European countries (like the United Kingdom and the Netherlands). Another participant pointed to the problem of the bilateral route being the existing alternative to multilateralism. The existence of investor-to-state-dispute settlement mechanisms in these bilateral free trade agreements (FTAs) has proven to be much worse for the people and the environment than the WTO dispute settlement body (DSB). An expert working on trade and climate confirmed that with environmental technologies there are no real IP problems in their transfer to key countries such as China and India, adding however that this only fully applied to solar, but not to wind technologies. Another participant mentioned that not only environmental issues but also human rights have to be considered. He said there is a need for studies on the relationship between trade rules and human rights. A former trade negotiator mentioned that the concept of

technological neutrality was not left unchallenged and asked what is the critical mass for energy services? A political adviser in the European Parliament reminded the audience of the example of Latin America governments which are experimenting alternative development strategies outside of the Washington Consensus, notably trade agreements based on other principles than market access, competition and “free trade”.

3. Conclusions and way forward

World trade rules must change to accommodate climate and energy sovereignty

This session emphasized the need for an integrated approach to the trade and climate change debate. Up to now energy, trade, migration and agriculture have been treated as different regimes. But it is critical to find a way to integrate these regimes so that climate change policy and development policy are at the centre of the debate. A global problem such as climate change requires global solutions. Developed countries must take immediate, effective measures to combat climate change while developing countries should take efforts based on the principle of common but differentiated responsibilities.

Trade liberalization generally exacerbates climate change and the market liberalization of environmental goods and agrofuels are no exceptions but a confirmation of this finding. The WTO is ill-equipped to identify and provide flexible incentives for the most efficient technologies to combat climate change. Trade in selected technologies (wind, solar) should be liberalised but not necessarily in the WTO. There is a need for a serious inquiry into the patent landscape in order to determine whether the intellectual property regime is serving as a barrier to climate mitigation.

Another and also urgent need is to challenge developed countries’ efforts to impose a global energy regime upon developing countries in order to provide maximum flexibility in implementing measures to combat climate change. Regarding the energy services negotiations demandeur governments are urged to stop pressurizing targeted countries and the requested governments are asked to not submit any offers.

The moderator, Daniel Mittler of Greenpeace International, concluded that the trade regime has two options: get a new mission or be replaced. Another multilateralism is possible, but it needs to be one that has addressing the climate emergency at its heart.

J. Trade Rules for Sustainable Development in Latin America and the Caribbean; Understanding the Linkages, Organized by the Economic Commission for Latin America and the Caribbean (ECLAC)

Report written by the Economic Commission for Latin America and the Caribbean (ECLAC)

Abstract

The countries of Latin America and the Caribbean are faced with an increasingly complex international environment in which issues of ever greater amplitude are to be integrated into the development processes, such as global environmental problems, sustainability of competition standards, innovation, equitable distribution and institutional governance. To this should be added the changing landscape of international relations and a globalization process which is changing trade flow patterns. All of the above gives rise to uncertainties of major significance to the sustainable development aspirations of the countries in the region, and they need to be tackled on the basis of a more integrated approach.

The purpose of this session was to examine the international integration strategy of Latin America and the Caribbean in the light of its coherence with the more complex overall sustainable development agenda, and in this context to analyse the practical interrelationships between behaviour patterns in areas such as foreign direct investment, harmonization of intellectual property regimes, innovation, technological development and, in particular, trade rules and disciplines, with a view to promoting economic growth, poverty reduction, environmental protection and improvements in the population's quality of life.

1. Presentations by the panellists

(a) Alejandro Jara, Deputy Director-General, WTO

Alejandro Jara acted as moderator for the session, established the ground rules for its conduct and introduced the speakers. Following a brief presentation on the importance of analysing trade from the standpoint of its environmental impact in the Latin American and Caribbean region, because this gives us a distinct view of trade and enables us to raise questions that may be difficult but relevant, Mr Jara highlighted three fundamental questions to which replies were needed. First, what can be done to minimize negative trade impacts? Secondly, to what extent, if any, can improved trade rules contribute to minimizing negative impacts and market failures? Thirdly, to what extent do domestic institutions and regulations form part of the answer and how can they be supplemented by international cooperation?

(b) Marianne Schaper, ECLAC

Marianne Schaper referred to the definition of the concept of sustainable development as a dynamic process that seeks to achieve balance between economic growth, poverty reduction and environmental protection, without any of these aspects being more important than the others. At the same time, sustainable development may serve as the guiding principle for construction of the global trading system and for the achievement of coherence between the different economic, social and environmental forums. She went on to focus on the question of diagnosis: what is the export specialization profile of Latin America and the Caribbean and what does it imply for the region's sustainable development aspirations?

She pointed out that, in recent years, regional exports have grown significantly, but that the reallocation of resources that took place in most of the countries of the region as a result of economic reforms in recent decades has in many cases resulted in a boost to investment, production and export by environmentally sensitive industries (ESIs), in circumstances where most of the world's advanced economies are adopting trade patterns that clearly diverge from this type of industry, consolidating export profiles with a greater technological content.

She explained that the definition of ESIs includes the iron and steel industries, non-ferrous metals, industrial chemicals, pulp and paper and non-metallic minerals, which are responsible for the intensive use of natural resources, exhibit the highest emission intensities per unit of output, are energy and capital-intensive, less labour-intensive and not dynamic in world trade.

During the period 1990 to 2003, export volumes for this type of industry tripled in the countries of Latin America and the Caribbean, with the industrialized countries as the main destination market. However, an analysis of the export profiles of individual countries in the region, in terms of their orientation towards ESI or greater technological content shows highly diverse results, in respect of specialization and export competitiveness, so that it is misleading to make generalizations for the region as a whole:

- Chile and Trinidad and Tobago and, to a lesser extent, Peru and Venezuela, have export profiles more strongly oriented towards environmentally sensitive industries.
- Similarly, Costa Rica and Mexico have profiles more oriented towards export patterns with greater technological content.
- There are differences in the status of the other countries: some have more balanced profiles with participation by ESIs as well as products with medium and high technological content, as in the case of Argentina or Brazil.

She added that foreign direct investment (FDI) has played a vital role in the configuration of the different export profiles, reflecting different corporate strategies and the particular comparative advantages of individual countries. For example, Mexico attracts investment in sectors with a medium and high technological content, contributing to the configuration of a cleaner export profile. In other cases, such as Chile, Peru or Venezuela, FDI has contributed to consolidating a more pollution-intensive export pattern.

She noted that, in order to guarantee an export pattern in keeping with the sustainable development aspirations of the countries in the region, it is necessary to steer investment into more dynamic production sectors which combine technological innovation and value added. This would serve to decrease environmental impacts and promote production patterns less intensive in natural resources, energy and pollution.

Lastly, she emphasized that, given the lack of sustainable development strategies in the countries of the region, trade rules are not adequately negotiated, the opportunities generated are not put to good use, the impacts on the weakest economic agents are not evaluated and, more generally speaking, the sectors that stand to lose or gain from commercial decisions are not identified.

(c) Carlos de Miguel, ECLAC

Carlos de Miguel pointed out that Latin America's status as a middle-income region concealed a great diversity and asymmetries both between and within countries. Between countries there were marked differences in the size of markets, production structure, export patterns, per capita income and poverty levels and environmental problems, *inter alia*; within countries, there were major income inequalities and a disparity between large and small enterprises, export-oriented sectors and the national market, and the formal and informal sector. It was against that background that the region had been consolidating its integration into the global economy over the last two decades. The process was a pragmatic one, involving work both on the multilateral front and in the area of regional integration and bilateral trade agreements. The number of the latter has increased sharply in recent years.

He pointed out that this effort at international integration gave rise to conflicting positions and a number of questions concerning the significance of the possible impacts on the environment. The most optimistic positions assumed that liberalization would generate greater trade and investment and that this would automatically result in greater economic growth. Moreover, higher income levels would trigger changes in production and behaviour, leading to improvements in environmental conditions. The most pessimistic positions held, *inter alia*, that not only would the pressures on the environment increase but that they would become even greater when the developing countries became "pollution havens". In general terms, it does not appear that the region is witnessing a virtuous causal link between trade, economic growth, improved income and better environmental performance; nor is there a situation in which the signing of free trade agreements, in a context of potentially lax environmental regulation or control, would prompt dirty industries to emigrate to the

region. In any case, given the historical productive specialization of the region in global value chains, and given the prevailing patterns of production and consumption, there are major challenges for environmental sustainability in the countries of the region.

The environmental impacts of trade are far-reaching. Apart from direct impacts, such as the possible introduction of invasive species, it was essential to evaluate the indirect impacts of the increase in the scale of economic activity, changes in production structure, technological advances, improvements in income and regulatory changes. The combination of those effects should produce a Kuznets inverted – U ratio between income levels and some environmental pressures. However, the evidence is not positive and no misalignments are occurring between economic activity and undesirable environmental impacts.

Despite the above-mentioned challenges, the urgent need to obtain rapid economic benefits has meant that recent efforts to achieve international integration through different agreements have not been sufficiently evaluated. At the regional level, there are few assessments of the impacts that the signing of, say, a trade agreement would have on the sustainable development of countries. Moreover, when such assessments are made, they are usually partial and ex post, they focus on macroeconomic aggregates, masking the positive and negative differences between impact recipients, and they do not usually take account of environmental issues. He noted that good ex ante assessments which quantify economic, social and environmental impacts on a systematic basis, at the highest possible level of disaggregation, would make it possible to enhance the benefits of an export-based growth strategy, to anticipate strict competitiveness requirements and to mitigate possible negative socioeconomic and environmental impacts.

He emphasized that including an analysis of environmental impacts in the assessment of agreements is a highly complicated task, inasmuch as it is largely based on projected socioeconomic effects, but it is the only way to obtain a global perspective which indicates the true welfare gains. A number of methodologies are available – UNEP, OECD, EU, USA, WWF, etc. – in respect of procedures for conducting such assessments. In many cases, impacts are quantified using sophisticated economic tools. However, given the economic and – in some cases – technical restrictions faced by developing countries, the process of assessment is frequently too costly and difficult.

He noted that the existing analyses and the results of the few assessments that have been conducted show that trade will not necessarily improve welfare or environmental quality if no account is taken of environmental externalities. Improvements in welfare could be achieved, even in the absence of policies to internalize negative environmental externalities, but only if a positive composition effect prevails for the environment. To that end, not only environmental policies are required, but also integrated production policies to complement free trade agreements.

In his view, it should also be considered that an unsatisfactory environmental policy and trade barriers are two separate distortions that need to be dealt with separately, since

where there are multiple distortions, reducing or resolving one does not necessarily lead to an improvement in the situation. The ideal approach, therefore, is to develop combined efforts with a view to reducing both distortions, for example, by combining the reduction of tariff distortions with the adoption of taxes on polluting emissions. Adequate price signals are one of the most efficient and effective mechanisms for addressing the problem of environmental externalities.

In conclusion, he said that, in order to advance the process of sustainable development through greater international integration in Latin America and the Caribbean, it is essential to strengthen institutions and environmental policy. The evidence from the region shows that, when free trade agreements unsupported by an internal institutional framework capable of tackling their environmental consequences pose significant risks, especially if they are not properly anticipated. He noted that the Member States of the United Nations had determined that it was necessary to forge a global alliance for development in order to address the challenges of globalization and guarantee environmental sustainability (Millennium Summit, 2000) and that the Doha Declaration itself referred to the need for the technical know-how and experience of developed countries to be shared with less developed countries wishing to carry out environmental reviews at national level, and this includes assistance with environmental impact assessments. One of the implicit aspects of such commitments is the imperative need for the countries of the region to devote more attention to this type of assessment and for the developed countries, in the interests of fairer and more equitable trade, to support them with economic and technical resources.

(d) Sebastian Sáez, CEPAL Sebastian Sáez, ECLAC

Sebastian Sáez emphasized the importance of trade policies and rules for improving the international integration of Latin America and the Caribbean. He said that the trade rules adopted in the WTO do not appear to contradict the overall objectives of sustainable development. Appellate Body decisions had taken account of the environmental and social objectives of certain trade measures that had been challenged. Although there appears to have been no conflict thus far between the objectives of international trade, environmental and social agreements, some experts are concerned about how the rules contained in those agreements could be reconciled in the event of any conflict.

He pointed out that trade disciplines can play an important role in supporting an international integration strategy compatible with sustainable development objectives. Through the establishment of a framework of greater stability and certainty in trade relations between countries, specifying the exceptional circumstances under which restraints on trade can be introduced, the economic horizon of investment decisions is broadened, and this enables the agents taking such decisions to adapt their production methods, as and when higher levels of development are achieved, to make them more consistent with the objectives of sustainable development.

The WTO would contribute more effectively to the achievement of sustainable development objectives through the improvement of rules in the context of the current Doha negotiations, including an improved definition of the relationship between Multilateral Environmental Agreements (MEAs) and WTO provisions, as well as through the establishment and/or clarification of rules on such matters as fisheries subsidies affecting the sustainable harvesting of maritime resources and the clarification, if necessary, of the relationship between the TRIPS Agreement and the Convention on Biological Diversity, the protection of traditional knowledge and folklore.

