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**The Multilateral Trading
System and the Road
to Doha:
Challenges for South Africa**

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LIST OF ABBREVIATIONS

ACP	African, Caribbean and Pacific (group of countries)
AGOA	African Growth and Opportunity Act (with US)
APEC	Asia Pacific Economic Cooperation
ASEAN	Association of South East Asian Nations
COMESA	Common Market for Eastern and Southern Africa
CTE	WTO Committee on Trade and Environment
DTI	Department of Trade and Industry
ECOWAS	Economic Community of West African States
FDI	Foreign direct investment
GATS	General Agreement on Trade in Services
GATT	General Agreement on Trade and Tariffs
GSP	Generalised System of Preferences
IGD	Institute for Global Dialogue
ITO	International Trade Organisation
LDCs	Least-developed countries
NAFTA	North American Free Trade Agreement
NGOs	Non-governmental organisations
NICs	Newly-industrialized countries
SACU	Southern African Customs Union
SADC	Southern Africa Development Community
SIDS	Small island developing states
SMEs	Small and medium-sized enterprises
SPS	(Agreement on Application of) Sanitary and Phytosanitary Measures
TBT	(Agreement on) Technical Barriers to Trade
TIPS	Trade and Industrial Policy Strategies
TRIMS	(Agreement on) Trade-Related Investment Measures
TRIPS	(Agreement on) Trade-Related Aspects of Intellectual Property Rights
UNCTAD	United Nations Conference on Trade and Development
UNISA	University of South Africa

WTO

World Trade Organisation

7 AUGUST 2001

INTRODUCTION

Garth le Pere (Executive Director, Institute for Global Dialogue) welcomed participants and explained that the Symposium was a joint initiative between the South African Department of Trade and Industry (DTI), the Institute for Global Dialogue (IGD), and Trade and Industrial Policy Strategies (TIPS). Noting that the Symposium is in keeping with the consultative ethos of the DTI, he described past initiatives such as those prior to UNCTAD-9 and the World Trade Organization (WTO) Ministerial meetings since Singapore. He said the Symposium is intended to be reflective, analytical, and strategic, and is taking place at a time when there is great debate and uncertainty regarding the global trading system after the events in Seattle. Pointing out the concern regarding the role and place of the WTO as the institutional custodian of global trade, he quoted WTO Director General Mike Moore as stating that “another failure like Seattle would lead many to question the value of the WTO as a forum for negotiation and would condemn it to a long period of irrelevance.” He said that there remained entrenched differences and divergences among WTO members, and the fact that many developing countries have not reaped the benefits of the Uruguay Round raises the question of the benefits from a new round. He asked if a new round of negotiations could be launched at the Doha Ministerial [in November 2001] on the right terms and for the benefit of Africa.

He suggested that the thrust of multilateral diplomacy for South Africa should be to look at trade as a way to improve the human condition, and that the increasing flows of global trade between Asia, the Americas and Europe should be redirected, reorganized and reoriented to address social and environmental concerns associated with globalisation. He underscored that the global trade system should be more just and equitable for those most marginalized by it.

SESSION ONE: SETTING THE STAGE

Session Chair Merle Holden (Professor, Department of Economics, University of Natal) introduced presenter Razeen Sally (Senior Lecturer, Department of International Relations, London School of Economics) and respondent Rob Davies (Member of Parliament and Chairperson of the Committee on Trade and Industry).

Presentations

Presenter: Razeen Sally

Sally outlined the history of the multilateral trading system from the founding of the General Agreement on Trade and Tariffs (GATT) in 1947. He stated that the GATT was never a blueprint for free trade, but rather a programme for gradual and progressive trade liberalisation. Reflecting on the Bretton Woods meeting in 1944 and the Havana conference for the International Trade Organisation (ITO), he explained that the founding fathers of the GATT were seeking a compromise between freer trade and domestic social democratic welfare states, or “Smith abroad, Keynes at home.”

He described the fundamental principles of the GATT: non-discrimination, meaning that countries can not discriminate among foreign exporters or between foreign and domestic exporters; reciprocity, which refers to multilateral bargaining where concessions made between two parties are extended to all members; and transparency.

However, he observed that within the first 25 articles of the GATT, only 11 promote freer trade, whereas the remaining 14 provide means of “getting around” the basic rules and providing for protection, such as through, *inter alia*, anti-dumping, safeguards and regional trade agreements.

Sally discussed the history of the GATT, including the Kennedy and Tokyo Rounds, noting that the 1960s-1980s period was characterised by “the new protectionism,” when in the face of tariff cuts, governments resorted to a wide variety of non-tariff regulatory means to protect vulnerable sectors. He observed that by the mid-1980s, the GATT was in crisis, with many considering it of increasing irrelevance; the response of the GATT Secretariat was to launch an ambitious round of negotiations – the Uruguay Round. With regard to the Uruguay Round, he noted that much progress was made on tariff-cutting on industrial goods and that three new sectors were added to the system (agriculture, textiles and clothing, and services), which account for 40 per cent of international trade. He said the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) is the most dubious agreement, as it does not liberalise trade but establishes an explicit standards-harmonisation agenda in the WTO. He discussed other agreements such as the Agreement on Trade-Related Investment Measures (TRIMS) and the Subsidies

Agreement, and pointed out new Agreements such as those regarding Sanitary and Phytosanitary Measures (SPS); Technical Barriers to Trade (TBT); customs valuation; and import licensing procedures. On other agreements he noted that there was no change on the Agreements on Safeguards or Anti-dumping. New Agreements on Surveillance for Trade Policy Reviews and Dispute Resolution were established. He observed that the Uruguay Round as a single undertaking – “nothing is agreed until everything is agreed” – had profound implications.

