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A SUMMARY REPORT OF THE WTO SYMPOSIUM ON ISSUES CONFRONTING THE WORLD TRADING SYSTEM

SUMMARY OF THE WTO SYMPOSIUM ON ISSUES CONFRONTING THE WORLD TRADING SYSTEM 6-7 JULY 2001

The Symposium on Issues Confronting the World Trading System was held from 6-7 July 2001 at the World Trade Organization (WTO) in Geneva, Switzerland. Approximately 450 representatives of non-governmental organizations (NGOs), governments, industry, academia and the media attended the Symposium.

The Symposium served as a forum for the exchange of views on critical issues confronting the world trading system. Participants met in Plenary and in ten work sessions that focused on: agriculture; food safety and the Agreement on Sanitary and Phytosanitary Measures (SPS Agreement); the agreement on trade-related aspects of intellectual property rights (TRIPS) and access to essential medicines; TRIPS and biotechnology/biodiversity; trade and environment; two sessions on trade in services; two on the WTO and civil society; and one on trade and development.

REPORT OF THE MEETING

The Symposium on Issues Confronting the World Trading System opened on Friday morning, 6 July. The Symposium was chaired by Touré Alimata Traore, Minister for Industry, Trade and Transport (Mali). All participants attended an opening Plenary on Friday morning, and then met in five parallel work sessions on Friday afternoon, 6 July and in five work sessions on Saturday morning, 7 July. All participants reconvened in a closing Plenary session on Saturday afternoon.

OPENING PLENARY: Chair Traore welcomed participants and introduced the speakers for the opening Plenary. Noting the significance of the meeting's12 themes to developing countries and least developed countries (LDCs), and recognizing trade as a motor of economic growth, she cautioned that developing countries and LDCs are at risk of being left at the sidelines, failing to benefit from increases in world trade. She said all stakeholders should be involved in the debate on the future of the world trading system, and underscored that NGOs can contribute to a more equitable and fair system. Regarding trade and development, she called for better market access for developing countries and LDCs in particular, as well as for support from developed countries in the form of technical assistance and capacity building for participation in the multilateral trading system. She highlighted regional and sub-regional economic cooperation in Africa, and said this Symposium should provide recommendations regarding issues confronting the world trading system in order to pave the way for a successful outcome at the Fourth Ministerial Conference to be held in Doha, Qatar in November 2001.

Mike Moore, WTO Director-General, stated that the Symposium should be made a permanent event. While welcoming increased scrutiny of the WTO, especially through the debate on globalization, he called also for greater engagement and dialogue at the national level. He stressed the need to discuss the mandate of international organizations, noting that the WTO cannot be expected to cover everything. He said that as the WTO operates under a system of consensus, it is accountable to all member governments, some of whom do not support its engagement with civil society. Rejecting violent protests against globalization, he called for civilized discourse between NGOs and the WTO, and suggested a code of conduct for NGOs. He cited economic arguments in favor of a new round of trade negotiations, and said development problems could be addressed through such a round. He stressed that an open world has its risks, but a "closed tribal world has been lethal in the past," and although trade alone is not the answer, it represents a part of it.

Pascal Lamy, EU Commissioner for Trade, described the history of the relationship between the WTO and NGOs, noting that discussion of issues related to environmental regulation, labor standards and consumer protection are not new, and that NGOs should contribute to the debate. He stressed that transparency starts with domestic initiatives, and called for a closer relationship between parliaments and the WTO. He expressed EU support for a new "development" round of trade negotiations that would improve market access for developing countries and update WTO rules on the interface and compatibility between trade and other policies. Warning against protectionism, he proposed the extension of WTO rules regarding investment, competition and trade facilitation. He noted that although the US and the EU could survive without another round of trade negotiations, he is less certain about developing countries.

Dean Hirsch, President of World Vision International, emphasized that alleviating poverty and suffering occurs at two levels: at the grassroots level and through international institutions such as the WTO. He said the purpose of trade should be to reduce poverty and promote human development, that it must be sustainable and that children require special consideration and protection when developing trade policy. He described obstacles that developing countries face in trade negotiations, and highlighted diminishing ODA levels and the enormous costs of compliance with WTO agreements. Questioning

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whether freer trade promotes development, he pointed to studies indicating that in many cases, today's strongest economies initially developed through the use of policies that are now illegal under WTO rules. He posed several questions for participants' consideration: What does it mean that trade reform results in net benefits? Is rapid trade reform the best approach? What are possible safety nets for structural adjustment programmes? Why do developed countries advocate the benefits of trade, but keep markets relatively closed to goods from developing countries? What institutional requirements need to be in place to ensure that trade promotes development? Is the time right for a new round of trade negotiations?

Jaime Serra, President of Serra & Associates International and former Mexican Minister of Trade, stressed exports as the most important engine of growth in emerging economies. He highlighted the relationship between trade and environment and labor protection, arguing that as income sufficiently increases, so do environmental standards, and as the volume of exports increases, so do labor standards and compliance. He stressed that trade sanctions would end up hurting rather than helping the environment and labor, and cooperative solutions should be sought instead. He called attention to the relevance of market access for developing countries, and said these countries should be made to feel comfortable with regard to the debate on environmental and labor standards.

George Soros, Chair of the Soros Fund Management and the Open Society Institute, noted that although the WTO is in many ways the most advanced international institution, its detractors have valid criticisms. He observed that free trade and markets can only produce private wealth, and are not designed to serve other objectives such as human rights or environmental protection. He stated that globalization and capital mobility have made it difficult for governments to provide public goods, and that globalization has reinforced inequalities between rich and poor both within and between countries. Regarding the possible launch of a "development" round of trade negotiations, he called for examination of: the relationship between the WTO and other international rules; intellectual property rights (IPRs); and trade-related aspects of investment measures (TRIMs).

WORK SESSION ON AGRICULTURE

The work session on agriculture was held on Friday afternoon, 6 July. Pekka Huhtaniemi, Ambassador, Permanent Mission of Finland in Geneva, functioned as moderator. He provided an overview of the role of agriculture in the WTO, noting that the results of the Uruguay Round have not pleased all parties. parties – suggested change: was the first step in a long-term process. [Keep your original]On the current negotiations, he said a large number of WTO members had submitted negotiating proposals and outlined key positions of various groups of members. He noted that the second phase had started in March 2001, with members developing proposals and options for moving forward in more detail with regard to the many issues on the table, such as: tariffs; the "amber box" of trade-distorting domestic subsidies; export subsidies; state trading enterprises; food security; rural development; and special and differential treatment in favor of developing countries.

PRESENTATIONS: Risto Volanen, European Farmers' Association, highlighted the tensions experienced by European farmers between pressures to produce food efficiently and cheaply while also taking environmental issues into consideration. He stressed the need to make use of both markets and government policy, and underscored the multifunctional nature of agriculture. He pointed out that: agriculture represents a special case in world trade; economic, social and ecological considerations must be balanced; and price and market support must remain an essential element of agricultural policies.

Lyall Howard, National Farmers' Federation (Australia), highlighted challenges with regard to global poverty alleviation and the need for agricultural output to double within 50 years through improved productivity. He said this is achievable if production is allowed where there is a comparative advantage for it, and stressed that governments should not intervene with the functioning of markets, noting a moral imperative for market liberalization as this would bring food to the starving. On the involvement of NGOs in the WTO's work, he called for criteria to be placed on NGOs with regard to good governance to ensure their legitimacy. Stressing that current rules discriminate against agriculture and there have been no real cuts in agricultural protection, he said the stakes are high with regard to achieving liberalization.

Magdi Farahat, Minister Plenipotentiary (Commercial Affairs), Permanent Mission of Egypt in Geneva, stressed that while billions of people in developing countries live in poverty, subsidies worth US$1 billion per day flow to agriculture in the North. He said agriculture cannot be considered integrated into the multilateral trading system, because the Agreement on Agriculture contains more loopholes than it covers. Stressing that developing countries have a comparative advantage in this area, he emphasized their need for: access to markets; lower tariffs; less domestic support; reductions and removal of quotas; simplification of opaque market protection systems, including specific duties and variable levies; more flexibility in terms of developing country tariffs; more flexibility in green boxes; technology transfer; and capacity building. On the ongoing negotiations on agriculture, he hoped they could be completed in three to four years. He said services and agriculture should not be linked together, and pointed out that developing countries are at a disadvantage in negotiations as their resources and capacity are more limited than in developed countries.

DISCUSSION: Agricultural Reform - Negotiations: Regarding domestic support, some participants noted that it will continue in Western democracies. One NGO representative opposed subsidies but supported a system under which the rich pay for environmental benefits flowing from agriculture in both developed and developing countries. Others stated that policies must be more targeted at social and environmental issues; opposed agricultural dumping and export support; and said high import tariffs are not the answer.

One participant supported import protection, as this form of support has the least ancillary effects, takes into account multifunctionality, and is the only form of support affordable to developing countries. On multifunctionality, Howard stressed that there is no strong link between commodity and non-commodity production. He said payments should be direct and transparent and deal with multifunctionality alone.