The elimination of trade distortions, subsidies and tariff and non-tariff barriers, which particularly affect exports from developing countries, is another way in which the multilateral system can contribute to the objectives of sustainable development. It has been demonstrated that, in the context of regional agreements, subsidies have not been addressed satisfactorily, with the result that the WTO has become the only forum in which they can be tackled.

It is necessary to assess whether the economic instruments used for the transformation of production and technological innovation, which is necessary to improve the quality of international integration, meet current WTO standards. Such instruments include the capacity to steer investment decisions towards less environmentally sensitive sectors. The policies concerned should be directed not to preventing investment but to establishing the terms and conditions under which it takes place. The same is true of the establishment of subsidies for “clean” activities and taxes on “dirty” activities or the elimination of subsidies for the latter type of activity. In terms of public policy, it is necessary to establish stricter regulatory frameworks with the capacity to manage and supervise policies, and this applies to both domestic and foreign investors. This is not in itself an exclusively commercial aspect but one concerned with adequate public policies to boost competitiveness and sustainability.

In other areas, it appears necessary to clarify the scope of existing rules, as for instance in the area of subsidies under the General Agreement on Trade in Services. In this connection, consideration could usefully be given to the way in which programmes linked to sustainable development objectives, especially social development programmes, would be integrated into the overall framework of disciplines and commitments which influence trade in services, so that governments can maintain them and they are not called into question. At the same time, this would help WTO Members to be prepared to undertake higher levels of commitment in the area of services.

However, trade rules are not enough. There is a consensus that the more efficient utilization of these rules by developing countries requires a new approach to North-South cooperation, so that such cooperation addresses the structural aspects of trade.

It is for this reason that the new ways of conceptualizing cooperation based on the idea of Aid for Trade are particularly relevant to the objective of promoting a form of economic development that is less reliant on environmentally sensitive industries. Indeed, Aid for

Trade can prioritize the adoption of appropriate technologies and the development of export activities more compatible with these objectives. However, the developing countries should clarify the way in which this approach could be adopted, through specific proposals and projects.

The WTO faces ever greater challenges on issues such as climate change and the way in which it is to be addressed. This increases the urgency of the need for a clear strategy to deal with the items currently on the WTO agenda, since future topics cannot be tackled if the more traditional trade problems have not first been addressed satisfactorily.

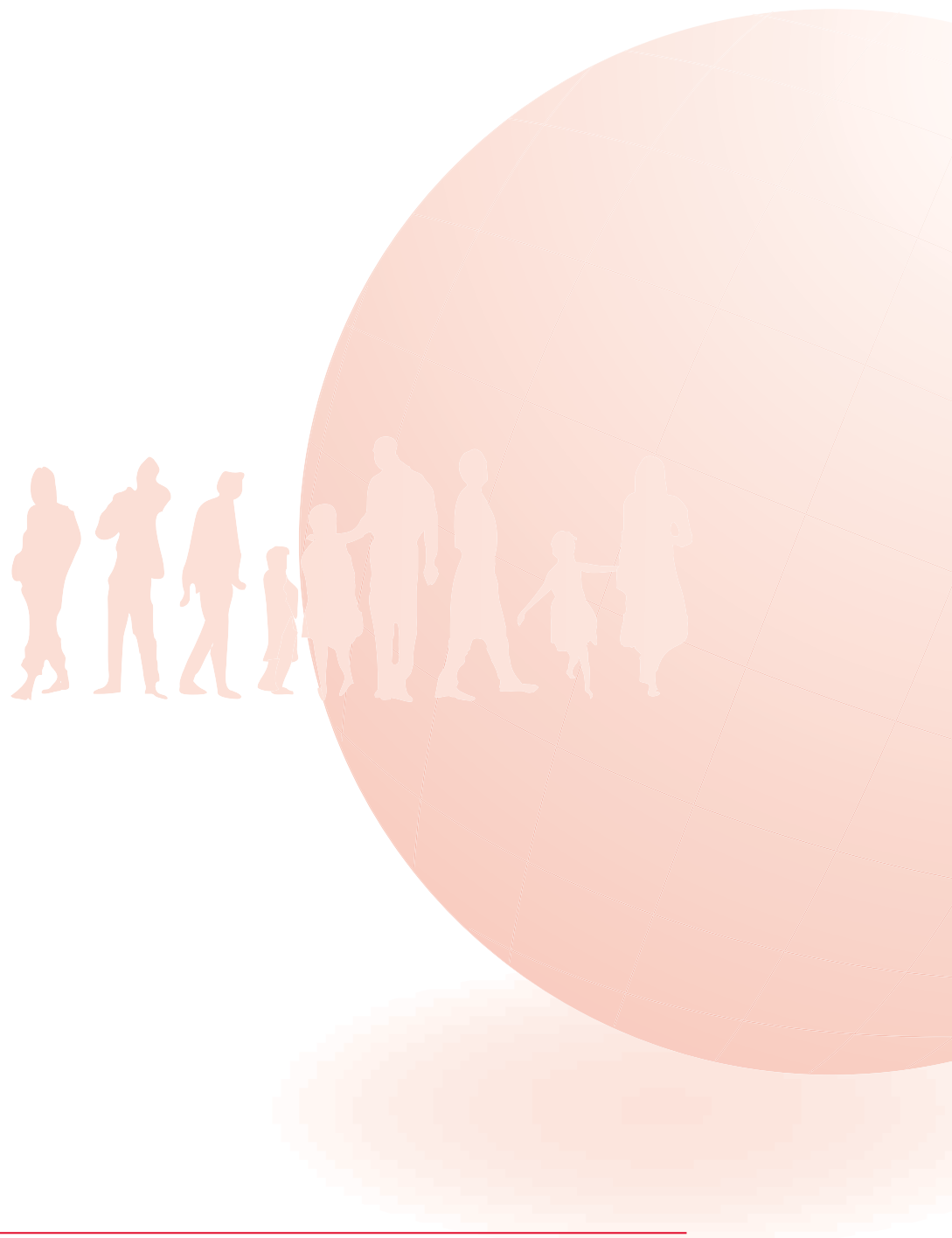
2. Questions and comments by the audience

Questions were asked about the possibility of persuading the countries of Latin America and the Caribbean to adopt environmental rules through the conclusion of trade agreements, and about the viability of this proposal in view of the objections of countries in the region to the inclusion of this type of issue. In this connection, it was pointed out that some positive elements have in fact emerged in relation to such agreements, enabling countries to move forward on the issue of the environment, in terms of both regulation and institutional development.

Comments were made on the cost of protection for sustainable development, inasmuch as protection could be given to inefficient industries, and it was emphasized that, when a free trade agreement is signed, an assessment is made of the reduction of distortions and of the sectors that stand to win or lose. Interest was also expressed in the role of services and trade in services with regard to environmentally sensitive industries, since services constitute a cleaner form of activity. This sector continues to be beset by a series of restrictive measures, and it was asked whether it made sense to liberalize the services sector from the standpoint of sustainable development. In this connection, it was noted that, side by side with environmentally sensitive industries, the environmental goods and services industry – a highly dynamic sector accounting for a growing proportion of world trade – could bear further development precisely in view of the need to meet the demand for services and reduce pollution by that type of industry, and also in view of the demand at country level for waste collection, waste treatment and environmental services in general, all of which is connected to environmental industry.

One participant referred to the meagre results of the effort at international integration in the region, and in particular the unpromising results of assessment studies on certain free trade agreements. The question arises as to why such agreements are signed. According to the participant in question, there are problems with the specifications of assessment models which favour free trade and are therefore tautologous. He claimed that the WTO agreements are assumed by definition to be development-friendly, and that the results should be analysed in countries in which agreements have been implemented and contrasted with the projections made by the models. According to this participant, the latest UNCTAD report deals with this topic. The WTO agreements are not necessarily development-friendly, and to

start from the premise that they are could lead to somewhat dangerous conclusions. The only solution is to take damage control measures in terms of both poverty and employment on the one hand, and the environment, on the other. Lastly, he suggested that it was possible to posit an extreme theory to the effect that free trade is by definition contrary to the environment and to consider the full life cycle associated with the production of every product. He said that it was necessary to go back to basics, possibly in the form of descriptive statistics, in order to see what is happening on the ground, and to distance ourselves somewhat from the field of speculation and modelling which has produced no clear result up to now.





V. ANNEX I – OPENING SPEECHES

A. Opening Remarks by Pascal Lamy, WTO Director-General

Ladies and gentlemen,

It is my pleasure to welcome you to the WTO's 7th Annual Public Forum, this time on “*How the WTO can Help Harness Globalization?*” This year's title, ladies and gentlemen, is a question that the WTO puts to you, to get your thoughts and your views. If we are opening our doors to the public today it is because WTO Members wish to tap into a wider pool of ideas – into fresh ideas – on how the WTO can best contribute to shaping the forces of globalization.

But allow me to first introduce our distinguished set of opening panellists to you. First, is Her Excellency Ms. *Tarja Halonen*, the President of the Republic of Finland. Second, is Her Excellency Ms. *Olubanke King-Akerele*, Minister of Foreign Affairs of the Republic of Liberia. And, third, is Professor *Kishore Mahbubani*, Dean of the Lee Kuan Yew School of Public Policy in the National University of Singapore.

On behalf of all WTO Members, and on behalf of this audience at large, allow me to welcome you to the WTO, and to thank you for having accepted our invitation.

The WTO first launched the idea of a Public Forum back in 2001 when it had opened its doors to the public for a dialogue on the issues confronting the world trading system. The first Public Forum was attended by 400 participants. At the time, we thought this was a record number. Today, I am proud to announce that 1750 participants from across the globe have registered for this Forum – in and of itself an indicator of the extent of globalization!

This number testifies to the relevance of the WTO to the wider world, and it is precisely for this reason that the WTO must continue to consult that wider world on how best it can meet its needs and aspirations. Registered today are various types of non-governmental organizations – from environmental, to human rights, to labour rights groups; numerous parliamentarians; various academic institutions; members of the business community; journalists; lawyers; representatives of other international organizations; and students. It is precisely this very broad spectrum of society that the WTO was hoping to tap into. So thank you all for coming in such record numbers, and thank you for helping us make this year's event successful.

This year's forum was organized through a “bottom-up” or even what I may call a “grass-roots” process. In other words, WTO Members did not dictate the topics or themes that they wished to discuss with civil society, but rather have decided to let civil society itself express its priorities by organizing its sessions and workshops. Having tried this approach in a number of our past Fora now, WTO Members have found that it is precisely this type of approach that allows them to gauge societal priorities on trade, and trade-related issues. And, as you can see in the program before you, this bottom-up approach has indeed led

to a very rich and broad array of issues to be debated over the course of our two days together.

Very broadly, we have classified the topics that civil society has proposed into four areas: *global governance*; *coherence* between the national and international levels of policy-making and between different multilateral institutions; *economic growth* and the role of trade as a vehicle for development; and, finally, *sustainable development*.

What the WTO did not anticipate when it chose this particular model for the organization of its Fora, is a comment that I have now heard from several members of civil society. In having had to organize your own sessions in the WTO Public Fora, the annual forum has turned into a platform for the forging of new alliances amongst different actors on issues of priority concern. Civil society has realized that power can sometimes lie in numbers, and in a pooling of intellectual and other resources. This can be witnessed in today's program, through the large number of "joint" events that you have chosen to organize. I am pleased that you are indeed joining hands to better influence the work of the WTO.

Let me be clear – the WTO is looking for your contribution, it needs you to help shape its agenda.

But is this happening? Is our Public Forum just a public relations exercise? Is it a talk-shop? Or is it a clever, subtle way of trying to make a reticent civil society buy into our core business which is trade opening? In short, has civil society ever influenced the WTO agenda?

The answer is yes. There are indeed numerous occasions where this has happened.

First is the issue of *intellectual property rights and the access to medicines*. Thanks in large part to the light which civil society drew to this issue, in August 2003 the WTO reached an agreement on the use of compulsory licenses by developing countries without manufacturing capacity, in order to help them access life-sustaining medicines. This agreement was incorporated as an amendment to the WTO TRIPS Agreement on the eve the Hong Kong Ministerial Conference in December 2005. The issue of access to affordable medicines is, needless to say, one of great concern to many developing countries whose health care systems are often overwhelmed by HIV/AIDS and other infectious diseases.

Some developing countries had viewed the TRIPS Agreement as an impediment to their efforts to combat public health emergencies. They viewed the Agreement as restricting drug availability. In the developed world, on the other hand, pharmaceutical industries viewed the TRIPS Agreement as essential to encouraging innovation by ensuring adequate international compensation to the pharmaceutical sector for its research, development and creativity. In the absence of such compensation, the industry had explained, it could not recoup the high costs of developing new life-saving drugs. The Decision that WTO Members ultimately took to amend the TRIPS Agreement represented an important compromise,

allowing developing countries to access key medicines in national emergencies more easily, but without undermining the property rights regime. For the developing world, the issue of compulsory licenses was an important test as to whether the WTO could meet their developmental needs. Due to the relentless efforts of civil society – of numerous NGOs – the WTO has certainly lived up to that test.