Evaluating the Uruguay Round agreements, Sally stated that the system had changed from being principally power/diplomacy-based to rules-oriented. However, he said that although the rules are more comprehensive, the way they have been applied since 1995 suggests there has been power play. He said that many agreements are weak because the powerful players have made them weak, and maintained that many agreements, such as TRIPS, should not have been there in the first place.

With respect to developing countries, he noted that they had “historically excluded themselves” from the system, though there were measures such as infant industry and balance-of-payments protection available, as well as the principle of special and differential treatment. In his assessment of the period from 1947-1986, he suggested that this first phase was disastrous for developing countries, because they were, at the time, following “self-defeating and damaging” policies of import substitution and intervention.

He noted that unilateral concessions that benefited developing countries such as the Generalised System of Preferences (GSP) became less important as tariffs decreased, and because in many cases developing countries did not participate in the negotiations, crucial areas of interest – such as textiles – were excluded.

With the advent of the Uruguay Round, he observed that many developing countries began to liberalise unilaterally, though often in response to crisis, and that by shifting to export orientation, trade and the GATT gained in significance in these countries. He said these countries – such as the East Asia newly-industrialized countries (NICs) and some countries in Latin America – detected the advantages of the GATT system in terms of export market access, rule of law, mobilisation of interest group support, and shielding against domestic protectionist interests. Sally noted that the export concessions are not the most important aspect of the GATT system, but rather use the rules to reinforce more transparent domestic policies.

Regarding the Uruguay Round agreements from a developing country angle, he observed that there had been a compromise whereby the developing countries conceded on TRIPS and the General Agreement on Trade in Services (GATS), in return for “what they thought would be” the liberalisation of agriculture and textiles. He stated that there had been no liberalisation in these areas, and therefore this could potentially be a “round stopper” in Doha.

On the new regulatory infrastructure coming out of the Uruguay Round, he

explained that some of the new agreements, including the SPS and TBT Agreements, contain “positive directives.” These are complicated procedures that have to be put in place and that require money, time and expertise, which many developing countries do not have.

Regarding influence on the Uruguay Round negotiations, he said a small minority of developing countries became active during the formal negotiations, committees and informal coalitions. However, he noted that toward the end of the negotiations, even the more active developing countries were shut out, with the last years dominated by the EU and the US trying to resolve bilateral issues. He said he did not expect the same pattern in future negotiations, as there has been a massive expansion of membership and with a four-fifths majority, developing countries should not allow themselves to be “suckered” by the EU or the US.

Respondent: Rob Davies

Davies distinguished between two levels of analysis regarding the WTO: the first is the formal system of rules and procedures, and the second is the politics of the institution. With regard to the politics, he said there is a clear indication that through most of the Uruguay Round negotiations and beyond, the dominant forces have been developed countries pursuing their own agendas. He stressed that although the formal rules state that the WTO is a member-driven organisation and all members have an equal voice in consensus, the reality is different: while each country has equal power, each also has different resources in terms of participation. He stated that many developing countries are significantly underrepresented in Geneva, and although they can veto any decision, this would be “flying in the face of major forces in international politics.”

Pointing to lack of movement on agricultural subsidies and textiles and the obstacle this poses to developing countries in areas where they are competitive, he said the current rules-based trading system is extremely unequal and uneven. Regarding options for Doha, he stated that developing countries are clearly more active than they were during the Uruguay Round, and more developing countries are recognising the importance of the process. He emphasised that developing countries need to establish what the major benefits of participation are, and make credible efforts to liberalise at home. He observed that major efforts are required to ensure that Doha is not “a total fiasco,” and that there is a real possibility that the process might not lead in the direction that some are hoping.

Discussion

A development consultant participant stated that there are inconsistencies with the WTO, highlighting the EU-US banana dispute and subsidies issues. He said the WTO is one sided, and asked what the government has done to address this situation. Razeen Sally responded that there had been only eleven developing

country founders to the GATT, and that the British empire had left varying legacies in newly independent countries. Emphasising the importance of domestic policy choices, he described examples where developing countries used the trade system as an external constitutional prop to improve domestic policies.

A participant from a major newspaper asked how developed countries should adjust their domestic policies. Rob Davies responded that developed countries should abandon policies that limit opportunities for developing countries to expand exports, such as in agriculture, as well as modify other industrial policies such as those regarding grandfather industries, particularly in products such as steel. He also identified tariff peaks and escalation value-added products as another problem area. Razeen Sally added that countries need import and export liberalisation, and that countries that have liberalised imports have released resources to put into productive sectors.

An NGO representative pointed out that every country has unique circumstances, and that examples of successfully industrialised countries cannot be extracted from the political economy of the time that enabled them to industrialise. She emphasised the political costs of industrialisation, such as in Chile, and the role of internal industrialisation that preceded export growth in some NICs. Razeen Sally replied that although differences in local context are important, certain generalisations can be extracted. He said that although import substitution may have played a part in the development strategy in certain East Asian countries, it did not for the most part work. He reiterated that these countries also established certain institutional structures.

Merle Holden then introduced Alec Erwin (South African Minister of Trade and Industry).

Alec Erwin***Alec Erwin***

With respect to how the government views the WTO context, Minister Erwin explained that globalisation is not an ideological construct, but rather describes real changes in the world economy and a more intense, but not unique, global interaction. He emphasized that although markets in various forms have emerged very powerfully in the world economy, this does not make them more efficient or beneficial. He said the advent of 'real-time' economic activity has important impacts on trade and investment decisions, as investors seek environments where transaction times are shorter and certainty is greater, and stressed that regardless of whether economies are open or closed, they are subject to these realities. He pointed out that consumer forces are as powerful as traditional ones such as organised labour, and that all production is subject to competitive forces, irrespective of attempts to protect it.