On competition and anti-trust issues, one participant highlighted that most subsidies go to agribusiness, a few companies dominate the market and anti-trust laws are not enforced. One participant questioned whether notifications on subsidies are made correctly to the WTO, suggesting "cheating." A representative of the WTO Secretariat cited technical differences in how numbers are derived in the WTO and Organization for Economic Cooperation and Development (OECD), and said notifications are reviewed by WTO members.

Developing Country Concerns: A participant from a developing country NGO noted that rural incomes have decreased rather than increased since the General Agreement on Tariffs and Trade (GATT), and these countries generally have not gained access to new markets. Another called for attention to food security and development concerns

as well as the low and declining prices of commodities. One participant stressed parallel commitments under the WTO and the World Bank/IMF in the form of structural adjustment policies, noting that in developing countries, not only is a majority of the population involved in agriculture, but this sector is also key to repaying debts, and questioned the role agriculture played in terms of food production and poverty alleviation under these circumstances. One participant called for a "Development Box," focusing on support to small-scale farmers who produce food rather than cash crops. Several participants supported continuation of special and differential treatment, technology transfer and other measures to support agriculture in developing countries.

Non-trade Concerns: On non-trade concerns, a developing country NGO questioned why animal welfare is high on the agenda when millions of people are starving. A developed country NGO responded that non-trade concerns that differ across countries need to be reconciled, and called for less intensive agriculture. One participant stressed the specificity of the European market and consumer demands for maintenance of the local environment and rural community. Another speaker believed different values deserve respect, and said they are not intended as protectionism. Farahat noted as a problem with non-trade concerns that "once you start there is nowhere to stop." He said that if all non-trade concerns are taken on board, the Agreement on Agriculture would become too opaque and difficult to deal with for developing countries. He said the debate is biased against the three to four billion people in the world who are simply trying to survive.

WORK SESSION ON FOOD SAFETY AND THE SPS AGREEMENT

The work session on food safety and the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) convened on Saturday morning, 7 July. Kazuaki Miyagishima, Associate Professor, School of Medicine, Kyoto University (Japan), moderated the session. He gave an overview of the issues to be discussed, noting that the human perception of, and sensitivity to, factors affecting human health vary depending on the type of risk. He said people are particularly concerned about novel risks, while they are less sensitive to, inter alia, hereditary, voluntary or pharmaceutical health risks. He underscored that a gap exists between what the public considers to be safe and what scientists consider to be safe, citing examples from the area of public health, and said this gap should be narrowed.

PRESENTATIONS: Dominique Taeymans, Confederation des Industries Agro-Alimentaires de l'UE, spoke on the subject of precaution. He noted that it was first mentioned in the field of environment, in the Rio Declaration, and questioned whether it should be extended into other areas such as food safety. He said the principle had been codified in the SPS Agreement that requires food safety measures to be based on scientific evidence and risk analysis, in accordance with Codex Alimentarius procedures for risk assessment. However, he said the Agreement allows members to provisionally adopt protective measures in cases of insufficient evidence, while seeking additional information within a reasonable period of time. He said precaution should be considered in terms of risk management rather than scientific precaution, and noted concerns voiced by some with regard to its possible abuse for disguised protectionist measures. He argued that precautionary measures should be exceptional, provisional, proportional, non-discriminatory, based on cost-benefit analysis, and allow consultation with stakeholders. He said risk analysis should remain the rule and precautionary measures the exception.

Edward Groth, Consumers Union (US), emphasized the multidimensionality of the debate on genetically modified organisms (GMOs), which covers scientific, human health, ecological, and economic issues. On human health risks, he noted possible allergenic or toxic effects, and cumulative impacts. On ecological risk, he noted possible gene flow between populations and gene pollution, and difficulties with assessing consequences. He emphasized that possible benefits are mostly being developed or envisioned in the fields of human health and agriculture at this stage. He stressed the ethical issues associated with distribution of risks and benefits, of how much risk is justified, the individual's right to choose, and called for transparent and participatory decision-making processes. He identified three critical challenges: benefits will accrue only in the future and may not flow to developing countries; decision paradigms beyond risk assessment are needed, including precaution; and new fora for debate are needed, allowing the discussion of value-based issues beyond regulatory aspects.

Hélène Coulibaly Fanny, Directrice de l'Alimentation et de la Qualité (Côte d'Ivoire), focused on developing country issues in terms of impacts of the SPS Agreement on both the public and private sectors, and discussed current problem areas. She said public sector servants had received somewhat more information and training than private sector players had, but noted that knowledge was insufficient and trade opportunities were not emerging. While multinational corporations did have knowledge of the SPS Agreement, this remained at the headquarters, while small and medium-sized companies required technical assistance on standards, and the informal sector needed training and advice in order to integrate into the formal sector. She called for improved use of technical assistance and special and differential treatment, and for support for LDCs to ensure their participation internationally.

DISCUSSION: Precaution: On precaution, one participant noted that the SPS Agreement and the Cartagena Protocol on Biosafety differ with respect to the burden of proof, with the former placing it on the importing country and the latter on the exporter. Groth emphasized that food safety decisions are political rather than scientific in nature. One participant called for an international agreement on food safety, under the auspices of the WHO, to make food safety, rather than trade, the objective.

GMOs: On GMOs, one participant stressed the need for labeling to ensure consumers' right to choose. Another participant said risk assessments of GMOs are a political process and that based on his experience of 15 years of risk assessments on GMOs, he had never seen more risks from GMOs than with conventional hybrids.

On the cost of research and labeling, Groth indicated that they were passed on to consumers, and that labeling costs varied notably. Taeymans highlighted concerns that traceability could have significant costs, which would be passed on to consumers.

Developing Country Concerns: On developing country concerns, Coulibaly called for the responsible application of the precautionary principle, especially when it has implications for trade with developing countries. One speaker noted that developing countries did not have adequate access to GMO technology and said ethical issues should be addressed now in order to prepare for their introduction. Coulibaly said that when novel issues related to food safety led to crises in developed countries, the information soon reached developing countries, where it tended to divert attention from more important traditional concerns. Several speakers noted the need for developing countries to participate more effectively in negotiations at the international level, and called for technical and financial assistance to implement the systems required to comply with the SPS Agreement. One participant noted increased participation, but said it was not yet effective, and remarked that the UN

Food and Agricultural Organization (FAO) and the World Health Organization (WHO) are considering the establishment of trust funds to support developing country participation in international standard setting activities.

WORK SESSION ON TRIPS – ACCESS TO ESSENTIAL MEDICINES

This work session took place on Friday, 6 July. Adrian Otten, Director of the WTO Intellectual Property Division, served as moderator. He stated that the core issues of trade-related intellectual property rights (TRIPS) and access to essential medicines are how to meet the public health goals of providing incentives for research and development into new drugs, while maximizing access to existing drugs, especially in the poorest countries. He outlined recent developments in the WTO regarding the question of the TRIPS Agreement and access to medicines - including a meeting to clarify TRIPS Agreement provisions such as parallel imports and compulsory licensing - that provide flexibility in meeting public health needs. He said there was a widespread view among WTO members that this matter should be addressed in the Ministerial Declaration to be issued at Doha.

PRESENTATIONS: Carlos Correa, University of Buenos Aires (Argentina), outlined the evolution of IPR regulations, highlighting the universalization of pharmaceutical drug patents that leads to the strengthening of IPR. He explained that patents are intended as a mechanism for firms to recover the costs of research and development and they have contributed to higher prices of essential drugs, and that although price is an important factor in determining access to medicines, other factors include distribution systems, pharmacies, and education of the population.

He emphasized that: although some TRIPS Agreement provisions can constrain revenue from the sale of drugs, the pharmaceutical industry has remained one of the most profitable industries; the industry's calculation of research and development costs has been challenged and, in some cases, such costs have been supplemented by public funds; the current patent system is not working as intended, in that it is not rewarding "novel or innovative inventions;" research and development carried out for prevalent diseases in developing countries is limited, so these countries do not benefit as much from patent systems; and because health is a human right, access to medicine should be facilitated. He stressed that the fundamental issue is the degree of power held by patent-holders, and how far the protection system should be expanded.

Jeffrey Kushan, Powell, Goldstein, Frazer and Murphy (US), underscored that the TRIPS Agreement was not designed to solve all the problems of public health but merely to strengthen incentives for research and development into new drugs. The flexibility in the TRIPS Agreement is there to remedy the improper use of patents and this should be exercised rarely and not routinely without attaching it to any specific problem. He described two dimensions of competition in the pharmaceutical industry: product competition or the development of new products to compete with older ones; and price competition or the production and sale of inexpensive generic products after the expiry of patents. He discussed the pharmaceutical industry, including the process by which new drugs are brought to the market, and explained that market exclusivity – the right for a firm to market a drug exclusively for a certain amount of time – is essential as an incentive for product development and to capture revenues. He said compulsory licensing and parallel import provisions can reduce exclusivity during the patent term and could have adverse effects on product competition. The public sector may sometimes identify the drug candidates but market exclusivity is needed to develop and commercialize them.