But things are changing in the WTO once again as we speak, thanks to the efforts of civil society. I am referring to the Doha Round negotiations on fisheries subsidies. For the longest time, many viewed the WTO architecture on subsidies as static, as not capable of change. But civil society soon came to knock on our doors, drawing our attention to the perilous state of much of the world's fish stock. Its message was clear, the WTO has a vital role to play in protecting the world's fish stock, in saving it from depletion.

The numbers that think tanks and NGOs put on the table left no room for ambiguity. They required no further explanation. An annual US\$14-20 billion of fisheries subsidies worldwide has been one of the causes of fish stock depletion, encouraging “too many fishermen to chase after too few fish” as saying now goes. Worldwide, the global fishing fleet, which includes 25,000 large decked-ships and well over 2 million smaller commercial craft, pulls 80 million tons of fish or more from the oceans, or four times the 1950 total! The story was alarming and the WTO Membership once again rose to the challenge.

Today, negotiations on fisheries subsidies in the WTO are in full swing and they are being taken extremely seriously. The Membership realizes the magnitude of what is at stake were these negotiations to fail. And just in case it would forget, you have placed banners all over Geneva to remind us all of the need to reach an agreement! But civil society, in this particular case, did not stop at awareness raising, it came forward with technical suggestions on how the WTO could craft new disciplines; and in so doing has certainly made a real contribution. In fact, to a number of civil society actors this particular experience served to demonstrate how close collaboration with WTO Members can sometimes be vital to achieving their goals.

There are many other stories which I could cite; the successes certainly do not end here. You are all too familiar of course, with *the environmental chapter of the Doha Round* of trade negotiations. The fact that the nexus between trade and the environment, which had been debated for many years in both GATT and WTO, was finally elevated to a “negotiating” stage is also in large part due to civil society. It is vital that the interest that civil society had shown in this area of WTO work now be sustained. This is the first time in the history of the multilateral trading system that an environmental negotiation has been launched. WTO Members must succeed in these negotiations, so that governments are encouraged to address even bigger challenges in the future.

Part of the aim of these negotiations is to help open markets to clean technology – whether in terms of the “goods” or “services” that it entails. That is a very legitimate aim, particularly in light of the enormous threat of climate change that we all face. In fact, I

was struck by the fact that *four different sessions on climate change* have been organized during the course of this Forum. This shows how high on the minds of civil society, WTO Members, and the WTO Secretariat, this issue has now risen. Ms President, I read with great interest the speech that you delivered to the United Nations General Assembly just recently, and in which you highlighted Finland's commitment to sustainable development, and stated that one third of Finland's exports consist of environmentally friendly technologies. These technologies must now be allowed to cross borders, they must be made more accessible to the poor. We should not be penalizing environmental goods through tariffs, quite to the contrary we should be promoting them. And the same goes for environmental services. If there is anything that we should punish, it should be the environmental bads!

In the ongoing agriculture negotiations, there are numerous issues on which civil society has also worked hard to bring forward, such as "*food aid*," and which again must now be carried through. These negotiations tread a fine line, and must strike a delicate balance. While food aid must not be allowed to act as a disguised subsidy to agricultural exports, and while the food aid of one country must not be allowed to displace the exports of another country, food aid must continue to be available to those who need it. We must succeed in responding to humanitarian concerns. I urge civil society to help us strike the right balance in this negotiation, and to keep it on its radar screen.

Ladies and gentlemen, as you can see from the issues that I have just raised, there is much at stake for the world in the Doha Round of trade negotiations. Fisheries subsidies, environmental goods and services, and food aid, are but a few of the issues on which we can make substantial welfare gains through these negotiations. But there are many others too. In fact, key to the Doha Round when it was launched – and let me go back to its original name, the Doha "Development" Agenda – was the rebalancing of the rules of the multilateral trading system in favour of the world's poor.

It is no surprise, therefore, that agriculture, an economic sector of great importance to some of the world's poorest nations, has been placed at the forefront of the negotiations. The negotiations also aim to address the concerns of the developing world in many other areas, such as the removal of tariff peaks of some of their key industrial exports, like textiles. Not to mention the many other areas of the negotiation from which the developing world stands to gain, such as the opening of trade in services, which today represent over two thirds of our economy; or trade facilitation, in other words the cutting of the bureaucratic "red tape" impediments to trade.

You are coming to the WTO at a crucial moment, just as our Members have entered a period of intense negotiations, and just as we start to see some light at the end of the agricultural and industrial goods negotiations. And as positions converge on these key subjects, the pace of work is also accelerating on the rest of the Doha agenda. I hope that we will soon be able to see the negotiating train reach its ultimate destination.

A final point, as the negotiations progress, so does our parallel agenda on Aid-for-Trade package that would allow developing countries to translate “stated gains” into commercial reality, by boosting their supply-side capacity.

I urge everyone in these two days to give serious consideration to the magnitude of the “package” that is now on the WTO’s negotiating table. A package that would strengthen the WTO, enabling it to welcome additional developing country Members, such as Liberia, into its fold. I look forward to your views and your active engagement in these two days.

Thank you for your attention.

Pascal Lamy
WTO Director-General

B. Address by HE Ms Tarja Halonen, President of the Republic of Finland

On Tuesday morning I was speaking about globalization at a seminar in Finland. At the seminar Sir Bob Geldof gave a speech and he compared the Doha Round to the famous Dead Parrot Sketch by Monty Python and said that the Doha Round is as dead as the parrot in the sketch. Many people think this way. I, however, argued that the Doha Round is not dead and it is our duty to keep it alive. I promised Mr. Geldof to tell him about our discussion also here at the WTO Public Forum!

There are really very good reasons to keep the Doha Round alive and keep pushing for a good and fair conclusion. The Doha Development Agenda was launched exactly as a way to harness globalization. Another important fact is that only a multilateral trade agreement can provide for a universal, rules-based, open and non-discriminatory multilateral trading system. Bilateral or regional trade agreements are only second best solutions.

A multilateral agreement is especially in the interest of weaker and poorer nations. Yes, it is true that big trading nations and blocs sometimes dominate the WTO negotiations, but imagine how much more powerful these nations are in bilateral or regional trade negotiations. It is clear that universal rules are in the interest and protection of the weaker.

My own country Finland is a small one in the very North. Of course today we are rich in international comparison, but it was not always so. Finland used to be one of the poorest countries in Europe. Having foundation in democracy and investing in education, good governance and welfare state have made it possible for us to become one of the most competitive countries of the world. A possibility to participate in international trade has been key to our success. We have always thought that UN centred multilateralism is not only right but it is also very much in our national interest. This holds true even today and not only for us.

But, there is always at least one but. The Doha Round must be concluded into a fair agreement. An agreement that takes into account the huge variety of member states in the WTO, especially developing nations. In order to achieve this goal everybody must give in. There has to be a give and take. Let's make world trade genuinely fair and free and let's not fail in the Doha Development Round!

What else could the WTO do to help harness globalization? One part of the answer is obvious and I said it already in the beginning of my speech. The WTO should guarantee a universal, rules-based, open and non-discriminatory multilateral trading system. The aim is to increase trade and use it as means to generate economic growth, employment and broader development goals.

But before going any deeper into the WTO's role in harnessing globalization, let me say a few words about the phenomenon itself. Globalization is certainly a most debated

topic in recent history. In globalization there are winners and losers between and within nations all around the world.

I am delighted that the debate on globalization has in the recent years turned from confrontation to dialogue. There is a better understanding about the benefits and deficits of globalization and that the real issue is to make globalization better – harnessing globalization as in the title of this very WTO Public Forum.

One effort to make globalization better was the World Commission on the Social Dimension of Globalization, which was established by the International Labour Organisation in 2002. I had the honour to co-chair with Benjamin Mkapa of Tanzania this commission of originally not-like-minded people. Despite our diverse views we were able to publish in 2004 a unanimous report “A Fair Globalization: Creating Opportunities for All.”

I would like to mention just a couple of key issues deriving from our report which are still actual. The first one is coherence. In order to make globalization work better for people there has to be better policy coherence at the national and international level. National policy in one area does not always take into account its influence in other areas. And we can all imagine – and unfortunately we know from real life – that lack of coherence at the national level is multiplied at the international level. Representatives of one nation can have very different views on the same issues depending on the organisation where the issue is dealt with. And to aggravate the situation further, coherence, co-operation and information sharing between international organisations leaves much to hope for. In order to have better coherence at the the international level there has to be better coherence at the national level. The road to better globalization starts at home.

Secondly, employment and decent work. Globalization has to be a force to promote employment everywhere. Employment is a key issue for personal and national development, and free trade should promote both economic growth and employment.

Thirdly, cross border movement of people. This is a worldwide phenomenon and no newcomer to the international arena. We need to have a better framework for cross border movement of people in order to make it a truly positive force for people themselves and countries of origin and destination.

Tremendous growth of trade and investment has increased global economic interdependence, which in turn contributes to international peace and security. This point is still as valid as in the late 1940s when the post-war multilateral trading system was set up.

The international trading system is no longer a club of industrialised nations. The WTO has turned into a universal organization. The central challenge today is to generate benefits for all its members, most of which are now developing countries. And let me be clear on this: all countries have the right to develop and to aim for growth and prosperity. No nation can think that her competitive advantage is forever in poverty and cheap labour.

Trade and trade agreements are connected to, and have influence on, other non-economic dimensions of development such as environment, democracy or human rights. For example, trade does not promote development if the goods are produced in inhumane conditions. Governments must do their duty, and luckily consumers have started to understand this too.

Even if international organizations focus only on their so-called core competences, their agendas are still inter-linked. The WTO and other international organizations should ensure that their policies are coherent with each other, as agreed years ago. I believe that the WTO is now well on its way to play an active and constructive role in cooperation with other key organizations.

I would like to take one concrete example where the WTO has taken a very positive role under its coherence mandate in the spirit of the Monterrey Consensus on Financing for Development. It is Aid for Trade.

The WTO has taken an important step by becoming the strongest advocate for Aid for Trade. It wants to play its role in mobilizing support for strengthening trade and productive capacities of developing countries. In my view this role of catalyst fits the WTO well and Finland warmly welcomes it.

The agenda of Aid for Trade has expanded much wider than very narrowly defined technical assistance. Now we are talking about supporting the developing countries efforts, “especially the poorest ones”, to achieve better competitiveness in world trade.

Aid for Trade means supporting external trade, but also productive activities in different economic sectors such as agriculture. It should be about comprehensive support, starting from the smallest individual producers at the end of global value chains. For them the first step in trade maybe the village market 10 kilometers down the road. If there is one. Aid for Trade is about infrastructure. It should also be about creating an enabling environment for domestic and international investment. Again starting from creating decent conditions for millions of informal micro-entrepreneurs in the buzzing cities of developing countries. This way Aid for Trade can have a direct pro-poor focus.

Well-being for mankind is not enough. It has to go hand in hand with well-being of nature. Sustainable development on a global scale can become a reality if we take true care of people and if we have a strong environmental awareness.

It is sometimes said that increased international trade and sustainable development are not compatible. In my opinion this does not need to be true. Better international division of labour and better functioning markets can actually provide more sustainable development for man and nature.

One answer is the access to technology. Industrialized countries must continue to take all possible steps to promote access to environmentally sound technologies for all countries. The international community has to show solidarity towards developing countries that address climate change and, at the same time, strive to achieve other development goals such as poverty eradication.

To conclude I would like to thank Mr. Pascal Lamy for inviting me to this wonderful Forum. The broad agenda and the large number of participants will certainly provide for many interesting discussions and I hope answers too. It would be nice to join you for the entire forum. I wish all of you a very successful dialogue on a theme which is of great interest to all of us.

Thank you very much.

H.E. Ms.Tarja Halonen President, Republic of Finland

C. Address by HE Ms Olubanke King-Akerele, Minister for Foreign Affairs, Republic of Liberia

Mr Pascal Lamy, Director-General of the WTO,
Your Excellency, Madame Tarja Halonen, President of the Republic of Finland,
The Dean of the National University of Singapore,
Distinguished Ladies and Gentlemen,

I am honoured to be here representing Her Excellency, President Ellen Johnson-Sirleaf of the Republic of Liberia, who is not able to be here but who sends her regards to you all.

I am especially pleased to speak in this important forum on a topic of vital importance to Liberia, to developing nations around the globe, and indeed to all countries for whom enhancing economic opportunities is essential to fulfilling the aspirations of the people.

Ladies and Gentlemen, although I'm here as Foreign Minister, until just last week I was the Minister of Trade and Industry of the Republic of Liberia, and deeply engaged and concerned with the very issues which we are tackling today. So, for me, this is of particular significance. You could almost call it a passion.

I would also like to say that a founding principle of the WTO is that trade is the driver of growth, that it has a positive impact on incomes and does contribute to economic development and poverty reduction. However, despite all the talk of equitable trade, it is an understatement to say that the benefits of trade do not reach everyone equally.