Stating that reforming developing countries have to assess strengths and weaknesses in their restructuring processes, he said that degeneration of political capacity has meant that Africa has not been able to do this. He described the major

political economy packages that are required: carrying out basic macroeconomic reforms that protect the economy from the volatility of world financial markets, that is, reducing risks in open-ended subsidies, etc.; establishing a strategy for industrialisation or manufacturing processes, such as integration of information and communication technologies in all production systems; and establishing an international economic strategy, which for South Africa means competing with NICs, and not being a “cheap labour economy”. He said the fact that the domestic market is not big enough to be competitive requires South Africa to form alliances with other countries. He described four aspects of these alliances: establishing links with similar economies (e.g. Nigeria, Algeria, Egypt, India, China); strengthening the immediate region through trade and industrial policy; rebuilding the African continent; and engaging with developed countries and forming beneficial relationships with them.

Noting that globalisation offers possibilities but also has equal tendencies toward uneven development and marginalisation, he underscored the importance for integrated sets of packages – including a concerted programme of socio-economic empowerment – to avoid problems with “economies within economies.”

With regard to the WTO, Minister Erwin pointed out a profound and deep-seated imbalance of economic power, which has accrued to developed countries through, *inter alia*, the Bretton Woods system and different trade rounds. He called for a restructuring of the world economy in two major areas: restructuring of the developed country economies, such as surrendering grandfather industries so that developing countries can build up their industrial base; and opening trade and economic links among developing countries. He noted that despite the fact that the agricultural base of developed countries can not function without enormous subsidies, developing countries are asked to make structural changes. He added that careful examination of tariff structures has indicated that many industrial activities, which would be more efficient in developing countries, are heavily protected through “backloading” in agreements and tariff peaks and escalation. He identified other implementation issues, including time lines; definitions within TRIPS and TRIMS; anti-dumping rules; and subsidies regulations.

With respect to competition and investment, he emphasised the need for processes that allow developing countries to pursue policies that will enable them to support the rules. Regarding the environment, he stressed that precision in regulation is necessary, especially since a new genre of non-tariff barriers is being developed that is difficult to monitor. He said the DTI would be strong supporters of environmental protection, but there must be specificity in terms of the trade regime, otherwise it could be a barrier between developed and developing countries.

On labour standards, Minister Erwin said there is no problem with these, but there must be clarity about their intention if included within the trade system. He stated that ILO standards are difficult to monitor, and would pose difficulties in a dispute settlement situation.

He identified as a fundamental trade issue the relationship among multilateral institutions, particularly the migration of core principles from one system to another. Regarding the possibility of a new round, he said that there is a set of present circumstances and there will be different outcomes depending on how countries act. Stating that “power is not malice, but is institutional capacity,” he argued that if countries do not participate at Doha, powerful parties will try to get issues onto the agenda which do not belong there. He described the way forward that has emerged from SADC and COMESA meetings, which has two components: defining clearly what should be negotiated; and working together to prepare the defensive position on all other aspects.

Discussion

A representative from a South African consumer association highlighted the difficulty with reconciling trade and human rights. He also pointed out problems with dumping and prices, and observed that while regional relationships should be strengthened, some countries in the region have weaker economies. A participant from the SADC Secretariat enquired about the link between the COMESA meeting and least-developed country (LDC) meeting in Zanzibar and the emerging approach to Doha. Minister Erwin responded that consumer patterns and preferences can distort prices between countries, and said competition law is better than anti-dumping regulations in addressing these problems. Recalling South Africa’s experience with trade and human rights issues, he stressed that regulations must be developed multilaterally. On the meetings, he said the conclusion was a position that defends the needs of LDCs, and adopts the same stance as SADC. He explained that the Zanzibar declaration would be incorporated into a joint declaration, as it is expected the position will find resonance with Mercosur and ASEAN countries. He added that China and the APEC countries have taken a more aggressive position toward a round, but their concerns on issues such as competition, investment and environment would be similar to South Africa’s.

A development consultant asked what measures have been taken to effectively build institutional capacity in South Africa. An ambassador of a developing country enquired as to how much consensus is expected among developing countries regarding the core issues that should be pushed forward. On trade and capacity building, Minister Erwin distinguished between two dimensions: the capacity of trade negotiators, most of whom have been on various training courses; and general skills development and empowerment, where primacy is given to self-development, although expertise can be brought in if necessary. Regarding consensus among developing countries, he said that between most members of Mercosur and South Africa, the position is almost identical. Within the regional context, he explained that South Africa cannot go in with its optimal position, and will go in as a part of SADC. In terms of limiting the position to implementation issues, he noted that India is an enormous economy with only 2 per cent of its GDP traded, and so the implication of outcomes is not as important.

Referring generally to the Seattle Ministerial, he said that its management was such that developing countries could not physically access their alliance partners.

Emphasising the importance of unions, a participant from UNISA enquired about the Minister's position regarding privatisation and foreign direct investment (FDI), especially vis-à-vis the Doha Ministerial, and commented that not enough had been done to empower the black population in international trade. Rob Davies asked how the profile of issues regarding grandfather industries and tariff peaks and escalations might be raised. Minister Erwin replied that unions have the right to enter a strike action, which illustrates that South Africa enjoys a stable democracy. However, he reminded participants that the purpose of restructuring state assets is not primarily to attract FDI, but rather to ensure competitive and low-cost delivery methods in certain areas. On empowerment, he identified government programmes to get small and medium-sized enterprises (SMEs) into trade, though warning against getting into exporting prematurely, as it is very volatile. Regarding grandfather industries such as agriculture in the EU, he said this area is problematic, and identified reasons why certain industries are grandfathered. Given the density of the population and the age of the infrastructure, it is too expensive to upgrade, and the cost and availability of energy is low. Regarding the recent US position on steel imports, he said it is positive if it is in the interest of general steel production, but dangerous if it is only to maintain US capacity.

Merle Holden thanked the speakers and respondents, and said the discussion had laid the groundwork for a successful Symposium.