DISCUSSION: Compulsory Licensing: One participant outlined the various provisions of the TRIPS Agreement that might allow a WTO member to issue a compulsory license in another country on grounds of public health. Correa cited a study that indicated that granting of compulsory licenses does not have a negative impact on the development of future products. One participant questioned the assumption that the entry of copy-cat drugs always reduced prices, citing the example of Argentina where such prices can be equal or higher than the originator's prices. Correa explained that there were factors other than patents that affected prices.

Research and Development: One speaker stated that statistics regarding the research and development costs of the pharmaceutical industry are based upon independently audited accounts, and that there is considerable research being conducted to develop drugs that address tropical diseases. Another participant asked what means, other than patents, are available to recover research and development costs. Correa pointed out that the struggle over patents indicate their importance to cost recovery, and suggested that royalties from licensing would be an option. Kushan also responded that patents are not a cost-recovery device but a means of providing the ex ante incentive needed to increase research and development investment. It was also pointed out that the patent system was not sufficient to provide incentives for research and development investments into neglected diseases of the poor.

Patent Protection: Many participants agreed that the issue is not the use of patents, but their flexibility. One participant inquired as to the necessity of a 20-year patent protection period. In response, another participant pointed out that the protection period is shortened because of the time it takes to market a drug. In response to a comment that the African market represents only 1% of global pharmaceutical sales, a participant stated that in certain countries, some HIV/AIDS drugs are not under patent and are therefore more freely available. Another participant replied that in one of the countries with the highest prevalence of AIDS, South Africa, all HIV/AIDS drugs are patented. A participant said that many patents are being granted to products that are trivial inventions and not truly novel and innovative. Such patents sometimes resulted in the virtual extension of patent term or the "evergreening" of patents. Another pointed out that to the patent system plays an important role in encouraging disclosure and thus the dissemination, of inventions that may otherwise be kept secret.

Access Issues: One speaker suggested that access issues might not be based solely on price, but also on financing, infrastructure, and the social stigma of certain diseases. Other speakers added that there were problems of access even for the cheapest generic drugs, and that even if infrastructure were available, in some countries access would still be impossible on account of high prices.

Other Comments: A participant asked who should provide guidance to countries regarding use of the flexibility measures in the TRIPS Agreement, especially vis-à-vis access to medicines. He also questioned how certainty might be achieved regarding the issue of compulsory licensing since the pharmaceutical industry withdrew from both the South Africa and Brazil cases, resulting in no court ruling. One participant observed that traditional products are not given effective recognition under the current IPRs system. Similarly, another noted that just as generic drug companies "copy" from pioneering companies, these companies "copy" from traditional sources. A participant said that pharmaceutical companies have more leverage in trade negotiations than poor countries, who in some cases do not even have representatives at

the WTO. Some participants noted that the TRIPS Agreement provided for the extension of transition period for LDCs on a case-by-case basis. In closing, Otten summed up that the discussion had focused on the extent to which the balance between providing incentives for the generation of new drugs and ensuring access to existing drugs can been found in the TRIPS Agreement, including in regard to the discussion on the extent to which the patent system is delivering on its objective of promoting research and development into new drugs, the effect of the patent system on access to existing drugs and the flexibility in the TRIPS Agreement in regard to access.

WORK SESSION ON TRIPS – BIOTECHNOLOGY/ BIODIVERSITY

This work session was held on Saturday, 7 July. Thomas Cottier, Professor, Institute of European and International Economic Law, University of Berne (Switzerland), functioned as moderator. He said that since the adoption of the TRIPS Agreement, the issues of biotechnology and biodiversity have been under discussion by a number of WTO bodies (TRIPS Council, General Council and the Committee on Trade and Environment). He questioned the extent to which the sharing of benefits can be promoted if all biological resources are in the public domain.

PRESENTATIONS: Suman Sahai, Gene Campaign (India), stated that genetic resources should remain in the public domain, and emphasized the importance of acknowledgement and economic gain from indigenous knowledge. Describing potential methods of protection of indigenous knowledge, she suggested certification marks and geographical indications. She said the greatest challenge would be to create sui generis systems with features such as prior informed consent, benefit sharing and technology transfer. She noted that the TRIPS Agreement hinders access to bio-resources, prevents equitable sharing of benefits, and enables bio-piracy by not providing for an obligation to disclose the source of the genetic resources. Stressing the importance of farmers' rights, she called for harmonization of the Convention on Biological Diversity (CBD), the International Undertaking on Plant Genetic Resources and the TRIPS Agreement. She called for the removal of protection of life forms from the TRIPS Agreement. She said that patents on life forms do not serve the public interest (e.g. in food security). She called for the right to use the flexibility contained in the expression "effective sui generis system," and said the review under Article 71.1 should contain a sustainability threshold. She warned against TRIPS interfering with implementation of CBD commitments in a WTO dispute settlement case, and with human rights to health and food.

Jeffrey Kushan, Powell, Goldstein, Frazer and Murphy (US), explained the nature of biotechnology, particularly as it relates to patenting and genetic resources. He distinguished between material in its natural state, and that which has been made or modified by human intervention. He described the International Union for the Protection of New Varieties of Plants (UPOV) system of plant protection, in particular the conditions for obtaining protection and the exceptions to the right holder's rights (breeder's exemption and farmer's privilege). He discussed the CBD protection provisions, and emphasized that they protect genetic resources, while the TRIPS Agreement protects inventions. Regarding benefit-sharing, which can cover technology transfer and commercial benefits, he stated that if there is no potential for commercialization, there will be no interest in a genetic resource, and therefore little likelihood of benefits. Research and development projects based on genetic resources require cooperation and certainty. He indicated that industry is not opposed to benefit sharing and gave examples of its actions in this context. He stressed that patenting is not bio-piracy, and called on patent offices to be more vigilant in granting patents. He said access regimes, which are systems set up to manage how entities come into countries to use genetic resources, require cooperative efforts.

DISCUSSION: Biotechnology: Upon the request of one participant, others outlined examples of bio-piracy, including cases related to quinoa, neem and turmeric. One participant maintained that bio-piracy should be referred to as "invalid patents." A speaker emphasized that most holders of traditional knowledge do not take issue with sharing knowledge, but rather with the inequities of the patent system. Kushan reminded participants that at many negotiations, all stakeholders were in agreement that benefit sharing was necessary because everyone stood to gain from cooperation. Noting that within a two-year period a major agricultural firm had gained control of 60% of the Indian corn seed market, one participant expressed concern that patenting is changing agricultural systems, especially through consolidation. Emphasizing that the original philosophy of the patent system was to balance private gain with public good, Sahai pointed out that there are many other forms of IPR protection than patents, which are not the most appropriate for biological resources. She stressed that commercialization, as opposed to IPRs, will provide revenue and benefits. Kushan maintained that the patent system has absorbed the IPR-related needs of biotechnology.

A participant advised that a growing proportion of goods and services in global trade will be subject to IPRs, and that developing countries and LDCs will continue to be the holders of an increasingly small proportion of IPRs. He inquired about the TRIPS Agreement provision on anti-competitive uses of IPRs and the small number of countries with competition regimes. Other participants referred to the inability of many countries to enforce both their IPRs and competition regimes.

Article 27 (Patentable Subject Matter): Participants posed questions regarding whether or not DNA and cells constitute micro-organisms, and their patentability applications if so. Kushan explained that nucleic acid, as a chemical compound, falls under Article 27.1 of the TRIPS Agreement. Continued cooperation was called for, especially with regard to work by the World Intellectual Property Organization (WIPO), on precisely defining protection criteria such as novelty and inventive step, in order to ensure better legal security and to have a common understanding. Sahai maintained that, although nucleic acid and DNA are chemical compounds, once there has been genetic expression, it is not patentable. The point was made that the flexibility of the TRIPS Agreement should be maintained to give all countries the opportunity to maximize its use. Responding to a question regarding the future of Article 27.3(b) (Exclusions from Patentability), one speaker observed that many NGOs oppose the patenting of life-forms, and support the inclusion of a requirement on disclosure of the origin of the genetic resource. She expressed concern with the growing number of "TRIPS plus" bilateral treaties.

Traditional Knowledge: A range of issues was discussed, including its definition, the role of prior informed consent, material transfer arrangements, benefit sharing, customary law and other forms of sui generis systems, and the impact of the difference between collective and individual rights. More particularly, it was pointed out that there is a lack of conceptual clarity on what traditional or indigenous knowledge is, and that using geographical indications is one way to protect it. Sahai distinguished between traditional or indigenous knowledge and "laboratory-generated" knowledge, which is finite, its inventors known, and develops over a shorter span of time. She suggested

definition of traditional or indigenous knowledge could be a "local" effort (i.e. of a community or a region, etc.). Others emphasized that the TRIPS Agreement has been unable to address different types of knowledge systems, pointed out that genetic resources and indigenous knowledge are the same thing in many developing countries, and called for expansion of geographic indications provisions.