I want to begin my remarks by posing a challenge to all of us. That challenge is to make the WTO and global trade writ large: meaningful to the large segments of the world's population that have not seen or enjoyed the benefits of WTO rules and regulations or from free trade. I'm talking about the market women, the small farmers, all those who scrape by on a dollar a day or less, the small struggling businessmen in developing countries around the world, the majority of the world's population. I challenge us to make international trade meaningful to these individuals by leveraging trade to service sustainable and equitable development. I challenge us to put our rhetoric of equality into practice. If the WTO and the global trade regime are to have broad credibility, these stakeholders must be brought into the equation; they must be given tangible benefits. And indeed, I believe this is the cry from civil society.

It was in this spirit, with high hopes, that the Doha Development Agenda negotiations began six years ago. We all know the principal goals set out at Doha have proved difficult to achieve, causing many to say, as we've heard, that it is stalled, it is dead. Indeed, it would appear to some that we are no closer to readdressing the existing imbalances of the multilateral trading system in favour of the global poor now, than we were at the start of Doha. However we know there has been progress. We know there's a lot of work to be done. We've heard it; we experience it every day. It is my sincere hope that this seminar

will contribute to the dialogue on ways to move the Doha Round forward, deliver tangible trade benefits to the global poor, and use trade as a catalyst for sustainable development. Recasting the debate and making real progress will be particularly difficult with respect to the full and fair integration of the 50 least developed countries into the multilateral trading system. We must provide the conditions for meaningful market access, support product and export-based diversification, especially away from primary commodities, such as agriculture, to more process higher-value added.

Ladies and Gentlemen, my own country, Liberia, a country of a mere 3.5 million people, is one of the LDCs, and stands to benefit greatly from increased equitable trade, strengthening peace and building security, regional and internal, through economic revitalization, which is essential. If not the most vital task for Liberia, our integration into the world economy, linking farmers, small businesses and entrepreneurs, with external markets, will play a central role in the economic revitalization of Liberia. After fourteen years of war 80 per cent of our population lives on less than a dollar per day; 20 per cent are literate. Through trade we can give our people an income. We can give them hope. So they may become strong stakeholders in the peace-building process.

Increased trade has an equally important role to play in solidifying peace in post-conflict situations. In our case, in Liberia, the entire Mano River Union Subregion of Liberia, Sierra Leone, and Côte d'Ivoire, are very interconnected. All the efforts at peace building in Liberia will mean nothing, ladies and gentlemen, if it doesn't take place within the regional context of the Mano River Union Basin. The Mano River Union consists of Liberia, Sierra Leone, and Guinea. Today Côte d'Ivoire is asking to be a part of the Mano River Union. The significance of this is that we have cross-border realities. We have the same people and instability in Guinea, or Côte d'Ivoire, flowing right into Liberia and Sierra Leone. We may have achieved the democratic process in Sierra Leone and Liberia but if we have instability on the border region we are going nowhere. Hence the significance of what happens in our country to be seen within the context of the Mano River Union Basin.

Here I want to refer to the situation in South East Asia where, as you know, you have situations in terms of economic zones, like the emerald triangle, like the IMTGT, Indonesia-Malaysia-Thailand growth triangle, Indonesia-Malaysia-Singapore growth triangle, the growth circles. These are the kinds of essential approaches that we need in our subregion. We are talking about hard core infrastructural development to underpin peace and security. We have had the privilege to spend four months in South East Asia looking at these experiences.

You are not talking about small community-level type developments. We want serious development, we want trade, we want export promotion, we want infrastructure development, we want to see the electricity grade that is coming from Nigeria into Côte d'Ivoire, into Guinea, into Liberia. We want to see these hard core infrastructural developments. We're talking trade, we're talking investment promotion. This is what is going to sustain peace and security in Liberia, and hence it is important that this discussion, that the efforts in

terms of the enhanced integrated trade framework, takes into account that context and that reality with which we are faced. This is what you're talking about: expanding trade.

Again, we are in the process in Liberia right now of developing our poverty reduction strategy. As part of the poverty reduction strategy, there is a trade export investment working group. The Minister of Commerce chairs that particular group. In the course of the development of the poverty reduction strategy, there is the need to involve the private sector. In short, what you're talking about is an extraordinary opportunity that the poverty reduction process be finished at IPRs, Interim Poverty Reduction, and that by March 2008 we'll have our poverty reduction strategy. We are starting at the same time the involvement, the engagement, with the enhanced Integrated Trade Framework. This means that by the time we get to our PRSP, ladies and gentlemen, we would have mainstream trade and export promotion into PRSP. We would have taken ownership, because ownership is the issue. And so the enhanced Integrated Trade Framework does not stand on its own. It becomes an integral part of Liberia's processes in terms of development. We hope to launch the enhanced integrated trade framework strategy at the end of October. The World Bank will lead that and the UNDP will be financing it. We'll start the diagnostic and we look forward then to some practical activities there.

I want to take the opportunity to give high commendation to the International Trade Centre, Geneva, which has recently helped Liberia in developing a trade road map. And that trade road map consists of many of the things we've just heard from the President of Finland just now, but very practical. I'll highlight some of those in a minute.

But we do believe that, in cooperation with the international partners, we can indeed move forwards.

With this background how do countries like Liberia, indeed all developing countries, move forward? How can the WTO, with the international trade regime, assist in development? We suggest four key areas of focus. Foremost, reduce unequal market access by removing subsidies, tariffs and quotas, so as to maximize competitive advantage. Secondly, work through the enhanced integrated trade framework.

Thirdly, empower entities like the International Trade Centre, and similar initiatives, in strengthening the technical capacity of our countries, especially in value added exports. I'll give you some concrete examples that are taking place on the ground right now.

Consider trade preferences and special incentives for developing countries. Let us look at one or two concrete examples. We have the case of the Mango industry in Mali. Through the Integrated Framework, Mali has developed a significant mango export industry based on its comparative advantage. This is key. At the same time, Sierra Leone. We have a success story there with the ginger experience, where small-scale farmers were taught new approaches in terms of growing ginger, the net result of which is that they are into the export market today. In my own country, with the assistance of the International Trade

Centre, who mounted a mission last year, we were able to visit Sierra Leone and see what they were doing there. In June this year the International Trade Centre assisted us with a series of supply-chain analysis: coffee, cocoa, rubber, wood products, crafts, and spices. We came to the conclusion that we had an opportunity to grow spices. They even brought with them some buyers. We had a training workshop for small-scale entrepreneurs. Today, the International Trade Centre has been in Liberia for one month, training our small farmers, training our extension workers from the Agriculture Ministry, with a new technology in terms of growing chillies for exports. They have brought with them trainers, people who are doing similar things from Kenya, and from other parts of the world. One month of full-scale training. The net result is that by the first half of next year Liberia will be exporting chillies into the international market.

Now, here is what is significant about what I've just said. We are bringing to the small people, to our small farmers, what this business of trade is all about. Liberia was just admitted into AGOA in January – the Africa Growth and Opportunity Act. I've just come a few days ago from Washington DC, where we had the bilateral consultations with the US government. What does AGOA mean? What did we decide to do? We decided to go for what we call some quick wins: approaches so that you bring it down to the small people so that it means something. Now, by these small farmers learning this new technology of chilli production – and we have a buyer; for this new development, so that what you're doing essentially, is that the small people begin to know what this Doha Round, what the opportunity to export Liberian products, what the advantages of AGOA means. This is what we're talking about. With the assistance of the West Africa trade hub, the US aid technical assistance group operating out of Accra, Ghana, our people are now benefiting from the potential of rubber wood processing. Pilot rubber wood activities are about to start. We'll be looking into wood products. Basically you're talking about expanding value added Manufacturing. We are in the wake of reconstruction after the war and this is what we need. At the same time we are benefiting from the experiences in China with the economic zones. About 30 officials from the private sector will be going to China soon to see what kinds of experiences we can benefit from there. This is where we're going. This will be the nature of our foreign policy: development diplomacy, economic diplomacy, tapping the experience of other regions, in particular the experience of South East Asia, which of course we happen to be personally acquainted with, and we intend to move that agenda. We want to grow our way out of poverty. That is where we are going. We're doing it at the level of the foreign policy of the Government of Liberia and also at the level of our trade and industry, benefiting from the experience that we can have. We need to strengthen capacity, establish institutional framework, empower trade support institutions and, by the way, we're doing this with the private sector. We have a private/public dialogue process. We want to thank our colleagues in the national community, the IFC, the International Finance Corporation. And within the context of the public/private dialogue process we have a working group on trade and export and investment promotion. That working group will include the Government and the private sector so that again from the word go the private sector is an integral part of what we are about.

Practically, the net result of all of this is mainstreaming trade with our PRSP. We have just recently submitted our application for accession to the WTO. We know it's a long process, but we appreciate the fact that technical assistance is available, Mr Director-General. I was here in May and we submitted our application for accession by June, and by late this month we are having a sensitization workshop to Liberia to begin acquainting our people with what this is all about.

I want to express my appreciation, Mr Director-General, for the speed, the efficiency, with which you have responded to our reality.

Last item. You raised the question of the challenges of global governance and the contributions of the WTO to the construction of a system of global governance. I'd just like to say a few words and then we will conclude.

The WTO is indeed a major player in the global governance arena. Its trade rules and regulatory structure affects the lives of all nations and peoples around the world. Naturally, therefore, you have been subject to attacks, but these challenges to the WTO focus a great deal on the need for a more balanced decision-making power between rich and poor, and a more egalitarian trade regime. The fact that this public forum is happening speaks of the responsiveness of the WTO administration to this.

It is important for the WTO to indeed listen to these voices that speak for a stronger global development agenda, and increased focus on poverty reduction. You heard the Director-General himself talk about this. The WTO's efforts towards building a more balanced global governance may look into the following questions. First, how to address competing interests between advanced industrialized countries and developing countries, and the least developed countries? Second, how to help the multilateral trading system gain legitimacy and respond to what the world expects from it? Thirdly, how can the WTO contribute in making the global economy respond to human rights commitments, health and equity in trade? How does the WTO resolve propositions to address trade and environment, and gender and trade, in the global trade regime? How to ensure that citizens' voices and public participation have a space in the WTO? You are here: it is clear that they are already ahead. And this is highly commendable. I am so amazed at this room. I had no idea that I would be addressing such a group. I am just overwhelmed!

If Doha fails, then the international community will have failed the global poor. The achievable goal is to create a synergy where the whole is greater than the sum of its parts. Let us work to dispel any notion of a zero sum game in which rich countries or poor countries win at the expense of the other. Instead, let us create a fair trade framework, one that emphasizes equitable development, that will expand the pie and extend maximum benefits to all.

The WTO has the authority, the credibility, and the broad based membership to change the structural impediments to equitable growth. WTO is a forum. Now is the time. We must

come together to reshape the international trade regime so that rules and regulations are fair while being sensitive to the unique needs of the developing countries. By joining together, by not thinking in terms of narrow self-interest, we can lift each other up. We also want to see the gender dimension provided for in WTO trade matters. Here I would like to reference the fact that Ellen Johnson-Sileaf and the President of Finland are in fact hosting, in 2009, an international colloquium, on women, leadership, development, international peace and security. In 2008, as a precursor, we will be having a series of training workshops covering differing aspects of women's empowerment. Mr Director-General, I'd like to invite the WTO to be a part of this, in January 2008 in Liberia, I'd like to ask you to participate in a workshop focussed on ... the issue of women in export promotion and trade. So that is a challenge that I'm posing to you, and I hope you will take it up as we work towards the February 2009 international colloquium.

Mr Chairman, Madame President of Finland, Distinguished Ladies and Gentlemen, all of this is especially urgent for those that Paul Collier calls "the bottom billion". Are you with me? The bottom billion. That is the latest, most provocative book that has come out, referring to the bottom billion. The bottom billion are all of these – many of our countries – who need particular support, particular emphasis, because indeed he argues that all developing countries are not the same, that in fact as we try to tackle the issues which we are faced with, some of the reality of that, and the major ones, involve among other things, trade. So my country and many Liberians are among the bottom billion. And with them are citizens from almost every country from around the world including those many countries represented in this room. Our common challenge is to provide a framework so that these long-suffering people, our long-suffering people, can emerge from this category with productive livelihoods, pride and dignity. This challenge is properly addressed through trade. And it is our duty, as soon as possible, to do something about it. Time is no longer on our side. But to those of us from conflict countries, like mine, trade and export promotion facilitates the transformation of the lives of our people, and is critical to sustain our still fragile peace, and this again, as I said, within a regional context.

I want to express my appreciation, and I thank you very much, Mr Director-General, for this opportunity.

I thank you.

H.E. MS. Olubanke King-Akerele Minister for Foreign Affairs, Republic of Liberia

D. Address by Professor Kishore Mahbubani, Dean of the Lee Kuan Yew School of Public Policy, National University of Singapore

The world faces many daunting global challenges. Let me mention a few. Will the West accommodate or resist the rise of Asia? The answer to this question will determine the course of the 21st century⁴¹. Will we come together to handle global warming? Or an outbreak of bird flu? Will terrorism become a sunrise or sunset industry? Finally, will we eradicate global poverty?