SESSION TWO: SOUTH AFRICA IN THE GLOBAL SYSTEM

Session Chair Rashad Cassim (Chief Executive Officer, Trade and Industrial Policy Strategies) introduced the presenter, Faizel Ismail (Deputy Director-General, International Trade and Investment, DTI) and the respondents, Elizabeth Sidiropoulos (Director of Studies, South Africa Institute of International Affairs).

Presentations

Presenter: Faizel Ismail

Ismail shared work from the DTI regarding the government's international economic strategy, in the form of a CD-ROM. He explained that the CD-ROM covered four areas: basic objectives of the international economic strategy and the context in which it takes place; key elements of the international economic strategy and how they link with each other; analysis of the strategy's impacts and results; and specific strategies in relation to various countries with whom South Africa is currently engaged. He said the starting points in all international work are basic development objectives, such as increasing the level of jobs, the number of SMEs, and black empowerment, while ensuring greater integration of the Southern African region. With regard to the global context, he pointed out higher and deeper flows of capital, investment, trade, and equity, which are accompanied by "the technology revolution." He reminded participants that in the early 1990s, South Africa had an inward-looking economy that was reacting to a hostile world, which required a defensive and protectionist approach characterised by a complex tariff regime. He said that to remedy this, an active strategy to penetrate external markets and reintegrate into the global economy was undertaken, starting with engagement with UNCTAD. He explained that the DTI prefers multilateralism, as bilateral engagement leaves developing countries subject to power relations, and expressed support for organisations such as the WTO. With respect to regionalism, he identified it as a key feature of global trade liberalisation, which started with the EU and has extended, *inter alia*, to NAFTA, ASEAN and ECOWAS. In terms of South Africa, he pointed to the new SADC trade deal that started on 1 September 2000, and the modernisation of SACU. He said SACU will have one tariff-setting authority (SACU Board of Trade), which will be comprised of specialists who will be appointed by Ministers for their expertise on trade and industry issues and who will adjudicate over applications made to the Board regarding tariffs.

On relations with the EU, he explained that South Africa had wanted a similar relationship as that between the EU and the African, Caribbean and Pacific (ACP) countries, but the EU had not agreed and therefore a bilateral agreement had been negotiated. He said South Africa wanted the agreement to be development-oriented and asymmetrical, and the negotiation had taken four years, with implementation

starting on 1 January 2000.

Regarding relations with the rest of the developed countries, he stated that it had been a “war of attrition” since 1994 with the US, but South Africa has been reasonably successful in ensuring participation in the African Growth and Opportunity Act (AGOA), which allows all African countries duty-free access for 6500 products into the US market.

Ismail discussed the approach toward countries in the developing world, which used to be called a “butterfly” strategy, aimed toward strengthening wings in the west (Latin America) and the east (East Asia). He noted that the strategy had deepened the trade relationship with emerging economies such as Brazil and India, and discussions are ongoing with Nigeria and a few other African governments in this regard.

Regarding results of the strategy, he said that on a range of indicators, positive advances had been made. There is increased capacity for trade, and a steady growth curve in export markets has been maintained. Looking at value-added manufactures, he highlighted a shift during 1990-2000 from reliance on primary products to greater exports in manufactures. On investment, he said South Africa was not receiving as much as it should, but the quality of investment was good and the country’s credit rating has improved significantly.

Respondent: Elizabeth Sidiropoulos

Sidiropoulos remarked that the CD-ROM was a very substantive tool and therefore useful. Making a general point on trade policy, she noted that the DTI had, over the past few years, produced a comprehensive analysis and strategy for South Africa at all levels, and that delivery had started to occur. She stated that although some of the costs paid for trade liberalisation include job loss in a number of industries, this should ultimately generate employment in other areas and create a firmer foundation for sustainable development. Regarding the South-South strategy, she said that building coalitions had been an important aspect of the South African position, but there was a need for flexibility, and alliances should be built around common positions. She emphasised the importance of consultation with the private sector. On attracting and promoting investment, she stressed the importance of overcoming perceptions that the region is unstable, and observed that South Africa is in a fortunate position because it has some technical expertise. With respect to sustainable development, she called for balancing more altruistic efforts in the region with South Africa’s interests. She emphasised more coordination and communication at all levels to ensure that businesses can take advantage of the provisions of various bilateral trade agreements.

Discussion

A development consultant commented on the quality of consultation with NEDLAC

and other groups who feel marginalised, and reiterated the importance of implementation. A participant from a consumers' group stated that consumers had been left out of various consultations, and regarding trade, asked how small economies such as Swaziland and those like Zimbabwe are informed. A trade union representative pointed out that the trade processes embarked upon have resulted in devastation of the clothing and textile industries, particularly job loss. He advised that access to the US market through the AGOA was not out of altruism, but rather to ensure access to African markets. He stated that NEDLAC is a "sham" because most government positions are not discussed at NEDLAC. In response, Ismail reminded participants that NEDLAC was an institution created by everyone, but if it is inadequate with its representation, it must be modified. He stated that the DTI also welcomes consultation with groups outside of NEDLAC. Regarding job loss as an impact of trade policy, he said that research conducted has been inconclusive, and that there are a number of relevant factors. He stated that there are unappealing elements of the AGOA, and that the DTI will continue to negotiate on issues such as conditionality and factors for qualification. With regard to small economies, he noted that South Africa supports the interests of these countries and has worked closely with small island developing states (SIDS) such as Mauritius, and underscored that South Africa's economic interests are fundamentally linked to the economic interests of its neighbours. On implementation of trade agreements, he said a journal will be produced that provides updates on various negotiations and explains the opportunities within trade agreements.

SESSION THREE: THE POST-URUGUAY CONTEXT AND THE EMERGENCE OF THE WTO

Session Co-Chairs Rob Davies and Peter Draper introduced the presenters, Dot Keet (Research Associate, Alternative Information and Development Centre) and Xavier Carrim (Minister (Economic) to the South African Permanent Mission in Geneva), and the respondents, Neil van Heerden (Executive Director, South Africa Foundation) and Merle Holden (Professor, Department of Economics, University of Natal).