TRIPS and the CBD: Several participants raised questions regarding the possibility of benefit-sharing in the public domain, in the absence of IPRs. Regarding input into the TRIPS process, participants emphasized: the importance of NGO engagement; access by the CBD Secretariat to the TRIPS Council; and the continued use of amicus briefs in dispute resolution. One participant suggested including provisions for disclosure and prior informed consent in patent applications as a way to reconcile Article 27.3(b) and the CBD. Several participants also called for further investigation into IPR protection systems other than patents. One participant urged that the basic premise of any action regarding the CBD and the TRIPS Agreement should be sustainable development, as well as increasing the self-reliance of communities. Another participant emphasized the importance of consumer welfare as the objective of economic activity.

WORK SESSION ON TRADE AND ENVIRONMENT

The work session on trade and environment was held on Friday, 6 July. Moderator David Runnalls, President of the International Institute for Sustainable Development (Canada), welcomed participants and described past WTO symposia on environment. He explained that work on trade and environment was still necessary after many years of research and work because: there is still debate over whether or not environment belongs on the WTO agenda; there is a strong suspicion among developing countries that developed countries will use environmental concerns as "green" protectionism; there are two different agendas in operation in all international discussions of sustainable development – the developed country agenda of, inter alia, deforestation and climate change and the developing country agenda of, inter alia, debt relief, market access and ODA; suspicion regarding accessibility and transparency of the WTO and its "real intentions;" and the lack of a useful and positive agenda on trade and environment.

PRESENTATIONS: Sitanon Jesdapipat, Chulalongkorn University (Thailand), described issues relating to multilateral environmental agreements (MEAs) and the WTO, stating that the main problem is the use of environment-related unilateral measures that end up going to the dispute settlement body. He noted that environmental concerns have been brought into the WTO because, inter alia, MEAs and the multilateral trade system are compatible, treating environment and trade as a package reduces transaction costs, and the WTO has experience in solving disputes in a structured way. He suggested that the WTO Committee on Trade and Environment could promote the compatibility of trade and environment agendas by: amending GATT Article XX (General Exceptions); establishing case-by-case waivers; producing a list of criteria for acceptance of MEA trade measures; and promoting a process of policy convergence between MEAs and WTO rules. He stated that a dispute could be brought to the WTO based on developed countries' refusal to internalize the environmental costs of climate change. He identified the following future challenges: exclusions that might result in fungibility of flexible measures under the Kyoto Protocol; free riders, such as the US under the Kyoto Protocol; and the need for the WTO to conduct a self-evaluation to assess its capacity to address every issue directed to it.

Laurence Boisson de Chazournes, University of Geneva (Switzerland), distinguished between the two different types of process and production methods (PPMs): product-related PPMs, which are generally not a controversial trade issue; and non-product-related PPMs, which refer to the environmental aspects of process and production. She noted that there is uncertainty regarding discrimination based on non-product-related PPMs and trade rules, and it is unclear as to who should address the issue. She identified labeling as a way to accommodate PPMs, noting that while some voluntary labeling schemes do not give rise to problems, others have economic and trade consequences. Regarding GMOs, she said the Biosafety Protocol's wording on labeling is vague.

David Schorr, Sustainable Commerce Programme, WWF (US), pointed out that eco-labeling, "green" government procurement, and recent challenges under the NAFTA Investor-State Provision (Chapter 11) have highlighted the tensions between trade and the environment. Stressing the importance of "win-win-win" solutions to trade and environment issues, he described environmental problems caused by the heavy subsidization of the fisheries sector worldwide. He said that despite the requirement for countries to notify the WTO of any subsidies, 90% of fishing subsidies have not been notified, and he called for enforcement of this regulation and multilateral disarmament of the subsidies.

DISCUSSION: Subsidies: One participant noted the predicted food supply shortage, and called for, inter alia, the establishment of sustainable fisheries based on management programmes with domestic production as a basis. Supporting this statement, another participant pointed to countries that have sustainable fishing industries that do not rely on subsidies for production or management. One speaker stated that the FAO is better equipped to address fisheries and has already started examining the various aspects of fisheries subsidies.

Sanctions: Several participants questioned the use of sanctions as enforcement mechanism. One stated that international trade rules should encourage efforts toward sustainable forest management, and that the agenda for the Doha Ministerial should include market access issues. Schorr explained that there are two types of sanctions: those that are used to enforce treaties, and those that are retaliatory. He expressed concern regarding the use of tariffs toward environmental management objectives, pointing out the danger of "green" protectionism. He said that fines could be an alternative to sanctions if they are enforceable. Jesdapitat expressed support for banning all unilateral action taken against countries for environmental purposes, and suggested establishing an intergovernmental negotiating forum to converge MEA trade measures with WTO regulations.

Other Comments: Participants questioned the relationship between the Biosafety Protocol, PPMs and labeling, the provision of financial and technical assistance to help address sanctions, and the principle of common but differentiated responsibilities for environmental standards. Boisson de Chazournes said there is uncertainty regarding the scope of application of the Biosafety Protocol. One participant noted that compliance costs for food safety are "crippling" for the American food industry, and that there is no definable hazard related to foods derived through biotechnology. Participants discussed the meaning of the precautionary principle, and one pointed out the need to distinguish between the definition of the principle and the definition of application of the principle. Another participant inquired about factors that would encourage the political commitment necessary to resolve trade and environment issues at the Doha Ministerial.

In closing, Runnalls emphasized the idea of internalizing the environmental costs of climate change. He suggested that if MEAs are to be effective, they should contain measures toward capacity building and for technical and financial assistance. He also noted that the issue of fisheries subsidies is an example of a win-win-win situation and stressed the opportunity to find common ground between those interested in trade and those interested in environment.

WORK SESSION ON SERVICES

The work session on trade in services was held on Friday afternoon, 6 July, and continued on Saturday morning, 7 July. Discussion on Friday focused on regularization and liberalization under the General Agreement on Trade in Services (GATS) and on participation of developing countries, and on Saturday discussion focused on the status of public services and negotiating issues for the current services round. B.K. Zutshi, former Indian Ambassador to the WTO, functioned as moderator.

SESSION I: PRESENTATIONS: Regulation and Liberalization Under GATS: In his introduction to the issue, moderator Zutshi highlighted the question of how and to what extent the GATS constrains members' freedom to regulate, stressing it explicitly recognizes members' right to regulate and even re-regulate. He said this right is unrestrained, relevant rules are confined to certain notification obligations and the "reasonable, objective and impartial" application of measures. He noted that disciplines are developed to prevent technical standards, licensing and qualification requirements from constituting disguised restrictions on trade, and being more burdensome than necessary to ensure the quality of the service. He drew attention to the GATS general exception clause, which, inter alia, provides legal cover for measures to protect human, animal and plant life or health.

Julian Arkell, International Trade and Services Policy (Spain), said the interaction of regulation and liberalization is the central issue of the GATS. Drawing attention to Article VI (Domestic Regulation), he said that the measures covered were generally intended to apply at all times, such as judicial procedures, qualifications, licensing and technical standards. He noted however that they should not create unnecessary barriers to trade in services. He said Article XIV (General Exceptions) lays down restrictions that override all GATS disciplines in cases related to human, animal and plant life or health.

He noted that the aim of liberalizing trade in services does not imply deregulation of services, nor do standards have to be modified to facilitate competition. Domestic regulation must be transparent and follow due process; a necessity test is envisaged to ensure the link between the regulatory measure and the intended objective. He highlighted the disciplines in the accountancy sector as an example. On transparency, he noted that information about regulations and standards needs to be provided to other WTO members. The objective in the long term was to reach international standards and equivalency, but this stage is far from being achieved at present.

Participation of Developing Countries: In his introduction on this topic, Zutshi noted that while developing countries had been very skeptical of the GATS at the outset of its negotiations, this skepticism had faded since. He said this was due to the development-friendly structure of the GATS as it provides the scope for developing countries to liberalize trade in services according to their own perceptions of their development needs, in a progressive manner. This principle also governs current GATS negotiations. He emphasized that unilateral liberalization is taking place in developing countries, and said NGOs have an important role to play in the context of capacity building with regard to developing country participation in international negotiations.

Mohan Kumar, Permanent Mission of India, outlined the role played by developing countries in the negotiation of the GATS. He said they had been actively involved, focusing more attention on this agreement than on the TRIPS Agreement, for example. On features of the agreement bearing a developing country imprint, he mentioned progressive liberalization, the ability of countries to inscribe limitations on market access and national treatment, due respect for national policy objectives, consideration of the level of development of individual countries, as well as the notion of successive rounds of negotiation. He said developing countries made neither great concessions nor gains at the negotiations, and added there is much potential for further negotiation. He highlighted the GATS as a model for future WTO agreements, especially the notion of successive rounds, noting that the approach to mandate the same commitments for all participants and simply giving developing countries more time to implement them was not working. He noted that developing countries have the ability to form a strong coalition in the next round of negotiations. It is important that developing countries identify their interests and take a proactive approach. The issue of recognition of autonomous liberalization is a key challenge for the negotiations. He supported a formalized dialogue at the national level on issues of relevance to the services negotiations.