Let me begin with some good news. The challenge of global poverty is one global problem we can solve. Indeed the goal of reducing global poverty by half by 2015 is one of the few UN Millennium Development Goals (MDGs) that we will successfully meet. We will probably reduce the number of people living on less than a dollar a day from 1.25 billion to just over 600 million⁴². This would be a spectacular achievement and enhance significantly human happiness all round the world. If it happens, I believe that the WTO can claim much of the credit for this happy outcome.

Let me also begin with a personal account to explain my optimism. When I was born in 1948, Singapore was a typical developing country. My family was also poor. The six of us lived in a one-bedroom house paying US\$6 a month in rent. On my first day in school in Grade 1, the school principal weighed me. He decided that I was malnourished. Hence, in the first few months of school, I had to go to his office at every recess with a few other children. Each of us had to ladle milk from a bucket in his office and drink it. From these unpromising beginnings, I went on to become Singapore's Ambassador to the UN, living in a luxurious 6-bedroom apartment worth US\$3 million in Manhattan. By my standards, I have had a remarkable journey. Each day, I become more confident that millions more can enjoy similar remarkable journeys.

Just look at what China and India have accomplished in the past few decades. In 30 years, the number of poor people in China has gone down from 600 million to 200 million. To quote Joseph Stiglitz, former Chief economist at the World Bank, "Never before has the world seen such sustained growth; never before has there been so much poverty reduction."⁴³ India started its economic liberalisation later. Hence, the number in India has gone down from 323 million to 260 million.⁴⁴ The success of China and India, the world's two most populous countries, in reducing global poverty explains why we will meet the UN Millennium Development Goals by 2015.

⁴¹ My next book "The New Asian Hemisphere: the irresistible shift of global power to the East" discusses this question in depth. It will be published in New York in February 2008. Please see www.mahbubani.net.

⁴² 2007 MDG report states current figure is 980 million poor as of 2004. <http://www.un.org/millenniumgoals/pdf/mdg2007.pdf>

⁴³ See commentary by Joseph Stiglitz in The Guardian, 13 April 2006.

⁴⁴ National Human Development Report 2002: pg 38. These figure measured between 1983 to 1999/2000. [http://www.unrisd.org/80256B3C005BCCF9/\(httpPublications\)/AFA456B71A0BD335C1256FFF0052FE69?OpenDocument](http://www.unrisd.org/80256B3C005BCCF9/(httpPublications)/AFA456B71A0BD335C1256FFF0052FE69?OpenDocument).

Why are China and India succeeding? The older I get, the more I realise that big truths can be very simple. The simple reason why China and India are succeeding is because they have bought and are implementing the essential WTO vision that both they and the world will be better off by opening and liberalising their economies, especially in the field of trade. Indeed the world as a whole is better off because global trade has exploded from 7 percent of the world GDP in 1940 to 30 percent in 2005,⁴⁵ and total global exports have ballooned from US\$58 billion in 1948 to US\$9 trillion in 2004.⁴⁶

The great tragedy that the world could face today is that just when we have figured out how to eradicate global poverty and make the world a better place, the traditional champions of trade liberalization – the European Union and the United States – are beginning to lose heart. This explains why the Doha Round is struggling. I am not a trade expert. I have heard many complex and complicated explanations on why we are at an impasse. They have to do with complex agricultural issues. We can spend many hours unravelling these technicalities but in the end we will come up with the same simple answer that the little child came up with in the famous Aesop fable. Only he had the courage to say that the emperor was naked. Similarly, it takes equally great courage to state an equally obvious truth: both the European Union and America are making a massive U-turn away from trade-liberalisation while simultaneously pretending that they are not.

In this new context, the role and responsibility of NGOs has to change dramatically. I never understood why so many NGOs took to the streets in Seattle in 1999 to protest against global trade liberalisation. I presume that they believed that they were protecting the poor people of the developing world from the vicious and rapacious attempts of the developed countries to tear down their trade barriers. Actually, without intending to do so, the NGO demonstrators actually protected the interests of the rich countries and damaged the interests of poor countries.

This is a strong claim to make. Let me support it with one big fact. In 1999, around the time of the Seattle demonstrations, China was engaged in tough negotiations with both America and the European Union to get into the WTO. Both America and the EU thought that they were defending their interests by setting a high bar for China's entry into WTO. They forced China to liberalise in many areas, including the banking and insurance industries. Despite the many difficult demands thrust upon it, China decided to jump over the high bar and absorb the short-term pain of making these adjustments. China joined the WTO in 2001. Six years later, we can see the results. Its GDP increased from roughly US\$1.3 trillion in 2001 to US\$2.2 trillion in 2005, registering an averaged annual growth rate of 9.5%. In the same period, the per capita GDP grew from US\$1,042 in 2001 to US\$1,700 in

⁴⁵ Thomas H. Hoening, "The Global Economy," Northern Colorado Summit on National Economic Issues, Loveland, Colorado, 15 September 2005.

⁴⁶ Opening remarks by H. E. Nitya Pibulsonggram, Minister of Foreign Affairs of Thailand, at the international conference, "Foreign Ministries: Adaptation to a Changing World," 14 June 2007.

2005.⁴⁷ China continues to have the world's fastest growing economy in the world. Why? Because it decided to liberalize its economy.

Few people are aware today that China had to overcome massive obstacles to join WTO. The then Chinese Premier, Zhu Rongji, took huge political risks and almost failed because he had to deal with an embattled American President, Bill Clinton. Let me read an excerpt from an article written then: "But the China that at last could say yes to American demands encountered an America that at last could say no to Chinese deals. Expecting to find in Clinton a resolute warlord reinvigorated by his escape from the Lewinsky scandal, the supremely confident Zhu Rongji found instead battle-beleaguered Bill, not the comeback kid but a man cornered by the miscalculations of his diplomats and generals. The President's unreadiness for the Chinese concessions was reinforced by a political team that sensed he was not in shape to open a new front with Congress, an impression no doubt increased by opposition from his own supporters, such as the unions and human rightists...Having signalled for months what was needed for a deal, the President then abruptly turned it down. To the Chinese, the Americans had become inscrutable."⁴⁸

Despite this initial failure, China persevered. The world should be glad it did because China has now become an important source of growth for the world economy. According to the IMF paper⁴⁹ in 2004, China accounted for about 24 percent of world growth, using purchasing-power-parity-based GDP. China is a major importer of goods and services, especially from other developing countries⁵⁰. Overall, the Chinese economy has become much more competitive. Indeed, it is remarkable to find WTO offices in all corners of China, working hard to educate the Chinese population on the virtues of trade liberalisation.

With such massive evidence available on the virtues of trade liberalisation, the time has come for global NGOs to also change their attitudes towards globalization. The title of our seminar is "How can the WTO help harness globalization?". The word, "harness" should be replaced with "unleashed". The more globalization is unleashed, the more it helps the poor people of the world. Hence, instead of seeing globalization as a negative force that could swamp poor countries, we should see it as a new rising tide that could lift poor countries, if they tear down the walls preventing this tide from entering their countries.

Let me give a few simple examples of how globalization directly helps poor countries. With globalization, the number of cell phones has exploded all around the world. In China,

47 From the Statement by Vice Minister YI Xiaozhun, Ministry of Commerce of China and Head of the Chinese Delegation to the First WTO Trade Policy Review of China, 19 April 2006, 3.

48 Sicherman, Harvey, "The Inscrutable Americans, Zhu Rongji, and The Deal That Wasn't," Foreign Policy Research Institute (www.fpri.org), 30 April 1999.

49 IMF Occasional Paper No. 232, entitled "China's Growth and Integration into the World Economy: Prospects and Challenges", by the IMF, Washington DC, 2004.

50 Statement by Ambassador Burhan Gafoor, Permanent Representative of Singapore, at the WTO Trade Policy Review Of China, Geneva, 19 April 2006.

the number has gone up to 450 million, having risen by an average of 5.5 million each month since the end of 2005.

The well-known Indian writer Shashi Tharoor has described how the cell phone revolutionized India. He notes that in December 2006, for the first time, seven million Indians subscribed to new mobile phones in one month. He adds, “That’s a world record. In September 2006, India overtook China for the first time in the number of new telephone subscribers per month. We’re still way behind China in the total number of cell phone users (just over 140 million against their 450 million), but each month the gap is narrowing. By 2010, the government tells us, we’ll have 500 million Indian telephone users. China will probably still be ahead, but on a per capita basis there will be little to choose between us.”

Each cell phone can enhance the economic productivity of the owner. An article in the Washington Post reinforces this point:

“For less than a penny a minute—the world’s cheapest cell phone call rates—Indian farmers in remote areas can check prices for their produce. They call around to local markets to find the best deal. They also track global trends using cell phone-based Internet services that show the price of pumpkins or bananas in London and Chicago. Indian farmers use camera-phones to snap pictures of crop pests, then send the photos by cell phone to biologists who can identify the bug and suggest ways to combat it. In cities, painters, carpenters and plumbers who once begged for work door-to-door say they now have all the work they can handle because customers can reach them instantly by cell phone. “This has changed the entire dynamics of communications and how they organize their lives,” said C. K. Prahalad, an India-born business professor at the University of Michigan who has written extensively about how commerce—and cell phone—is used to combat poverty. “One element of poverty is the lack of information,” he added. “The cell phone gives poor people as much information as the middleman.” For Rajan, one of the millions of fishermen who work off India’s 4,350 miles of coastline, monthly income has at least tripled to an average of US\$150 since 2000 when cell phones began booming in India. “The dealers are now forced to give us more money because there is competition,” he said, adding that he is providing [for] his family in ways that his fisherman father never could, including a house with electricity and a television.”⁵¹

In many Western minds, one Asian country that seems to have an automatic association with poverty is Bangladesh. Nevertheless, Bangladesh has benefited from the spread of cell phones. In 1993, this country of 142 million people had a scant US\$3 million of foreign investment. But that was before the country witnessed the launch of the first cellular phone operator, GrameenPhone, Bangladesh’s largest telephone company, and the ensuing cellular revolution. In 2007, Bangladesh has five cellular phone companies and US\$2 billion in foreign investment. “Adding one cell phone to Bangladesh would add US\$6,000 to the

⁵¹ Kevin Sullivan, “For India’s Traditional Fishermen, Cellphones Deliver a Sea Change,” Washington Post, 15 October 2006.

national GDP,” according to Nick Sullivan, author of *You Can Hear Me Now: How Microloans and Cell Phones are Connecting the World’s Poor to the Global Economy*. Sullivan cited a World Bank projection that if countries in South Asia continue growing at a 7 percent rate, the incidence of poverty would be reduced from 50 percent to 20 percent. “In addition to becoming a talking device, the cell phone has fast-forwarded to acting as a mini-PC, which is used for mobile banking. People who did not have bank accounts two years ago are now transferring money via mobile phones,” Sullivan said, adding, “This is a silent revolution as dramatic as the Industrial Revolution. You can see the lines crossing between foreign direct investment going up and foreign aid going down. We’re at an extraordinary tipping point actually.”⁵² In short, globalization is helping the poorest people in the world.

Cell phones are only one small aspect of globalization. The spread of television sets and the internet are equally important. Indeed in December 2006, I read an amazing story about a political party in the southern Indian province of Tamil Nadu, the Dravida Munnetra Kazhagam (DMK), which, in an effort to gain votes, had promised to give away free color televisions. It had already handed out sixty thousand TV sets and planned to give away thirty thousand more. In justification, DMK’s party secretary, Mr. T. K. S. Elangovam explained the move by saying that color TVs had become a necessity. “Nowadays, it is not just entertainment, it is more, it informs about health, politics and public awareness issues,” he said.⁵³

I agree with Elangovam that television sets can have beneficial effects. One key reason why the Chinese economy exploded after economic liberalisation is because Deng Xiaoping made a very brave decision when he visited the United States in 1979 to meet President Carter. Until then, communist propaganda in the closed Chinese society had told the Chinese people that they were living in a “Socialist paradise” while the poor American workers were being exploited by rapacious capitalists. When he arrived in America, Deng Xiaoping told the Chinese TV station to show the actual homes of American workers, with cars, refrigerators, and washing machines evident everywhere. This was a shock to the Chinese population. But it was a shock that woke them up and made them determined to catch up. By contrast, a Soviet Prime Minister who visited Singapore in the 1980s was shocked to see fresh fruits in a workers supermarket. He assumed he was in a Potemkin village. The Soviet elite had kept themselves ignorant.

Similarly, if the rising tide of globalization could bring new flows of information to the developing societies in Latin America or Africa, Asia or Oceania, it would help to motivate the populations to strive harder. There is one simple fact I would like to emphasize: poor people do not like being poor. They are looking for ways and means to improve themselves, even those who live in slums.

⁵² “Can Cell Phones Fix World Poverty? Author Nick Sullivan and GrameenPhone Co-Founder Iqbal Quadir Discuss at the Aspen Institute,” February 21, 2007, <http://www.aspeninstitute.org>; Nicholas Sullivan, *You Can Hear Me Now: How Microloans and Cellphones Are Connecting the World’s Poor to the Global Economy* (San Francisco: Jossey-Bass, 2007), 145.