Presentations

Presenter: Dot Keet

Keet outlined “the most significant elements and implications” of the 1999 WTO Seattle Ministerial, noting that consensus had not been achieved on the Ministerial agenda (the Geneva text), which was rife with contending positions. She said this was due to major differences between the EU, Japan and the US on primary negotiating issues and to action by developing countries to prevent consensus on what was to be a comprehensive new round. She described the official South African position, which supported a broad-based round of negotiations and “noted the African Algiers position” that opposed new issues but supported reviews of the Uruguay Round. She added that South Africa’s aims and interventions were to get enough development elements in the Geneva text to achieve sufficient consensus for a new round. She said that South Africa had engaged with the major actors in backroom discussions and was confident that it had achieved significant modifications in the text, although later acknowledging that these modifications did not guarantee that the text would be acceptable. She stated that what is significant and unprecedented is that whereas in previous WTO meetings the Quad (the EU, the US, Japan and Canada) had been able to impose and contrive consensus, it did not have time or political space to do that in Seattle.

She noted that because of NGO and developing country resistance in and out of the corridors, as well as their interaction with the media and civil society critiques, the Quad – led by the US Chair and the WTO Secretariat – had to close the meeting: “they could not risk what might happen this time around if they tried to present a so-called consensus document as in the past”. Keet said that this represented a tactical defeat for the major actors and the WTO Secretariat and a defensive victory for their opponents. She maintained “the ongoing battles are in a changed global situation”, in that “the old hegemony of the neo-liberal paradigm has suffered a huge erosion and the balance of power is shifting”. She said that it is also evident between the government and non-government forces, and between developed and developing countries. She clarified that the groups at Seattle “were not an inchoate mass”, but were very informed and highly articulate about the WTO, representing years of capacity building efforts around the world. Outlining points that have

emerged from Seattle and tactical options/strategic alternatives, she suggested:

- Reform of WTO functioning/process, making the institution more inclusive, open, transparent and democratic;
- Revision of WTO agreements/rules to address imbalance, inequity, inconsistencies and lacunae, as well as implementation issues;
- Restraints on WTO coverage and scope, including rejecting new issues that are questionable and “self-serving on their own terms”, such as investment, competition, and government procurement;
- Rollback on specific issues, including TRIPS and TRIMS, which were brought in “by default” and before the implications were realized;
- “Reserve areas” that should be kept out of the WTO, because they would be difficult to extract, such as domestic food production and security, small scale agriculture, and artisan activities, as well as issues that contradict human rights and social well-being;
- Reduction/removal of punitive powers, because the Dispute Settlement Unit has serious problems with its functioning, decisions and applications, and because the assumption that weak countries have the skills, resources and independence to tackle powerful countries is fallacious;
- Relocation of most issues from the WTO, which should be reduced to simply a trade organisation dealing with technical trade matters, and placing other issues such as labour and environment in UN agencies;
- Redesign of global institutions, which should operate under a framework of agreed global conventions; and
- Reconceptualisation of global, regional, national and local government (subsidiarity).

Presenter: Xavier Carrim

He noted the change that had occurred since 1999 with developing countries asserting their influence in the negotiating process, stating that during the Seattle meeting, developing countries were better prepared technically and were able to effectively argue their positions, which had shocked the major players. He said the WTO decision-making process had to undergo some change to accommodate this, and now no single group of countries can move the agenda forward without broad consensus. He also pointed out that civil society and NGOs are increasingly influential in shaping outcomes, and that the implication of having no new round launched is that developing countries will be locked into the current situation.

Describing key processes that have been under way since the Seattle Ministerial, he discussed:

- Agriculture: The first phase had ended in March 2001, and had been characterised by specific discussions in technical areas such as, *inter*

alia, domestic support and market access, to establish common elements.

- **Services:** The first phase had been on negotiating guidelines, and there have been ongoing discussions on emerging safeguards.
- **TRIPs:** A review of Article 27.3(b) was under way, after which recommendations will be made.

He said that since Seattle, there was a sense that a number of areas needed more work, such as improving market access for least-developed countries; improving funding and delivery of technical cooperation; extending transition phases; and setting up consultative mechanisms for discussion of implementation problems. He advised that more than 92 provisions had been identified by developing countries as requiring modification. Regarding the preparatory process for the Doha Ministerial, he said a checklist was drafted that defined areas that should be on the agenda for negotiation. He identified six elements of what may be a possible draft text for Ministers in Doha: general global economic environment; implementation; mandated negotiations (i.e. services and agriculture); other issues (e.g. investment, competition, trade facilitation, e-commerce, environment); organisation and management of the work programme; and technical cooperation and capacity building.

Describing the evolving positions of WTO members, he discussed:

- **Agriculture:** He noted that the types of alliances that are emerging in this area are not always on the basis of the North-South divide, and that, for example, on anti-dumping, Japan is leading and both developed and developing countries are on board. He said there are discussions on market access and how stricter disciplines can be established regarding domestic support and subsidies reduction, at the same time as creating the policy space for poverty alleviation and rural development.
- **Services:** Stating that OECD countries account for about 80 per cent of trade in services, he said that there will be demands on developing countries to open these sectors.
- **TRIPs:** Clarifying that there are no negotiations on TRIPs, he described issues such as: geographical indications, specifically a proposal that the protection given to wines and spirits be extended to other products; and public health and access to medicine, which is being led by the African group.
- **TRIMS:** He advised that there was meant to be a review of TRIMS, but it has been complicated because there are discussions on whether investment will be addressed in Doha.
- **Implementation issues:** He said implementation issues have been under discussion for two years, but without a round of negotiations, it will be difficult to resolve these issues. He noted that there is little

incentive for developed countries to engage in debates on anti-dumping, subsidies or special and differential treatment, and if developing countries want movement, they will have to consider other issues.