DISCUSSION: Regulation and Liberalization Under GATS: One participant emphasized the importance of capacity building in facilitating active participation in the GATS, and the need for developing countries to have clear examples of the benefits of liberalization under the Agreement. Another participant called for more regulatory transparency at the domestic level, and opportunities to influence the regulatory process and make appeals. One speaker, referring to ongoing work on domestic regulation, preferred the creation of general disciplines rather than sectoral disciplines. Arkell responded that disciplines developed under the GATS on domestic regulation would not necessarily be of general application, but could apply only to one or more scheduled sectors.

One participant stressed that the structure and content of regulatory frameworks varied widely among countries. Some participants questioned whether the preamble of the GATS, in particular its emphasis on governments' right to regulate, was as legally binding as the main text. A member of the WTO Secretariat responded that this was the case; moreover, governments' freedom to regulate is implicit in virtually all relevant provisions of the agreement.

One participant called for the inclusion of measures to protect exhaustible resources as an exceptions provision in Article XIV of the GATS, as it is under Article XX of the GATT. Arkell replied that the GATS allows non-discriminatory regulations, which governments can use to address relevant concerns. On developing country issues, concern was expressed that Article XIX on progressive liberalization might force developing countries to liberalize services sectors more rapidly than they are prepared for. Arkell replied that the GATS provides flexibility for countries to liberalize at a speed they deem appropriate.

Participation of Developing Countries: One participant noted the importance of the services sector for developing countries, especially in the area of infrastructure services. He said foreign companies and foreign direct investment in these services could help to strengthen the economy as whole.

One participant identified Mode 4 (Movement of Natural Persons) as an area of interest to developing countries as well as to European companies in need of skilled personnel. Kumar noted that the outcome of the last round with regard to Mode 4 has been modest and there was much room for action.

One speaker stressed that liberalization did not imply deregulation, since a more active market required a clearer regulatory framework. It was noted that developing countries need to improve their regulatory capacity, and some participants called for technical assistance and capacity building. One participant emphasized that the WTO Secretariat cannot provide more than a limited amount of support in this context, and other agencies need to be involved in a coordinated fashion.

SESSION II: PRESENTIONS: Status of Public Services: In his introduction, moderator Zutshi explained that public services have not been defined per se in the GATS, and that the concept is all-inclusive except for services "provided in the exercise of governmental authority" was very wide in scope. Regarding health and education services, he said these are generally not provided in competition. He added that both developed and developing countries are importers and exporters of these services, and that the effects of liberalization on equity, cost, availability and efficiency are difficult to determine a priori because the net impacts may depend, inter alia, on existing legal and physical infrastructures.

Regarding negotiating issues for the current services round, he outlined various issues that may need to be addressed, in addition to traditional market access issues, such as rule-making on emergency safeguards, subsidies, government procurement, regional agreements, disguised regulatory barriers and e-commerce.

Mike Waghorne, Public Services International (France), stressed that most concerns about the GATS are not about what the agreement is or has done, but what it could do in the future. He described concerns that have been voiced regarding the GATS, including that governments will be forced to liberalize public services. He said this is not necessarily the case, and outlined terms within the agreement that provide protection for public services. He then described the response of critics to these protection provisions, such as that various key terms are unclear and exceptions are limited. He presented examples of education service situations in which the implications of the terms “commercial” and “in competition” are unclear, in order to demonstrate potential interpretation problems with the GATS. Regarding pressure on developing countries to liberalize, he noted that while these countries may be desperate for investment, they also are concerned about the impacts of services liberalization.

New Issues for the Current Services Round: André Sapir, Université Libre de Bruxelles (Belgium), emphasized, on the one hand, the need for efficiency-enhancing services reform and, on the other hand, the sector focus of the GATS negotiations. He questioned whether the existence of safeguard rules would encourage or discourage liberalization, and said that whatever safeguard clauses may emerge, they should be implemented without discrimination. Regarding government procurement, he pointed out the difficulty in making progress because other discussions are taking place on this issue. He also discussed certain provisions of the recently adopted Negotiating Guidelines and Procedures for Services, such as the increase in references to developing countries; noted the challenge of renegotiating current exemptions from Article II (MFN treatment) and drew attention to the recent proliferation of regional trade agreements.

DISCUSSION: Status of Public Services: One participant inquired about the possibility that a clear definition be provided of “commercial” or “in competition.” A member of the WTO secretariat explained that the GATS Council could give an authoritative interpretation of the agreement, which would then be legally binding. Regarding education and health services, one speaker urged that the agreement should clearly state that these services are exempt from liberalization. Waghorne observed that, in the context of the ongoing services negotiations, to date no governments had made proposals for health services. He noted that liberalization in services had generally occurred without the GATS. One participant regretted that the negotiating history of the GATS had not been written. Participants also considered the relationship between the GATS preamble and the substantive provisions of the agreement. One participant felt that the private sector should only be allowed to provide health and education services if, inter alia, universal access was ensured, the quality of the service was not compromised and employment conditions did not suffer. Waghorne reiterated that, despite legitimate criticisms of aspects of the WTO, some form of a world trade organization and a rules-based system are essential.

Negotiating Issues for the Current Services Round: One participant expressed concern that the GATS contains no explicit provisions that would permit governments to intervene in order to prevent depletion of natural resources, particularly with regard to water, and to contain the environmental impacts, inter alia, of tourism and energy-related services. It was explained that although such provisions, modeled on Article XX(g) of the GATT, were discussed during the drafting stages, they were not included. This was due, inter alia, to the fact that, unlike the GATT, the GATS did not prevent governments from operating export restrictions for whatever policy reasons. It was further reiterated that there is no restraint in the agreement on governments’ ability to regulate for quality and other policy purposes. Another participant noted that there had been no GATS-centered disputes in the past six years.

It was pointed out that there is a lack of data on trade in services, and an incomplete understanding of the effects of liberalization. A participant suggested it may justify the creation of a safeguards clause to protect developing countries. One participant called for an impact assessment before further negotiations take place. Zutshi emphasized that there are limits on foreign holdings in certain sectors, and fears of foreign dominance are unfounded. Participants further discussed the potential impacts of the necessity test, as foreseen under Article VI:4, on governments’ ability to regulate. One participant explained that the necessity test does not set or judge objectives of government legislation, but implies an analysis of whether the objective of a regulation can be achieved through an alternative measure that would be less trade-restrictive. A participant referred to the relationship between immigration restrictions and measures covered by commitments under Mode 4.

WORK SESSION ON THE WTO AND CIVIL SOCIETY

The work session on the WTO and civil society was held on Friday afternoon, 6 July, and continued on Saturday morning, 7 July. Discussion on Friday focused on the role of NGOs in capacity building and on WTO institutional reform, and participants continued to focus on WTO institutional reform during discussions on Saturday. Sylvia Ostry, University of Toronto (Canada), moderated the work session.

Speaking on the role of NGOs in capacity building, Ostry noted the complexity of the new world trading system that has emerged since the conclusion of the Uruguay Round and its far-reaching implications at the national level. She stressed the asymmetry between the North and the South in terms of capacity to manage the situation. Highlighting a study on domestic trade policy processes, Ostry noted great variation and differing levels of civil society involvement among countries. She noted an overall lack of strategic resources, such as knowledge, for participation. Emphasizing that participatory decision-making processes need to begin at the national level, she said that “no one size fits all,” that there is a great need for capacity building, and that current efforts in this regard - or the lack thereof - will have long-term implications.

On WTO institutional reform, Ostry noted that the distinction between international trade rules and the domestic policy space had been blurred from the transformation from GATT to the WTO. She said there is no place within the WTO to have policy discussions. She noted that the rule-making nature of the WTO was a major deterrent for members to engage in such discussions. She recalled the work of the Consultative Group of 18 and suggested that the re-establishment of such a forum on policy issues may be useful. She noted that the WTO had limited research capacity to service such a forum, should it be established, and proposed the involvement of other entities to create a necessary knowledge network.

PRESENTATIONS: The Role of NGOs in Capacity Building: Ricardo Meléndez-Ortiz, International Centre for Trade and Sustainable Development (Switzerland), highlighted three kinds of capacity building, aimed at enabling: effective trade participation under current agreements; observance and implementation of the agreements; and participation in the formulation of trade strategies. He suggested that NGOs should focus on the third type of capacity building, emphasizing the formulation of trade policies consistent with broad public goals. Noting that the trade policy process has changed, he said all countries need capacity building for stakeholder engagement. He suggested capacity building should, inter alia, aim at enabling analytical capacity and be of a durable nature. He said NGOs could play the role of overseers over capacity building in international cooperation efforts, as well as of equity concerns, and could serve to bridge gaps between those involved in the trade policy process and those outside it. He said capacity should be created in research centers, providing enabling tools, information and analysis, research, and a platform for dialogue.