⁵³ “The Big Election Offer – Free Colour TVs”, *Straits Times* (Singapore), 30 December 2006.

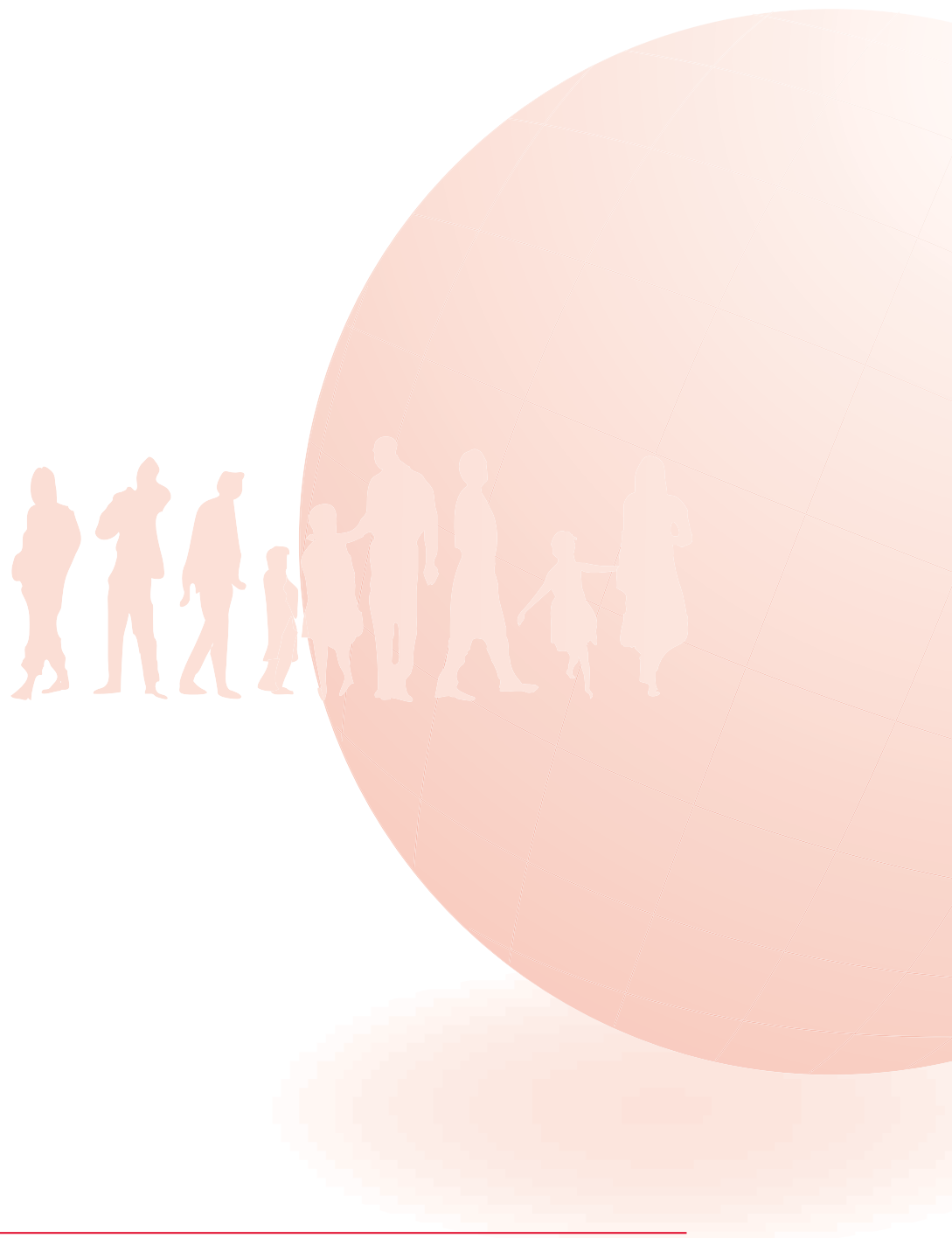
Globalization brings many other benefits to poor people. It eradicates distances. They can sell their products and services globally. The workers in call centres in India or the Philippines do not have to leave home to get good jobs. It spreads best practices. When I was in Pakistan in early September, I was amazed by the depth and scale of economic structural reforms Pakistan had put in place. This too explains why Pakistani economy is taking off. The poor in Pakistan are better off. Globalization also delivers education. For a long time, the majority of the world's population had no access to major libraries or sources of information. Today, they have Wikipedia. If we succeed in spreading the US\$100 laptop and cheap solar power, the world can really take off to a new level.

In conclusion, let me end by apologising for my optimistic faith in globalization. I am amazed how much globalization has changed our world. As a child in Singapore walking to school to drink my ladle of milk, I asked my classmate, Morgan, where he wanted to be when he grew up. He replied, "London, of course". "Why London?" I asked. He replied that the streets there were paved with gold. All the hope and optimism was in America and Europe. Asia looked dark.

Against this backdrop, I am amazed by the new trend of pessimism sweeping across America and Europe. More and more of their citizens believe that they cannot compete with China and India. Hence, instead of reducing trade barriers, they have begun to quietly increase them. If this trend gathers pace, it would be fatal – both for the developed countries and the world at large. We would lose a magnificent opportunity to build a better world for all.

When Ronald Reagan was President, he said, "Mr Gorbachev, tear down this wall." We should remember this wise advice. Hence, the message coming out of this conference should be an equally simple one – to both the developed and developing countries – "tear down the new walls." Let us not try to harness globalization. Let us unleash it. In so doing, we will finally succeed in eradicating global poverty.

Professor Kishore Mahbubani
Dean of the Lee Kuan Yew School of Public Policy National University of Singapore





VI. ANNEX II – WTO PUBLIC FORUM 2007 PROGRAMME

WTO Public Forum
“How Can the WTO Help Harness Globalisation?”

Forum public de l'OMC
«Comment l'OMC peut-elle aider
à maîtriser la mondialisation?»

Foro Público de la OMC
«¿Cómo puede contribuir la OMC
a encauzar la globalización?»

 4-5 October 07

<http://publicforum.wto.org>

WTO Public Forum 2007

“How Can the WTO Help Harness Globalisation?”

Programme

4-5 October 2007

| Time | Room | Subject | Organizer | Title of Session / Speakers |
|--|-------------|--------------------|--------------------------------------|---|
| Thursday 4 October | | | | |
| 07:30 10:30 | CR Lobby | Registration | WTO – External Relations Division | Registration of Participants |
| 10:30 12:30 | CR | Plenary Opening | WTO – External Relations Division | High Level Panel: “How Can the WTO Help Harness Globalization?” Mr. Pascal Lamy – WTO Director-General H.E. Ms. Tarja Halonen – President, Republic of Finland H.E. Ms. Olubanke King-Akerele – Minister for Foreign Affairs, Republic of Liberia Professor Kishore Mahbubani – Dean, Lee Kuan Yew School of Public Policy, National University of Singapore |
| **** 13:00 – 14:00 LUNCH BREAK **** | | | | |

| Time | Room | Subject | Organizer | Title of Session / Speakers | Thursday 4 October |
|----------------|------|------------------------------------|--|---|-----------------------|
| 14:00 16:00 | CR | Session 1: Global Governance | Global Economic Governance (GEG) Programme, Oxford University and Graduate Institute of International Studies, Geneva | <p>A Governance Audit of the WTO: Roundtable Discussion on Making Global Trade work for Development</p> <p>Moderators: Dr. Carolyn Deere – Director, Global Trade Governance Project, Global Economic Governance. Programme (GEG), Oxford and Mr. Matthew Stilwell – Fellow, Graduate Institute of International Studies, Geneva</p> <p>Joint Presentation: Dr. Carolyn Deere, Mr. Mayur Patel and Mr. Arunabha Ghosh – Global Trade Governance Project, GEG, Oxford</p> <p>Roundtable Discussants: Mr. Harlem Désir MEP – Vice Chairman of the Socialist Group in the European Parliament Mr. Faizel Ismail – Head of Delegation to the WTO, Permanent Mission of the Republic of South Africa to the UN and other International Organizations at Geneva Mr. Alejandro Jara – WTO Deputy Director-General H.E. Mr. Mothae Maruping – Ambassador, Permanent Representative of Lesotho to the WTO Mr. Ricardo Meléndez-Ortiz – Chief Executive, ICTSD H.E. Mr. Guillermo Valles Galmés – Ambassador, Permanent Representative of Uruguay to the WTO</p> | |
| 16:15 18:15 | | Session 2: Coherence | Appellate Body Secretariat | <p>WTO Dispute Settlement – Its Impact on the Multilateral Trading System and its Role in a Globalized World</p> <p>Moderator: Professor Giorgio Sacerdoti – Chairman of the Appellate Body</p> <p>Professor Merit Janow – Member of the Appellate Body Professor Georges Abi-Saab – Member of the Appellate Body H.E. Mr. Bruce Gosper – Ambassador, Permanent Representative of Australia to the WTO and Chairman of the WTO Dispute Settlement Body Professor Joel Trachtman – Tufts University</p> | |

| Time | Room | Subject | Organizer | Title of Session / Speakers | Thursday 4 October |
|----------------|------|--|----------------------------|---|-----------------------|
| 14:00 16:00 | W | Session 3: Economic Growth | European Services Forum | <p>How can Services Trade Contribute to Harnessing Economic Growth for Sustainable Economic Development?</p> <p>Moderator: Mr. Christopher Roberts – Senior Lawyer, Covington & Burling – London; Chairman of European Services Forum’s Policy Committee; Former Director-General of UK Department of Trade and Industry – DTI</p> <p>Sir Thomas Harris – Vice-Chairman of Standard Chartered Capital Markets, London; Chairman of International Affairs Committee of British Bankers Association, European Banking Federation Expert Representative on International Affairs</p> <p>Mr. Pranav Kumar – Policy Analyst at Consumer Unity & Trust Society (CUTS)</p> <p>Mr. Tilman Kupfer – European Regulatory Manager, BT (British Telecom) – Brussels; Chairman of International Affairs Committee of ETNO, Association of European Telecommunications Operators</p> <p>Mr. Rajesh Aggarwal, Senior Advisor, Trade in Services – International Trade Centre UNCTAD/ WTO, Geneva (IGO)</p> | |
| 16:15 18:15 | | Session 4: Sustainable Development | The Evian Group at IMD | <p>Restoring Morality to the Global Market</p> <p>Moderator: Mr. Jean-Pierre Lehmann – Professor of International Political Economy, IMD, and Founding Director, The Evian Group, Switzerland</p> <p>Mr. Ravi Kanth Devarakonda – Geneva Editor, Washington Trade Daily and Deccan Herald (India), Switzerland</p> <p>Ms. Ximena Escobar de Nogales – Deputy Director & Senior Economic Counsellor, CASIN, Switzerland</p> <p>Ms. Rosalea Hamilton – CEO, Institute of Law & Economics, Jamaica</p> <p>Mr. Aldo Matteuci – Senior Fellow, DiploFoundation, Switzerland</p> | |

| Time | Room | Subject | Organizer | Title of Session / Speakers | Thursday 4 October |
|----------------|------|--|--|---|-----------------------|
| 14:00 16:00 | D | Session 5: Global Governance | The National Centre of Competence in Research (NCCR) International Trade | Harnessing Globalization: Unpacking the Concept Moderator: Dr. Manfred Elsig – World Trade Institute/GIIS, Senior Research Fellow Dr. Sophie Meunier – Professor, Princeton University, USA Dr. Heribert Dieter – German Institute for International and Security Affairs, Berlin and Member of the Warwick Commission Dr. Robert Hamwey – Trade Negotiations and Commercial Diplomacy Branch, UNCTAD Dr. Cédric Dupont – Professor, Graduate Institute of International Studies, Geneva | |
| 16:15 18:15 | | Session 6: Sustainable Development | Inter- Parliamentary Union (IPU) and European Parliament | Trade and climate change: Is trade killing our planet? Moderator: Mr. Patrick Baert – Journalist, Agence France Presse Ms. Ivonne Baki – Member of the Andean Parliament, Former Minister of Commerce of Ecuador Mr. Javier Moreno Sánchez – Member of the European Parliament, Spain Mr. Shakeel Mohamed – MP, Mauritius Mr. Awni Behnam – President, International Ocean Institute | |

| Time | Room | Subject | Organizer | Title of Session / Speakers | Thursday 4 October |
|----------------|------|--|--|--|-----------------------|
| 14:00 16:00 | E | Session 7: Economic Growth | Canadian Agri- Food Trade Alliance (CAFTA) | Building and Expanding Opportunities for Agriculture Moderator: Mr. Keith Lancaster – Executive Director – Canadian Agri-Food Trade Alliance Ms. Alanna Koch – President – Canadian Agri-Food Trade Alliance Ms. Isabel Mazzei – Policy Advisor – Oxfam International Dr. Shiferaw Adilu – Senior Trade Policy Analyst – Alberta Agriculture and Food | |
| 16:15 18:15 | | Session 8: Sustainable Development | Centre for International Sustainable Development Law (CISDL) | Natural resources, sustainable development and trade rules: New instruments to promote sustainable development through trade agreements Moderator: Mr. Markus W. Gehring – Sustainable Trade, Investment and Competition Law Programme, Centre for International Sustainable Development Law and Centre of International Studies, University of Cambridge Ms. Marie-Claire Cordonier Segger – Natural Resources, Government of Canada Dr. Carolyn Deere – Global Economic Governance Programme, University of Oxford Dr. Moustapha Kamal Gueye – International Centre for Trade and Sustainable Development (ICTSD) Ms. Tara Lann – Global Subsidies Initiative (GSI), International Institute for Sustainable Development (IISD) | |