- *Industrial tariffs*: Carrim stated that industrial tariffs are not part of the WTO programme, but there have been proposals by some countries to include them. He said that developing countries argue that should this issue be addressed, debate should focus on tariff peaks and tariff escalation, as well as special and differential provisions for developing countries.
- *E-commerce*: He said there is recognition that the WTO should continue its work in this area, highlighting the link between e-commerce and intellectual property and the implications for customs duties and trade in services. He identified key negotiating issues as whether or not to extend the agreement that was reached in Geneva in 1998 that places a moratorium on levying duties on e-trade; and links to technical and infrastructural support.
- *New issues*: He highlighted new issues such as investment, transparency, government procurement, and environment. He said South Africa's participation has less to do with being proponents of these issues than with identifying our interest in issues such as investment and competition.
- *Investment*: He said that in negotiations, "the ambitions of the flexible had been scaled back," and there is a need to accommodate developing countries.
- *Competition*: Describing a "modest" proposal that is under discussion, he said it suggests the WTO would act as a forum for competition authorities where they exist. He noted that only 80 of the 140 members have competition laws, and proposed that the WTO could also act as a forum for more technical capacity building in countries that want to develop competition laws.
- *Trade facilitation*: He described general agreement that there are savings to be made by improving customs procedures, etc, but the question is whether binding rules in the WTO are needed to govern this.
- *Transparency and government procurement*: He said there is a proposal for an agreement that ensures that government procurement procedures are transparent. He noted that the EU was looking for market access in this area, but developing countries "are clear that this would not fly", because of the Uruguay Round experience that the terms and conditions of negotiations may not be understood.

Respondent: Neil van Heerden

Responding to Keet's presentation and comments on Seattle, he said that the civil society position is often underestimated, misunderstood or not recognized. Pointing out that approximately one billion dollars of international trade is done each hour, he said that looking at trade "in a vacuum" is a problem. He asked about the role of civil society in bringing issues onto the WTO agenda, and about the link between the plea made by civil society and the situation of developing countries.

Responding to Carrim's presentation, he emphasised the need to resolve issues and move beyond the status quo. He asked for more information regarding the Integrated Framework (i.e. cooperative arrangement with Bretton Woods institutions to coordinate policies and approaches), and asked if provisions for special and differential treatment are helping developing countries.

Respondent: Merle Holden

She agreed that some new issues being raised at the WTO are disguised protectionism by developed countries. She said addressing these issues in a rules-based system would be problematic, and suggested that the WTO should focus on facilitating trade, reducing tariffs and securing market access, etc. particularly for the developing world. She enquired about the capacity of developing countries in three areas: the capacity to negotiate effectively; the capacity to implement agreements; and the capacity to respond on the supply side if market access were to be achieved. She pointed out that South Africa still has high tariff peaks, and said there should be work done on the interplay between anti-dumping legislation and competition policy.

Discussion

A participant from UNISA asked about South Africa's likely position at Doha regarding environmental issues. A trade union representative enquired about consultation processes and studies on the impact of trade processes on people, such as through job loss. An NGO participant asked for elaboration on services, specifically the windows of opportunity for developing countries and the nature of the debate of credits under Article 19. A representative from the Japanese embassy enquired about the impacts of cheap inputs from Asian countries on local industry. In response, Dot Keet clarified that the impact of civil society on trade processes is not simply due to the cogency of the arguments, and that the "battle" is not simply technical and legal: she said the analysis must be based on how "our opponents" behave in a political economy framework. She maintained that although the EU and the US bring in the issue of labour, they have no intention of seriously addressing it, and are only playing to domestic constituents and using the issue as a bargaining chip that destabilises negotiations. On transparency in government procurement, she said that it is not something to be promoted through the WTO, but through national and regional agreements. She called for a moratorium on services negotiations until the current provisions are understood, and said that the main problem is that most public services have some commercial aspect.

Regarding the Integrated Framework, Carrim explained that it sets out a programme of developing negotiating capacity and understanding trade and trade-related issues, and that funding problems have been resolved and the project has been revived. With respect to coordination among multilateral institutions, he said there are some fears from developing countries that a coherent approach may be a double-edged sword in that approaches taken with the Bretton Woods institutions will be transposed into the WTO.

Regarding services, Carrim pointed out that of all the WTO agreements the GATS is considered to be one of the more development-friendly because the structure of the agreement allows countries to open up sectors as and when they want. He described this as a positive-listing approach, where countries can liberalise to the degree appropriate and can attach conditions.

Regarding autonomous liberalisation, he said that developing countries have pointed out liberalisation efforts outside of negotiations, and want credit for it. He said that autonomous liberalisation is of no value to the WTO membership if it is not bound in negotiations, and even if it is bound, it may be of interest only to certain countries. On the dispute settlement process, he said that although there is no doubt that power plays itself out within the rules of the WTO, the rules attempt to confine or constrain the more powerful countries as much as possible. He maintained that without the rules, it would be “law of the jungle” where the most powerful dominate. On special and differential treatment, he pointed out that all WTO agreements have these provisions in favour of developing countries, although many of them have been contractual and unenforceable. He said that if there is a new round of negotiations, the same mistakes will not be made in terms of setting out arbitrary transition periods, etc.

Regarding South Africa and the Doha Ministerial, he said that within the SADC context there is need for commitment to address implementation in areas such as intellectual property, subsidies, and anti-dumping. He said a more ambitious approach to agriculture negotiations is being examined, and that, in terms of the environment, the South African approach is based on what is happening at the WTO, that is, suspicion of the EU agenda, which is shared by many developed countries as well.