Pradeep Mehta, Consumer Unity & Trust Society (India), highlighted his experience as a Southern NGO, noting increasing access to information and key players over the last several years. He noted the need for resources and opportunities in order to attract people to work in the sector, and highlighted difficulties due to the need to have a multiple issue focus. He suggested capacity-building tools, including: regular training programmes on both specific issues and how they interact; two-way exchanges between the South and the North to enhance the understanding of both contexts; internship programmes; and exposure visits to negotiating fora.

WTO Institutional Reform: John Bunzl, International Simultaneous Policy Organization (UK), explained that the objective of his organization is a sustainable global economy, characterized by economic, environmental and social cooperation between nations. In order to achieve this objective, he proposed the "simultaneous policy," under which capital markets and transnational corporations would be re-regulated, global taxes on markets, corporations and resources introduced, and revenues redistributed to fund sustainable development in the poorest countries on a debt-free basis. He said the ideas are spreading, but must be implemented simultaneously in most countries in order to be effective. He contrasted this vision with the current paradigm, which is based on competition, and said a wholesale transition is needed. He called for a total rejection of the competition paradigm by all the multilateral institutions and their member nations.

Tetteh Hormeku, Third World Network, Africa Secretariat (Ghana), stressed that the problems related to the WTO are fundamental, and the institution is experiencing a crisis of legitimacy, as signaled in Seattle. He noted that trade rules are determining the context for domestic policy development, and criticized the WTO for being nontransparent and undemocratic. He said that in reality, most decisions are being worked out in closed informal meetings, which are dominated by a few rich countries. He stressed that the WTO Secretariat is biased and is pushing a developed country agenda on developing nations, citing as an example a meeting of African trade Ministers in Libreville, who were presented with a draft declaration including the endorsement of a new trade round they did not support. He criticized the Director-General for openly advocating the initiation of a new trade round.

Rachel Thompson, Global Trade Practice, APCO (Switzerland), stressed that institutional reform needs to be discussed at two levels – functional and institutional. She noted competing visions on the role of the world trading system, highlighting her view that it should be a vehicle for collective prevention of the use of trade instruments for nationalistic purposes. On dispute settlement, she questioned the use of trade sanctions by an institution committed to free trade, suggesting they could be replaced with fines channeled into funds for good causes. She called for greater openness, including making documents more accessible, improving participation of countries without permanent representation in Geneva, increasing domestic transparency, and the WTO opening up for public visits. She noted the need for accountability also on the part of NGOs, and the need to put truth before a catchy line, and said specific issue campaigns tend to be most effective.

Sothi Rachagan, Consumers International, Regional Office for Asia and the Pacific (Malaysia), stressed that the world trading system comprises a framework for regulating trade, and should not be a world governance body venturing into areas outside its competence. He said the objective of the system is to raise the standards of living for all through the promotion of free trade, as stated in the preamble of the WTO agreement, and stressed the need for more equitable distribution of wealth. He called for more research to assess the effects of trade liberalization, and called for technical assistance to developing countries that have not gained from it. On the internal democracy within the WTO, he said more effective participation of developing countries should be the priority. He called for more national consultation to ensure democratic legitimacy, including the involvement of civil society as well as parliamentary scrutiny. He supported guidelines for national consultations, and accreditation of NGOs as observers at the WTO, taking regional equity into consideration when granting observer status.

DISCUSSION: The Role of NGOs in Capacity Building: On the roles of NGOs and governments in capacity building, one participant stressed governments as providers of relevant information to their civil societies, and highlighted outreach and consultation procedures. Another participant, representing a northern NGO, said her organization sees capacity building as a process of influencing Northern governments to become better at listening, and helping parliamentarians to understand and be more active with regard to trade policy. Mehta stressed networking and exchanges taking place among NGOs in the South, where many NGOs face similar circumstances.

One NGO representative noted that developing country government officials may also need training, and suggested that joint capacity building for civil society and civil servants in developing countries may allow these groups to work more closely in the future. Mehta suggested that focusing on capacity building in the South would not suffice, but capacity building was needed also in the North to allow a greater understanding of the situation in the South. Meléndez-Ortis noted the different types of capacity building needs and its sequencing, stressing that durable capacity building would allow for developing countries to participate more actively at the standard-setting stage. One participant noted that developing country representation in standard-setting bodies is low, and called for capacity building in the area of equivalency and mutual recognition agreements.

One speaker noted that information is not neutral, and called attention to a "politics of capacity building," where the provider sets the agenda. Meléndez-Ortis responded that the credibility of the provider lies with his or her sensitivity, and emphasized the need to bring in different views. Mehta noted that the recipient of information also responds to and absorbs information according to their own agenda. The issue of funding sources for NGOs and the transfer of funds from Northern to Southern NGOs was raised by several participants. Mehta noted that NGOs were often in competition for funds from the same sources. On the issue of transfer of funds from Northern to Southern NGOs, he stressed that donors often prefer to deal directly with the recipient NGO. Several participants noted that the issue posed for the session was not clear, as it did not specify the capacity building of whom. Meléndez-Ortiz stressed that capacity building of all stakeholders involved in the trade policy process is important.

WTO Institutional Reform: Several participants called for a forum for debate of policy issues at the WTO. On Ostry's suggestion for a forum at which to ponder policy issues at the WTO, some participants noted that it would not be acceptable were membership to be limited. One speaker suggested that the Trade Policy Review Mechanism should be serving this function but is not currently used to this end. He said the review of members should be broader and involve experts on issues other than trade, as well as NGOs. He called for observer status at the WTO for UN agencies representing various social issues, in order to solve the problem of lack of coherence. Another participant stressed the need for involvement of parliamentarians, as they can foster a democratic debate about trade policy.

One speaker called attention to the WTO "shrink-or-sink" coalition, which did not attend the Symposium and whose members felt the need for a greater paradigm shift, as the current discussions would be unlikely to bring about change. Bunzl responded that the WTO is not in control of the paradigm, and the hegemony of free markets is the real problem. Thompson noted that it is undemocratic if groups agree to attend only if it is guaranteed in advance that their wishes will be accepted, and encouraged their involvement through national democracies. Another participant noted that change is only possible if all parties are willing to engage.

One government participant agreed with Hormeku that the WTO Secretariat is not neutral, and lamented the fact that implementation issues – considered important by developing countries – were not included in the Symposium agenda. Another government participant disagreed and stressed that Hormeku had presented a half picture. He noted that his delegation had never felt that another member of the WTO or the Secretariat had subjected it to pressure. He noted that one of the mandates of the WTO is trade liberalization. He stressed that WTO should not be unfairly labeled as a negative organization and made a plea to Hormeku to understand that the WTO does provide developing countries with a framework to safeguard their interests.

Transparency: Some participants stressed transparency as a key part of WTO reform, calling for universal access to documents, improved dialogue with civil society, and the opening of meetings to NGO observers. On NGO participation in the WTO, one participant commented that Southern governments have often opposed this and suggested that Southern NGOs could seek to influence their governments' attitudes in this regard. He noted that many WTO members were concerned with what they perceive as misrepresentation of issues by NGOs.

NGO Codes of Accountability: Ostry noted efforts to develop codes of accountability for NGOs in the context of the CBD, including regarding their financing, data accuracy and decision-making procedures. One participant commented on the great diversity of NGOs, and called for a focus on the message of NGOs rather than on setting criteria for them, cautioning against paranoia about alternative views. Another participant emphasized that NGOs need to be accountable, just as they expect governments and international institutions to be accountable.

One speaker suggested the establishment of a formal mechanism for WTO engagement with NGOs, and several participants supported NGO accreditation. Many stressed the need to involve a diverse set of NGOs, including from developing countries. Another cautioned against problems if accreditation implies restriction.

One participant criticized an article on Ostry's research on NGO networks, noting that all NGOs are characterized as "mobs." Ostry responded, stressing that she has conducted research on NGO mobilization networks in preparation for demonstrations, and said the mainstream groups at the core have nothing to do with mobs and are concerned about potential violence. She stressed that the characterization of "mobs" was not in her research but in an article written by a journalist.

WTO Mandate: One participant highlighted overlaps with areas beyond trade within the WTO mandate, stressing the uniqueness of its dispute settlement mechanism. He suggested it should be setting rules that benefit trade and development on an equitable basis. Another participant said the WTO should focus on what it is meant to do -- support trade liberalization -- and as such would also support fair trade and poverty eradication through the elimination of tariffs, quotas and other measures in developed countries that constrain development opportunities for the South. One participant supported more power for the WTO, and the formal involvement of the public, private sector and academia in addition to governments. Several speakers commented on the lack of research capacity of the WTO Secretariat.

Ostry stressed that the WTO is not considered a development organization, and that if humans rights, environment and equity were to become its major objectives, a complete transformation would be required. She suggested a second track of incremental changes and a sustained process of discussion on the matter.

A representative of the Secretariat thanked participants for attending. He noted that WTO is ultimately a member-driven organization and that and that it was important for NGOs to gain the confidence of members. In this regard, he noted that not all members had been in favor of the Symposium. He also highlighted that many of the proposals from the session required resources to implement and that the WTO was not a well-resourced organization even in comparison to some international NGOs.