| Time | Room | Subject | Organizer | Title of Session / Speakers | Thursday 4 October |
|----------------|------|---|--|---|-----------------------|
| 14:00 16:00 | F | Session 9: Economic Growth | International Centre for Trade and Sustainable Development (ICTSD) | <p>Addressing Vulnerabilities and Competitiveness of Small and Vulnerable Economies (SVEs) in Trade Negotiations</p> <p>Moderator: Mr. Constantine Bartel – International Centre for Trade and Sustainable Development, (ICTSD)</p> <p>Mr. Werner Corrales – Senior Fellow, Competitiveness and Development, International Centre for Trade and Sustainable Development, (ICTSD)</p> <p>Mr. Felipe S. Baritto – Consultant</p> | |
| 16:15 18:15 | | Session 10: Sustainable Development | MISEREOR and Heinrich Boell Stiftung | <p>Slow Trade – Sound Farming: A Multilateral Framework for Sustainable Markets in Agriculture</p> <p>Moderator: Ms. Christine Chemnitz – Heinrich Boell Foundation</p> <p>Mr. Wolfgang Sachs – Senior Fellow at the Wuppertal Institute for Climate, Environment and Energy</p> <p>Ms. Aileen Kwa – Member of the EcoFair Trade experts’ panel, Consultant</p> <p>Ms. Alicia Kolmanns – Development Policy Department, MISEREOR</p> | |

| Time | Room | Subject | Organizer | Title of Session / Speakers | Thursday 4 October |
|---|------|-----------------------------------|---|---|-----------------------|
| 14:00 16:00 | B | Session 11: Economic Growth | Agriculture Accountability Initiative (AAI) | <p>Supply Management in Support of Rural Livelihoods under the WTO</p> <p>Moderator: Mr. Thomas Lines – Agribusiness Accountability Initiative</p> <p>Mr. Samuel Asfaha – Project Officer on Commodities, South Centre, Geneva Mr. Alex Danau – Collectif Stratégies Alimentaires, Brussels Mr. Bhaskar Goswami – Forum for Biotechnology and Food Security, New Delhi Mr. Laurent Pellerin – Président, Union des Producteurs Agricoles, Quebec Mr. Saliou Sarr – Coordinateur, Réseau des Organisations Paysannes et des Producteurs Agricoles de l’Afrique de l’Ouest – Ouagadougou, Burkina Faso</p> | |
| 16:15 18:15 | | Session 12: Coherence | International Gender and Trade Network (IGTN) | <p>Global Governance, International Trade and Development Discourses and National Policy-Making</p> <p>Moderator: Ms. Maria Rosaria Iorio – Head of the International Gender and Trade Network (IGTN), Geneva Office</p> <p>Ms. Michiko Hayashi – Economic Affairs Officer, Trade Negotiations and Commercial Diplomacy Branch, Division for International Trade in Goods and Services and Commodities, UNCTAD Ms. Fiorina Mugione – Chief, Enterprise Policy and Capacity Building, Division on Investment, Technology and Enterprise Development, DITE, UNCTAD Mr. Aftabalam Khan – International Coordinator, Trade Justice & Stop Corporate Abuse Initiatives, Action Aid Ms. Katrine Hagen – International Federation of University Women</p> | |
| **** 18:15 – 20:15 RECEPTION CR LOBBY **** | | | | | |

| Time | Room | Subject | Organizer | Title of Session / Speakers | Friday 5 October |
|-------------------------|------|---|--|--|---------------------|
| Friday 5 October | | | | | |
| 09:00 11:00 | CR I | Session 13: Sustainable Development | WTO – Trade and Environment Division | <p>The Role of Trade in Supporting International Efforts to Mitigate Climate Change</p> <p>Moderator: Ms. Vesile Kulacoglu – Director, Trade and Environment Division, WTO Secretariat</p> <p>Panellists: Mr. Feng Gao – Director, Legal Affairs Programme, Framework Convention on Climate Change Secretariat Professor Joost Pauwelyn – Professor of International Law, The Graduate Institute of International Studies, Geneva</p> <p>Discussants: Mr. Robert Teh – Counsellor, Economic Research and Statistics Division, WTO Secretariat Ms. Ludivine Tamiotti – Legal Affairs Officer, Trade and Environment Division, WTO Secretariat</p> | |
| 11:15 13:15 | | Session 14: Coherence | European Commission, DG Trade | <p>The Rapid Development of FTAs: Challenges and Opportunities for Future Multilateral Trade Negotiations</p> <p>Moderator: Mr. Gaspar Frontini – Chief Trade Economist at the European Commission.</p> <p>Ms. Arancha González – Head of Cabinet to WTO Director-General, WTO Secretariat Dr. Simon J. Evenett – Professor of International Trade and Economic Development, Department of Economics, University of St. Gallen, Switzerland Dr. Bernard Hoekman – Senior advisor at the Development Research Group of the World Bank Professor Vinod K. Aggarwal – Director, University of California – Berkeley</p> | |

| Time | Room | Subject | Organizer | Title of Session / Speakers | Friday 5 October |
|----------------|-------|---|--|---|---------------------|
| 09:00 11:00 | CR II | Session 15: Economic Growth | Eurochambres / Eurocommerce | <p>WTO and SMEs: What is Needed to Have A Win-Win Situation?</p> <p>Moderators: Mr. Dirk Vantghem – Eurochambres, Director International Affairs and Mr. Ralph Kamphöner – EuroCommerce, Senior Adviser International Trade</p> <p>Mr. Laurent Matile – UNCTAD/WTO International Trade Centre (ITC), Senior Officer, Multilateral Trading System Mr. Piero Iacomoni – Monnalisa Spa, Fashion Producer, Italy, General Manager Mr. Peter Bernert – Brieftaube, Fashion Retailer, Austria, Owner Mr. José María Cervera – Barcelona Chamber of Commerce, International Director Mr. Kees Keijzer – Head of Section, Trade, Permanent Delegation of the European Commission, Geneva</p> | |
| 11:15 13:15 | | Session 16: Sustainable Development | International Federation of Agricultural Producers (IFAP) | <p>An Agreement on Agriculture that Promotes Global Development</p> <p>Opening remarks: Mr. Jack Wilkinson – President of IFAP</p> <p>Panel of the leaders of the main negotiating groups: Mr. Paulo Mesquita – Deputy, Permanent Representative of Brazil to the WTO Mr. Jean-Luc Demarty – Director General for Agriculture and WTO Chief Negotiator for Agriculture, European Communities H.E. Mr. Ujal Singh Bhatia – Ambassador, Permanent Representative of India to the WTO Mr. Joseph Glaubir – Lead Negotiator for Agriculture, US Trade Representative’s Office</p> <p>Closing Remarks: Mr. Harsha V. Singh – Deputy Director-General, WTO</p> | |

| Time | Room | Subject | Organizer | Title of Session / Speakers | Friday 5 October |
|----------------|------|--------------------------------------|---|--|---------------------|
| 09:00 11:00 | W | Session 17: Global Governance | South Centre and Research and Information Services for Developing Countries (RIS) | <p>Global Trade Governance and the Role of the South: Theory and Practice in Enhancing the Role of the South: Part I</p> <p>Moderator: Mr. Vicente Paolo Yu, Coordinator, GGDP, South Centre</p> <p>Dr. Nagesh Kumar – Director-General, RIS Dr. Carolyn Deere – Director, Global Trade Governance Project, Oxford University Dr. Manfred Elsig – World Trade Institute, University of Bern H.E. Dr. Anthony Mothai Maruping – Ambassador, Permanent Representative of Lesotho to the UN and other International Organizations at Geneva, LDC Coordinator</p> | |
| 11:15 13:15 | | Session 18: Coherence | Evian Group and CUTS International | <p>Mainstreaming International Trade into National Development Strategy</p> <p>Moderator: Mr. Jean-Pierre Lehmann – Professor of International Political Economy, IMD, and Founding Director, The Evian Group, Switzerland</p> <p>Ms. Rosalea Hamilton – CEO, Institute of Law & Economics, Jamaica Mr. Faizel Ismail – Head of Delegation to the WTO, Permanent Mission of the Republic of South Africa to the UN and other International Organizations at Geneva Dr. Veena Jha – Visiting Fellow, IDRC, Switzerland Mr. Pranav Kumar – Policy Analyst, Consumer Unity and Trust Society International (CUTS International), India Mr. Mohammad A. Razzaque – Economic Affairs Officer, Commonwealth Secretariat, UK</p> | |

| Time | Room | Subject | Organizer | Title of Session / Speakers | Friday 5 October |
|----------------|------|---|--|---|---------------------|
| 09:00 11:00 | D | Session 19: Economic Growth | Overseas Development Institute (ODI) | <p>The Contribution of Services to Development, the Role of Regulation and Trade Liberalisation</p> <p>Moderator: Ms. Sheila Page – Senior Research Associate, Overseas Development Institute</p> <p>Mr. Dirk Willem te Velde – Research Fellow, Overseas Development Institute "The Contribution of Services to Development, the Role of Regulation and Trade Liberalisation"</p> <p>Mr. Rudolf Adlung – Counsellor, Trade in Services Division, WTO Secretariat "The Contribution of Services Liberalization to Poverty Reduction: What Role for the GATS"</p> <p>Mr. Dominique Njinkeu – Executive Director, International Lawyers and Economists Against Poverty</p> | |
| 11:15 13:15 | | Session 20: Sustainable Development | DLA Piper UK LLP | <p>What Role Can the WTO Play in the Fight Against Climate Change?</p> <p>Moderator: Ms. Miriam González – Head of Trade, DLA Piper UK LLP</p> <p>Dr. Doaa Abdel Motaal – Counsellor, Office of the Director-General, WTO Secretariat</p> <p>Mr. Ricardo Meléndez-Ortiz – Chief Executive, ICTSD</p> <p>Ms. Ditte Juul Joergensen – Head of Sustainable Development Unit, DG Trade, European Commission</p> <p>Mr. Mani Muthukumara – Senior Environmental Economist, Environment Department, The World Bank</p> | |

| Time | Room | Subject | Organizer | Title of Session / Speakers | Friday 5 October |
|----------------|------|-------------------------------------|--|--|---------------------|
| 09:00 11:00 | E | Session 21: Global Governance | The Panos Institute | <p>Trade Stories, Trade Perceptions: Media Coverage and Public Views of Trade and Development</p> <p>Moderator: Mr. Jon Barnes – Head of globalisation programme, Panos London, UK</p> <p>Mr. John Kamau – Associate Editor, Business Daily, Nation Media Group, Kenya</p> <p>Ms. Amy Barry – Deputy Head of Media, Oxfam, UK</p> <p>Mr. Rune Saugmann Andersen and Lasse Skjoldan – Institute of Political Science, University of Copenhagen, Denmark</p> <p>Mr. Warren Giles – Journalist, Bloomberg News Geneva, Switzerland</p> <p>Discussant: Dipankar De Sarkar – European Bureau Chief, Indo-Asian News Service (IANS), India/UK</p> | |
| 11:15 13:15 | | Session 22: Coherence | Agency for International Trade Information and Cooperation (AITIC) | <p>The Trade Dimension of Globalization: Multilateral (WTO) or Regional (RTAs)</p> <p>Moderator: Dr. Esperanza Durán – Executive Director, AITIC</p> <p>Professor Arvind Panagariya – Colombia University, USA</p> <p>Dr. Craig VanGrasstek – Washington Trade Reports, USA</p> | |

| Time | Room | Subject | Organizer | Title of Session / Speakers | Friday 5 October |
|----------------|------|---|------------------------------------|--|---------------------|
| 11:15 13:15 | F | Session 23: Sustainable Development | Rainforest Alliance | <p>How Business – NGO Partnerships Can Contribute to Conservation and Promote Sustainable Livelihoods – A Look at African and Latin American Experiences</p> <p>Moderator: Mr. Bernward Geier – President, Colabora</p> <p>Mr. Roland Higgins – NGO Representative, Rainforest Alliance, Brussels</p> <p>Mr. Julius Ng'ang'a – African Farmer Representative, Sustainability Coordinator, Sustainable Management Services, ECOM</p> <p>Mr. Boers Brita Westelius – Coffee Industry Representative, Manager EU Category Communications, Coffee/Cheese&Dairy, Kraft Foods Europe GmbH</p> | |
| 14:15 16:15 | | Session 24: Global Governance | Friedrich-Ebert- Stiftung (FES) | <p>The role of Social Standards in Promoting Fair Trade</p> <p>Moderator: Mr. Steffen Grammling – Program Officer, FES Geneva Office</p> <p>Ms. Cleopatra Dombia-Henry – Director, International Labour Standards, ILO</p> <p>Ms. Veronica Nilsson – Senior Policy Advisor, TUAC</p> <p>Mr. Auret van Heerden – President, Fair Labor Association</p> <p>Ms. Claribel David – Vice-President, International Fair Trade Association</p> | |