A representative from the DTI clarified that extensive consultations are ongoing with NEDLAC, with the objective of identifying 3-5 key issue areas for future focus sessions. Razeen Sally pointed out that some anti-GATS groups have made assertions about the agreement that are false, and that it is unlikely that governments will be constrained with regulation. He said that most countries will not open up public services to global competition unless they are explicitly willing to do so. He emphasised that data on services is not as available as that on goods, because it is a relatively new area and discussion of services as being “tradeable” has only taken place in the last 15 years. He said that evidence of benefits from an open

services economy to poverty alleviation is anecdotal, although with telecommunications and financial services, open economies have registered better performance in those sectors than closed economies. Regarding Doha, he advised that an “all-or-nothing” scenario is problematic, and that the political prerequisites for a new round are not there, so it is very unlikely.

He asked whether South Africa has a “plan B” should a new round not be launched? In response to this question, Carrim said that although there might not be a round that encompasses “all”, there might be room for agreement on industrial tariffs, transparency in government procurement, or e-commerce. He said the positions of members are still shifting, and issues will be worked out over the next few months. He also pointed out that some issues are being held back as part of negotiating leverage, and that some countries “have not come on board and want to see what is happening elsewhere”. He said that over the next two years there are elections expected in nine OECD countries, so that perhaps there may be a new round launched by 2003.

Another participant enquired about the role of foreign debt in trade issues. A development consultant pointed out that many successful economies started out as protectionist, and that an open economy does not address poverty. Carrim responded that although the issue of debt has not been a part of WTO work, there is a clear relationship because countries with large debts cannot invest in capacity efforts and it affects their ability to trade. He advised that a proposal for a study group on trade and debt had been revived for Doha.

Regarding GATS, Keet said the agreement is “weak and messy” and that the ambiguities within it can be used adversely. She agreed that the positive-listing approach is one of the more positive aspects, but that there have been attempts by countries to reverse that. She said that on the basis of experience, the problem is that once services are opened, the real political weaknesses of countries will be open to pressure.

8 AUGUST 2001

**SESSION FOUR: THE POST-SEATTLE CHALLENGE FOR
SOUTH AFRICA**

Presentations

Presenter: Tsediso Matona

Reiterating some of the key issues and perspectives that were highlighted the day before, Matona stated that engagement with the WTO has to be located in an economic development strategy that meets the basic needs of South Africa, and responds to the historical trajectory of globalisation. He reiterated the need for the WTO to create the conditions for economic growth, especially since for many developing countries a difference has not been made in their economies. He pointed out the need to revise some of the assumptions that have underpinned how the WTO has operated thus far, such as assumptions that those countries that need to adjust their economies are developing countries. He suggested that developed countries need to undergo structural adjustment, especially with regard to grandfather industries such as agriculture, steel, and textiles; and part of advancing a development agenda involves revisiting existing agreements. He reiterated the needs of South Africa regarding agriculture, services, TRIPS, investment, and new issues. He emphasised the need for South Africa and developing countries in general to build effective coalitions and the need to cogently articulate a common agenda.

Presenter: Dot Keet

Outlining her response to the South African government position, Keet emphasised that an important aspect is the starting point from where one views the negotiations, that is, whether the global economy is a problem or an immutable given. She said that from a social movement point of view, the WTO is undemocratic, unbalanced, and should be reduced in its scope and coverage. She said that negotiations cannot be started without tackling the question of the institution and its structure. Regarding the South African approach, she said the government had accepted a new round *a priori*, although resistance from other developing countries has forced the government to re-evaluate. She emphasised that the issue is not what title is given to the round, but rather what is included for negotiations, what are the balance of forces, and what are the terms set beforehand. She suggested that it is not in South Africa's interest to launch a new round because the balance of power is shifting globally and has to be pushed further, and the global economy's state of severe imbalance and crisis make the timing inappropriate.

Presenter: Robert Kirk

Describing the SADC approach to the Doha Ministerial, Kirk outlined the history of

SADC preparations for other Ministerial meetings, such as Singapore and Seattle. He said that the SADC Secretariat prepares a joint position before going into the Ministerials, and that in terms of the Doha meeting, there will be a meeting of agriculture ministers in September from which a document will be issued. He explained that at the latest Ministers' meeting, it was agreed that the focus should be on defining clear positions on issues for debate before Doha. He added that further focus should be given to a development agenda that will address existing imbalances in the multilateral trade system, with the agenda looking at implementation issues, the mandated negotiations on agriculture and services, and industrial tariffs, particularly peaks and escalation.

Regarding implementation issues, Kirk said that the view is that progress on many implementation issues has been too slow, and that within southern Africa there are many least-developed countries that face severe constraints in implementing Uruguay Round agreements. He noted that additional financial and technical support is required, and that "best endeavour statements" from the Uruguay Round have not amounted to much, resulting in lack of faith in commitments. He identified as subject matters of concern anti-dumping; subsidies; safeguards; sanitary and phytosanitary measures; technical barriers to trade; TRIMS; TRIPS; implementation of Article 7 (valuation for customs purposes); Article 17 (government assistance to development); and provisions for special and differential treatment (that is, continuation of non-reciprocity, economic indicators, etc.) On the mandated negotiations for agriculture and services, he said that a common African position on agriculture was submitted to the WTO earlier this year, but that a number of countries have submitted their own positions to reflect their specific concerns. On services, he noted that the SADC Ministers have concerns regarding Mode 4 (movement of persons).

Regarding industrial tariffs, he stated that developed countries should provide meaningful market access for LDCs, small states and developing countries, noting the AGOA and EU "everything-but-arms" initiatives; the key elements of concern are the tariff peaks in sectors of export interest, as well as tariff escalation; and that full duty- and quota-free access for LDCs would result in a US\$2.5 billion increase in exports, with negligible impact on importing countries themselves.