As the session was not able to conclude its discussion on institutional reform, Sylvia Ostry took the initiative of asking the participants if they wanted to continue dialogue. The majority said yes. She will independently explore how participants to the session may be able to do so.

TRADE AND DEVELOPMENT

The work session on trade and development was held on Saturday, 7 July. Moderator David Runnalls, President of the International Institute for Sustainable Development (Canada), pointed out that issues related to trade and development reflect debates over implementation of the Uruguay Round. He identified such issues, including: the trade-offs between rates of growth and income distribution; good governance and openness; real gains for developing countries from the Uruguay Round; green protectionism and market access; mainstreaming trade into development; and the use of environmentally-friendly technologies.

PRESENTATIONS: Dilip K. Das, Asian Development Bank (The Philippines), outlined the history of the relationship between trade and development and related research, highlighting the long-standing but common misconception regarding the benefits of trade. He said recent research on the benefits of import substitution, as opposed to export-led growth, has yielded results supporting both sides. He described studies that examined: the importance of market size and demand for industrial goods; the idea of "learning by doing" in producing advanced products; and the relationship between trade and per capita income. He also discussed problems associated with establishing causality in studies.

Penny Fowler, OXFAM (United Kingdom), stated that her organization believes that trade can be a force for poverty reduction and development. She explained, however, that while rich countries and corporations have disproportionately captured the benefits of trade, poor people have suffered from trade liberalization when economic livelihoods have been displaced by an influx of imports. She identified three reasons why trade policy has failed to equitably deliver benefits to all: trade agreements are unbalanced and give priority to commercial considerations over public interests, as in the cases of the Agriculture and TRIPS Agreements; trade agreements, such as the Textiles Agreement, are unfairly implemented; and the world trading regime ignores pressing issues that need to be addressed, including falling commodity prices and corporate concentration.

Jeffrey Schott, Institute for International Economics (US), emphasized that trade does not determine development, although trade can be a useful part of development policy. Pointing to post-World War II development efforts, he stated that economic development is in everyone's interest. However, he pointed out that the state of globalization has made conditions different, and problems are more serious. Regarding the ingredients necessary to achieve development, he stressed the importance of self-reliance and international support. He said this requires developing country governments to: focus on macroeconomic discipline; decrease inflation; provide infrastructure, including education and health programmes; implement tax reform to finance infrastructure provision; and strengthen the financial sector to mobilize savings and promote productive investment. He stated that trade agreements can create export opportunities but do not guarantee sales, and pointed out that some regions compete with each other for export markets. Regarding the potential new round of negotiations, he called for an updating of trade rules to address ambiguities and implementation concerns and for institutional reform to ensure more equitable representation in the WTO. He said a new round could, inter alia, enhance access to foreign industrial markets.

DISCUSSION: Special and Differential Treatment: Several participants called for the strengthening of measures for special and differential treatment. Some speakers said that provisions for special and differential treatment needed to reinforce the pursuit of development objectives by providing greater flexibility. One participant drew attention to provisions in WTO agreements to protect infant industries and another speaker noted that application of these provisions is onerous for developing countries, and requires resources that in many cases do not exist. Fowler suggested moving away from arbitrary timelines and using development milestones to determine when it is appropriate to implement WTO rules. One speaker suggested that instead of mainstreaming trade into development, development should be mainstreamed into WTO rules.

Potential New Round: One participant observed that studies outlining the benefits of a new round of negotiations tend to be based on a short-term vision and ignore the costs of the erosion of natural capital. He pointed out that recent UNEP studies have indicated that in the absence of strong social and environmental infrastructure, benefits of liberalization dissipate through erosion of capital. He emphasized the sequencing of trade liberalization and other policies. Fowler responded that the need for sequencing relates to NGO calls for sustainability assessments of trade agreements.

One speaker suggested that instead of mainstreaming trade into development, development should be mainstreamed into WTO rules. He stated that the new round was aimed at increasing developed country access to developing country markets, and thereby further destroying fragile local industries. In response, another participant said that the market access approach of his regional economic integration organization provided an "opt-out" clause. Das noted that trade liberalization is not "one-size-fits-all" but requires country-specific approaches. Schott said countries may be affected even if they do not liberalize, and said liberalization is beneficial, depending on how it is phased in. A participant replied that, because of the provisions of structural adjustment programmes, most developing countries do not have a choice regarding phase-in.

Foreign Direct Investment (FDI): One participant observed that while it is possible to liberalize exports, it is not possible to liberalize imports. He also stated that there is not enough FDI available to all the countries that need it. He said that in many weaker developing countries, imports have surged in and destroyed local industries, causing enormous trade deficits and problems with balance of payments. Another participant pointed out that in some cases, developing countries start producing certain goods for export, at which time developed countries establish non-tariff barriers to trade that prevent importation. Many participants emphasized the importance of domestic investment to promote economic growth. Some speakers opposed the inclusion in the agenda of the WTO of multilateral rules on investment, saying that these would constrain policy options.

Other Comments: A number of speakers pointed to the need for coherence in domestic and global economic policy-making to generate sustainable development and to reduce poverty. One participant pointed out that the international architecture linking trade and development was fragile, and invited suggestions about how to strengthen it. Another participant lamented the growing perception that NGOs are violent, and said that the actions of a few should not result in the demonization of the entire NGO community. One speaker raised the issue of protecting workers in export processing zones from the impacts of globalization. Schott called for more cooperation between the WTO and the International Labor Organization on this issue.

CLOSING PLENARY

A closing Plenary was held on Saturday afternoon, 7 July. Chair Traore emphasized that the objective of the sessions had been to express different points of view to government representatives at the WTO rather than to iron out differences. On the subject of the potential launch of a new round of trade negotiations, she said the issue has not been cleared, and stressed that the Africans believe that an assessment of the impacts of the Uruguay Agreements needs to be carried out first. She noted that some topics of interest, such as implementation, had not been addressed at the Symposium, which could not cover everything. However, she hoped the meeting had led to a better understanding of different perspectives.

Moderators of the working sessions then reported on the discussions that had taken place in their sessions.

AGRICULTURE: Pekka Huhtaniemi, moderator of the work session on agriculture, briefly summarized the presentations and discussions at the session. He stressed the wide range of views expressed by participants, which he noted represent the same spectrum of views as those held by various parties at the agriculture negotiations at the WTO. He said participants had noted that developing countries have a comparative advantage in agriculture but cannot take advantage of it because wealthy countries are allowed to maintain significant barriers to market access and domestic subsidies. Some had identified this as an imbalance of the Agreement on Agriculture. On the issue of support measures, the need to link tariff reductions in poorer countries to subsidy reduction in wealthier countries was supported by some, and the situation of small subsistence farmers in developing countries was considered during the discussions. Differing views were expressed with regard to multifunctionality and non-trade concerns, with some participants stressing the importance of these issues and others maintaining that they need to be addressed though specific tools without negative effects on trade with other countries. The speakers had also considered competition policy and how large transnational corporations have distorted markets.

FOOD SAFETY AND THE SPS AGREEMENT: Kazuaki Miyagishima, moderator of the work session on food safety and the SPS Agreement, briefly summarized the presentations and discussions at the session. He said that speakers had stressed different understandings of the concept of precaution and its application. With regard to GMOs, participants had noted different opinions with regard to the perception of distribution of benefits and risks, and in terms of who was assuming the costs. They had addressed developing country concerns such as lack of effective participation in standard-setting bodies and the high costs involved in implementing the SPS Agreement.

TRIPS AND ACCESS TO ESSENTIAL MEDICINES: Adrian Otten, moderator of the work session on TRIPS and access to essential medicines, briefly summarized the discussions. He said they had touched on how the TRIPS Agreement had taken into account the need to find a balance between incentives for the generation of new drugs and to ensure access to existing drugs, especially in poor countries. The effectiveness of the patent system had been debated in this context, and it had been noted that the system may need to be complemented in some instances with measures to ensure sufficient research and development into the diseases of the poor. Some had stated that the system may pose a problem with access to existing drugs, though impacts may need to be evaluated on case-by-case basis. Participants had also considered the scope and confidence of countries with regard to the use of the flexibility in the TRIPS Agreement, and expressed views with regard to compulsory licensing and parallel imports.

TRIPS AND BIOTECHNOLOGY/BIODIVERSITY: Moderator Thomas Cottier stated that this working session had had a constructive and useful exchange of views, with the active engagement of participants from a wide spectrum of civil society, including NGOs, industry, professional associations and academia. He explained that the group had discussed the criteria for patentability in biotechnology, traditional knowledge, and the relationship between the TRIPS Agreement and the CBD. Important points included:

- the extent to which genetic materials should be kept in the public-domain and how property rights might be provided;
- basic criteria for patentability, such as novelty, disclosure and basic step;
- the need to avoid bio-piracy; and
- the value of sui generis systems, and factors such as prior informed consent, material transfer arrangements, benefit-sharing and geographic indications

TRADE AND ENVIRONMENT: Moderator David Runnalls expressed concern regarding the similarity between the agenda of the 1994 Symposium on Trade and Environment and this event. On MEAs and WTO rules, he highlighted key points made during this working session's discussions, including:

- the potential for "free riders" on the Kyoto and other protocols;
- the importance of capacity building and financial and technical assistance in MEAs; and
- issues regarding compliance with and enforcement of MEAs, such as the use of sanctions.