| Time | Room | Subject | Organizer | Title of Session / Speakers | Friday 5 October |
|--|------|-----------------------------------|--|---|---------------------|
| 09:00 11:00 | B | Session 25: Economic Growth | BUSINESS- EUROPE | <p>Non-Tariff Barriers to International Trade and Economic Growth– What can the WTO do?</p> <p>Moderator: Dr. Reinhard Quick – Vice-Chairman, WTO Working Group, BUSINESSEUROPE</p> <p>Mr. Eoin O'Malley – Advisor, BUSINESSEUROPE</p> <p>H.E. Mr. Ujal Singh Bhatia – Ambassador, Permanent Representative of India to the WTO</p> <p>Mr. John Clarke – Deputy Permanent Representative of the European Commission to the WTO, Geneva</p> <p>Mr. Rasmus Wendt – International Affairs Adviser, Dansk Industri</p> | |
| 11:15 13:15 | | Session 26: Coherence | International Chair WTO/Regional Integration | <p>A Missing Instrument: A WTO/Regional Integration Global Academic Network</p> <p>Moderator: Mr. Ramon Torrent – University of Barcelona and Coordinator of the International Chair WTO/Regional Integration (UB-UAM)</p> <p>Mr. Patrick Low – Director, Economic Research and Statistics Division, WTO Secretariat</p> <p>Ms. Carmen Pont-Vieira – Former WTO Secretariat Staff, Trade Policy Review and Regional Agreements Division</p> <p>Ms. Sheila Page – Senior Research Associate, Overseas Development Institute</p> <p>Ms. Vera Thorstensen – Economic Counsellor, Permanent Mission of Brasil to the UN at Geneva</p> | |
| **** 13:00 – 14:00 LUNCH BREAK **** | | | | | |

| Time | Room | Subject | Organizer | Title of Session / Speakers | Friday 5 October |
|----------------|------|-------------------------------------|---|---|---------------------|
| 14:15 16:15 | CR I | Session 27: Coherence | Centre for International Governance Innovation | <p>Does the Single Undertaking Still Underpin the Coherence of the Global Trading System?</p> <p>Moderator: Mr. Harsha V. Singh – Deputy Director-General, WTO</p> <p>Dr. John M. Curtis – Distinguished Fellow and Director of the BRICSAM project, Centre for International Governance Innovation, Waterloo, Canada; Former Chief Economist, Department of Foreign Affairs and International Trade, Canada</p> <p>Dr. Simon J. Evenett – Professor of International Trade and Economic Development, Department of Economics, University of St. Gallen, Switzerland</p> <p>Dr. Robert Wolfe – Professor, School of Policy Studies, Queen’s University, Kingston, Canada</p> <p>H.E. Mr. Guillermo Valles Galmés – Ambassador, Permanent Representative of Uruguay to the WTO</p> | |
| 16:30 18:30 | | Session 28: Global Governance | South Centre and Research and Information Services for Developing Countries (RIS) | <p>Global Trade Governance and the Role of the South: Theory and Practice in Enhancing the Role of the South: Part II</p> <p>Moderator: Dr. Nagesh Kumar – Director-General, RIS</p> <p>Mr. Faizal Ismail – NAMA 11 Coordinator, South Africa</p> <p>Mr. Vicente Paolo Yu – Programme Coordinator – GGDP, South Centre</p> <p>Mr. Mayur Patel – Global Trade Governance Project, Oxford University</p> | |

| Time | Room | Subject | Organizer | Title of Session / Speakers | Friday 5 October |
|----------------|-------|-------------------------------------|---|---|---------------------|
| 14:15 16:15 | CR II | Session 29: Coherence | European Centre for International Political Economy (ECIPE) | <p>Coherent Strategies for Trade Liberalization – Bottom-up policies regional agreements and WTO-system compatibility</p> <p>Moderator: Mr. Fredrik Erixon – Director, ECIPE</p> <p>Dr. Razeen Sally – Director, ECIPE Mr. Rengang Huang – Minister Counsellor, Permanent Mission of China to the WTO Professor Patrick Messerlin – Groupe Economie Mondiale, Sciences Po, Paris Dr. Simon J. Evenett – Professor of International Trade and Economic Development, Department of Economics, University of St. Gallen, Switzerland and Member of the Warwick Commission on the Future of the Multilateral Trading System after Doha Mr. Roderick Abbott – Former Deputy Director-General of the WTO</p> | |
| 16:30 18:30 | | Session 30: Global Governance | Institute for Agriculture and Trade Policy (IATP) and Center for International Environmental Law (CIEL) | <p>Rebalancing Trade with Global Norms</p> <p>Moderator: Ms. Carin Smaller – Institute for Agriculture and Trade Policy, (IATP)</p> <p>Ms. Caroline Dommen – Director, 3D – Trade – Human Rights – Equitable Economy Mr. Dalindyabo Shabalala – Director, Intellectual Property and Sustainable Development Project, Center for International Environmental Law, (CIEL) Mr. Daniel Mittler – Political Advisor, Greenpeace International</p> | |

| Time | Room | Subject | Organizer | Title of Session / Speakers | Friday 5 October |
|----------------|------|---|--|--|---------------------|
| 14:15 16:15 | W | Session 31: Sustainable Development | Center for International Environmental Law (CIEL), Friends of Earth Europe, German Development Institute, German NGO Forum on Environment and Development, Germanwatch, Greenpeace, International Forum on Globalization (IFG) | Trade and Climate Change: Peril or Promise? Moderator: Mr. Daniel Mittler – Political Advisor, Greenpeace International Mr. Tobias Reichert – Germanwatch & German NGO Forum on Environment and Development- Market Liberalization, a Panacea for Measures to Combat Climate Change? The Cases of Environmental Goods and Biofuels Mr. Victor Menotti – International Forum on Globalization (IFG), WTO – Energy Services and Fuel Efficiency Standards: What’s at Stake for Stable and Sustainable Energy Supplies and Climate Policies? Dalindyabo Shabalala – Center for International Environmental Law (CIEL) – The Role of Intellectual Property Rights and Technology Transfer for Measures to Combat Climate Change Mr. Vicente Paolo Yu – South Centre – Development and Climate Change: The Role of Trade Policy | |
| 16:30 18:30 | | Session 32: Economic Growth | International Institute for Sustainable Development (IISD) | The WTO’s record in addressing trade- distorting subsidies: An Assessment of its record and proposals for improving its performance Introduction: Mr. David Runnalls – President & Chief Executive Officer of IISD Mr. Pablo Klein – Permanent Mission of Mexico to the WTO, Geneva – Overview by a trade delegate on general impression of strengths and weaknesses (or successes and failures) of WTO on disciplining subsidies Mr. Ron Steenblik – Director of Research, Global Subsidies Initiative, IISD – Review of issues related to notifications and plans to improve them Mr. Michael Thöne – Cologne University – Finanzwissenschaftliches Forschungsinstitut (FiFo) – Challenge of providing a comprehensive WTO subsidy notification as seen from the notifying country’s perspective | |

| Time | Room | Subject | Organizer | Title of Session / Speakers | Friday 5 October |
|----------------|------|--------------------------------|---|---|---------------------|
| 14:15 16:15 | | Session 33: Coherence | Center for International Law (CIEL) | WTO Dispute Settlement: A Vehicle for Coherence? Moderator: Ms. Mina Mashayekhi – UNCTAD Mr. Nilo Dytz Filho – Permanent Mission of Brazil to the UN at Geneva Mr. Brendan McGivern – White and Case Professor Joost Pauwelyn – Graduate Institute of International Studies, Geneva Ms. Nathalie Bernasconi-Osterwalder – Center for International Environmental Law | |
| 16:30 18:30 | D | Session 34: Economic Growth | Third World Network (TWN) | Globalisation and the WTO Doha Agenda: Impact on Development Mr. Martin Khor – Third World Network – Globalisation, WTO, Doha and Development Aspects Mr. Mehdi Shafaeddin – Former Senior Economist, UNCTAD – Development implications of NAMA H.E. Mr. Oscar Carvallo – Ambassador, Permanent Mission of the Bolivarian Republic of Venezuela to the UN at Geneva – Development and the Doha negotiations Ms. Anne Kamau – Permanent Mission of Kenya to the UN at Geneva – Food Security and Livelihood Concerns in Agriculture and the WTO Ms. Esther Busser – International Trade Union Confederation (ITUC) Aftabalam Khan – International Coordinator, Trade Justice & Stop Corporate Abuse Initiatives, Action Aid | |

| Time | Room | Subject | Organizer | Title of Session / Speakers | Friday 5 October |
|----------------|------|---|---|---|---------------------|
| 14:15 16:15 | | Session 35: Global Governance | International Trade Union Confederation (ITUC) | <p>How Can Globalization Work for Workers?</p> <p>Moderator: Ms. Carin Smaller – Institute for Agriculture and Trade Policy, (IATP)</p> <p>Mr. James Howard, Director, Economic and Social Policy, International Trade Union Confederation (ITUC)</p> <p>Mr. Rolph van der Hoeven – Director, Policy Coherence Group, Integration and Statistics Department, ILO</p> <p>Mr. Ariel Castro – Coordinator of the ASEAN Trade Union Council (ATUC) and Director for Education, TUCP, Philippines</p> <p>Ms. Marie-Louise Knuppert – LO-DK Confederal Secretary, Denmark</p> | |
| 16:30 18:30 | E | Session 36: Global Governance | Organisation for Economic Co-operation and Development (OECD) | <p>The Role of Innovation and Technical Change in Harnessing Globalisation: Challenges and Opportunities</p> <p>Moderator: Mr. Warren Giles – Journalist, Bloomberg News</p> <p>Mr. Dirk Pilat – Head of the Science and Technology Policy Division of the OECD</p> <p>H.E. Mr. Mario Matus – Ambassador, Permanent Representative of Chile to the WTO</p> <p>Dr. Xuan LI – Lead Economist & Acting Coordinator, Innovation and Access to Knowledge Programme, South Centre</p> <p>Mr. Andreas Ebert – Regional Technology Officer for Central & Southern Europe, Microsoft Europe</p> | |
| 16:30 18:30 | F | Session 37: Coherence | Latin American Trade Network (LATN) and International Development Research Centre (IDRC) | <p>The Challenges of Coherence: Do we need a critical approach?</p> <p>Moderator: Ms. Diana Tussie – Latin American Trade Network, (LATN)</p> <p>Ms. Debra Steger – University of Ottawa, Canada/EDGE Network</p> <p>Mr. Welber Barral – University of Santa Catarina, at Florianopolis/LATN Latin American Trade Network</p> <p>Mr. Ahmed Ghoneim – Economic Research Forum/University of Cairo, Egypt</p> <p>Ms. Vivianne Ventura Dias – LATN Latin American Trade Network, Brazil</p> <p>Ms. Mia Mikic – Asia-Pacific Research and Training Network. ARTNeT, UNESCAP</p> <p>Ms. Ann Weston – North-South Institute, Canada</p> | |

| Time | Room | Subject | Organizer | Title of Session / Speakers | Friday 5 October |
|----------------|------|---|---|--|---------------------|
| 14:15 16:15 | B | Session 38: Sustainable Development | Economic Commission for Latin America and the Caribbean (ECLAC) | <p>Trade Rules for Sustainable Development in Latin America and the Caribbean: Understanding the Linkages</p> <p>Moderator: Mr. Alejandro Jara – Deputy Director-General, WTO</p> <p>Ms. Marianne Schaper – Senior Economic Affairs Officer, Sustainable Development and Human Settlements Division, ECLAC, Santiago</p> <p>Mr. Carlos de Miguel – Environmental Affairs Officer, Sustainable Development and Human Settlements Division, ECLAC, Santiago</p> <p>Mr. Sebastian Sáez – Expert, Division for International Trade and Integration, ECLAC, Santiago</p> | |
| 16:30 18:30 | | Session 39: Global Governance | Global Business Dialogue (GBD) | <p>Capitals and the Global Economic Commons</p> <p>Moderator: Mr. R. K. Morris – President, The Global Business Dialogue</p> <p>Mr. Christopher Wenk – Senior Director, International Trade Policy, US Chamber of Commerce</p> <p>Mr. Christopher Parlin – Attorney, Miller & Chevalier Chartered</p> | |

This new edition of the *WTO Public Forum* provides an overview of discussions at the 2007 Forum, whose theme was “How can the WTO help harness globalization?”. The Forum provided participants with a unique opportunity to debate among themselves and with WTO members on how the WTO can best contribute to the management of globalization. This publication summarizes the views and concerns expressed during the two-day programme. Topics for debate included the challenges presented by globalisation, the need for a coherent multilateral trading system, trade as a vehicle for growth and development, and the interaction of trade and sustainable development.