On PPMs, GMOs and labeling, he highlighted participants' comments on, inter alia:

- the controversial use of life-cycle analysis in eco-labeling schemes;
- the role of scientific uncertainty and precaution in decision making; and
- the question of who sets international standards.

Regarding market access, he presented key points, including the detrimental effects of subsidies, such as overfishing, and how they may be remedied through "win-win-win" solutions.

SERVICES: B.K. Zutshi, moderator of the work session on trade in services, briefly summarized the discussions at this session. On regulation and liberalization under GATS, he said members' right to regulate, the importance of regulatory transparency, consideration of the level of development of national regulatory frameworks, and progressive liberalization were among the issues discussed. With regard to participation of developing countries, speakers had pointed to the need for developing countries to identify their interests and take a proactive approach in the next round of negotiations. On the status of public services, he said discussions had touched on health and education services, given the high degree of public involvement in these areas. On negotiating issues in the current services round, discussions had focused around two strands: issues to be discussed in the negotiations under the so-called "built-in agenda" consisting of issues left from the Uruguay Round; and access issues in the implementation of the concept of "progressive liberalization."

THE WTO AND CIVIL SOCIETY: Discussing both sessions on the WTO and civil society, Moderator Sylvia Ostry noted that the sessions had enjoyed a systemic discussion that covered a vast range of ideas. She reported that in discussions of the role of NGOs in capacity building, no agreement was reached on the definition of capacity building. She identified points of agreement, including that: the process of policy making is an important area for further examination, particularly the formulation of international trade policy at the domestic level; Northern civil society groups need greater education and sensitization regarding the circumstances in developing countries; and there is asymmetry between Northern and Southern NGOs regarding access to expertise and resources. She also pointed out perceptions that the WTO Secretariat is not neutral and is seen to be acting incorrectly by canvassing for a new round. She highlighted the need for a fundamental transformation of the WTO, and said that change in the WTO could occur through an incremental approach. She explained that the group had not completed its discussions, and it had decided to continue the dialogue through the Internet.

TRADE AND DEVELOPMENT: Moderator David Runnalls summarized that this working session had addressed: the contribution of trade to development and poverty alleviation; the importance of market access and equitable rules for developing countries; capacity-building needs and mainstreaming of trade into development policies; and trade liberalization, development and the environment. He highlighted main points from the discussion, including:

- the mixed experience with regard to trade liberalization efforts, and the need to improve the quality of governance and introduce comprehensive social and sectoral policies;
- the importance of sequencing trade policy reforms and other policy endeavors;
- developing countries' experience with the implementation of trade disciplines, which has often been difficult and onerous;
- the role of market access in determining trade and development outcomes;
- uneven distribution of FDI and the importance of establishing an environment conducive to domestic investment; and
- various opinions regarding the necessity of a new trade round, particularly given the extent of Uruguay Round implementation issues.

Following these presentations, Mike Moore thanked all participants for the fruitful exchange of views, and noted that while no one has the monopoly on truth, all have something to contribute. He welcomed a more frequent and creative dialogue between the WTO and NGOs, recalling however the limitations posed by the fact that decisions are taken by the WTO membership rather than the WTO itself.

Chair Traore supported the idea of a more regular framework for the exchange of views as a way of improving transparency, thanked participants and closed the Symposium at 5:15 pm.

THINGS TO LOOK FOR

WTO COMMITTEE ON SANITARY AND PHYTOSANITARY MEASURES: During 2001, this committee is scheduled to meet from 10-11 July and on 31 October–1 November. For more information contact: WTO Secretariat; tel: +41-22-739-5111; fax: +42-11-731-4206; e-mail: enquiries@wto.org; Internet: http://www.wto.org/english/tratop_e/sps_e/sps_e.htm.

RESUMED COP-6/14TH SESSIONS OF THE UNFCCC SUBSIDIARY BODIES: The resumed COP-6 (as outlined under COP-6 decision FCCC/CP/2000/L.3) and the 14th sessions of the Subsidiary Bodies of the UN Framework Convention on Climate Change will be held from 16-27 July 2001 in Bonn, Germany. For more information contact: the UNFCCC Secretariat; tel: +49-228-815-1000; fax: +49-228-815-1999; e-mail: secretariat@unfccc.int; Internet: http://www.unfccc.int.

FIRST INTERNATIONAL SYMPOSIUM ON BIODIVERSITY AS A SOURCE OF NEW MEDICINES: This symposium will be held in Cali, Colombia, from 16-19 August 2001. The symposium aims to integrate the ethno-botanical knowledge of indigenous communities and regional biodiversity in the investigation of new drugs and their use by the health community. For more information contact: Colombian Congress of Pharmacology and Therapeutics; tel: +57-2-330-2461; fax: +57-2-330-2461 e-mail: biofarmacongress@telesat.com.co; Internet: http://www.biofarmacongress.com/congresx.htm.

CONFERENCE ON SUSTAINABLE FOOD SECURITY BY ALL BY 2020: This conference, organized by the International Food Policy Research Institute, will be held from 4-6 September 2001, in Bonn, Germany. The conference will explore themes such as food security and insecurity, the role of economic forces and the WTO, and the impact of climate change on agriculture. For more information contact: Simone Hill-Lee, IFPRI, Washington, D.C.; tel:+1-202-862-5600; fax: +1-202-467-4439; e-mail: s.hill-lee@cgiar.org; Internet: http://www.ifpri.cgiar.org/2020conference/index.htm.

WIPO SECOND INTERNATIONAL CONFERENCE ON ELECTRONIC COMMERCE AND INTELLECTUAL PROPERTY: This conference will be held from 19-21 September 2001, in Geneva, and will address the latest legal, technical and policy-oriented developments in e-commerce and intellectual property. For more information contact: WIPO Office of Legal and Organization Affairs, Geneva; tel: +41-22-338-9164; fax: +41-22-740-3700; e-mail: ecommerce.meetings@wipo.int; Internet: http://ecommerce.wipo.int/meetings/2001/conference/.

WTO COUNCIL FOR TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS: During 2001, the TRIPS Council will meet from 20-21 September and 26-29 November, in Geneva. For more information contact: Peter Ungphakorn; tel: +41-22-739-5412; fax: +42-11-731-4206; e-mail: peter.ungphakorn@wto.org; Internet: http://www.wto.org/english/tratop_e/trips_e/trips_e.htm.

THIRD JOINT FAO/WHO EXPERT CONSULTATION ON FOODS DERIVED FROM BIOTECHNOLOGY: This meeting will take place from 24-28 September 2001, in Geneva, and will consider safety assessments of genetically modified micro-organisms in foods. For more information contact: Dr. Jørgen Schlundt, WHO, Geneva; tel: +41-22-791-3445; fax: +41-22-791-4807; e-mail: schlundtj@who.int; Internet: http://www.who.int/fsf/GMfood/Information_Notes_Sep01.pdf.

WTO COMMITTEE ON TRADE AND ENVIRONMENT: During 2001, this committee is scheduled to meet from 3-4 October, in Geneva. For more information contact: WTO Secretariat, tel: +41-22-739-5111; fax: +42-11-731-4206; e-mail: enquiries@wto.org; Internet: http://www.wto.org/english/news_e/meets.doc.

WTO COMMITTEE ON TRADE AND DEVELOPMENT: This committee is scheduled to meet on 8 October 2001 in Geneva. For more information contact: WTO Secretariat, tel: +41-22-739-5111; fax: +42-11-731-4206; e-mail: enquiries@wto.org; Internet: http://www.wto.org/english/news_e/meets.doc.

WTO FOURTH MINISTERIAL MEETING: The World Trade Organization Fourth Ministerial Meeting will be held in Doha, Qatar, from 9-13 November 2001. For more information contact: WTO Secretariat, tel: +41-22-739-5111; fax: +42-11-731-4206; e-mail: enquiries@wto.org; Internet: http://www.wto.org/english/news_e/meets.doc.

WTO SUB-COMMITTEE ON LEAST DEVELOPED COUNTRIES: This sub-committee will meet from 27-28 November 2001 in Geneva. For more information contact: WTO Secretariat, tel: +41-22-739-5111; fax: +42-11-731-4206; email: enquiries@wto.org; Internet: http://www.wto.org/english/news_e/meets.doc.

SECOND WORLD CONGRESS OF CITIZENS NETWORKS: This congress will convene from 5-7 December 2001, in Buenos Aires, Argentina. The congress is the annual meeting of the community networks from all over the world, as well as of people from different sectors interested in their promotion. For more information contact: e-mail: secretariado@globalcn2001.org; Internet: http://www.globalcn2001.org/.