On new issues, he advised that there is no firm agreement on including these items in negotiations. On labour standards, he said the view is that this could be used as a protectionist measure, and on environment, he said the WTO Committee on Trade and Environment (CTE) should continue work on this issue but it should not be included in negotiations. He stated that a more detailed SADC position will be clarified during an upcoming meeting in Mauritius.

Respondent: Razeen Sally

Sally pointed out that there has been a huge expansion of WTO membership since the Uruguay Round, and that of the 142 members, approximately 110 are developing

countries and countries with economies in transition, adding that China will be the most important developing country once it has acceded. He said that the membership expansion and developing country majority hide the increasing divergence of interests in participation at the WTO. He noted that many middle-income countries have reinforced their participation through augmented trade policy resources, well-staffed missions, better definition of export interests, high-profile ambassadors, and better defence mechanisms in dispute settlement. He also stated that these countries are much more active in small issue-based coalitions, often with other developing countries, such as the Cairns group, and informally in groups such as “Friends of GATT”. He noted that the South African “butterfly” approach has been taken by a few other developing countries, such as Chile, Hong Kong, and Singapore, although it is not as popular in Eastern Europe because of EU accession issues. He predicted that India will be a “key swing vote” on a number of issues in the next round should it take place, particularly on services where they have been active on Mode 4 issues.

He noted that the majority of the WTO membership (about 80-90 developing countries) are “incapable of participating” because they have not defined their interests and have weak resource capacity at home, and contrary to what is believed, there is no common developing country position. Regarding environmental matters, he said there is a willingness to have some sort of clarification on the relationship between MEAs and the WTO and to discuss environmental services in the GATS, but there is opposition to trade restrictions based on processing and production methods. On labour, he said there is a study group outside of the WTO.

Discussing the pre-Doha situation, he observed that there are problems with the major players, in that bilateral cooperation has been marred by a number of disputes. He added that developing countries are divided, with different factions on issues related to implementation and market access. With regard to the new round, he stated that there is a serious risk of ignoring or underplaying the fundamental question about the WTO and its longer-term systemic evolution, and said the biggest danger in the WTO is the standards harmonisation agenda that is being pushed by the EU. He maintained that this agenda, which started with the TRIPS Agreement, would “be the death of the organisation in terms of making a positive contribution to globalisation” and would only benefit the US and the EU while harming developing countries. He suggested refocussing the WTO on its core market access agenda, which requires developing country participation, and said that the WTO’s positive contribution to globalisation would be in terms of wealth creation and poverty reduction through liberalisation.

Sally underscored the importance of domestic trade policy capacity, stating that success stories in the developing world over the last two decades have been those with reasonably well-resourced and well-functioning trade policy decision-making mechanisms and those who have actively participated in the WTO.

Regarding the objectives of sound trade policy, he said that good trade policy begins

with effective policy formulation, which means having an interest-defining exercise within government on export, import and investment aspects, and pursuing these interests abroad. There is a need to bear in mind the interaction between multilateral negotiations and other tracks (bilateral, etc.) and to realise that implementation of unilateral measures and international agreements is more difficult now than previously.

He said countries that have engaged in effective trade policy making have established a clear idea of how trade policy fits into their broader economic framework – improved governance, reduced corruption; promoting the foreign affairs ministry as the lead in trade negotiations, encouraged interagency coordination, especially on issues such as movement of people, agriculture, sanitary and phytosanitary measures, etc.; improved coordination with the WTO mission; and promoted transparency with outside actors such as the Australian Productivity Commission.

Respondent: Meenal Shrivastava

Observing that the major economies of the world are experiencing sharp slowdowns and trade deficits, Shrivastava said that without momentum given to the WTO by a round of negotiations, many countries will focus on bilateral and multilateral agreements, which may leave out the world's poorest nations. She said regional blocs are easier to negotiate and better at protecting the interest of partners, but tend to leave out LDCs. She stated that there are reasons for economic success other than liberal trade policies, and that looking at the EU and China, the evidence is overwhelmingly in favour of regulation. However, she said that although 98 per cent of trade is among NAFTA countries, the EU and Japan, the small percentages are important for developing countries. With regard to the Doha Ministerial, she said developed countries have to bend on issues such as anti-dumping and subsidies, and that developing countries need a coherent agenda and need to cooperate inside and outside of the WTO.

Discussion

A representative from a consumers' group asked if the DTI has a strategy in place to promote South African exports in coordination with the DFA. A participant from a university stated that the focus of the WTO is being forgotten, and that there will be a loss for developing countries if the focus is on standards harmonisation. A representative from the Financial Services Board asked why the Australian Productivity Commission model is not being used elsewhere, and said that if the overall objective of the WTO is to ensure that everyone benefits, then participation must be stronger.

In response to Dot Keet's presentation, Tsedisio Matona reiterated that a change in agendas and time frames is required, and highlighted beneficial aspects of the WTO such as its consensus-based decision making approach and the voluntary nature of

membership. He said that South Africa cannot achieve its objectives without coalitions and networks, and outlined efforts to strengthen domestic trade institutions. Observing “a lack of logic between the logic of politics and the logic of economics”, Sally said that despite the imbalances, globalisation has been continuing as part of a broader trend in favour of liberalisation, which has delivered benefits to the rich and “to the pockets of the poor”. Responding to comments about a potential charter for the WTO, he said that it should not be expected and that negotiations have to be given leeway for flexibility. On standards harmonisation, he emphasised that there is a difference between negative ordinances and positive injunctions. On regional *vs* multilateral agreements he stated that most free trade agreements are not negotiated for economic benefit but for political security concerns, except in the case of the APEC, which is based on unconditional most-favoured nation provisions. He added that regional trade agreements tend to make trade policies more complicated, less transparent, and less consistent with the multilateral trade system because they are discriminatory. He called for improvement and monitoring of regional trade agreements to promote compatibility with the multilateral system.

Dot Keet emphasised that the diverse aims and intentions of regional integration, such as in the SADC case, do not make it illegitimate, and stated that the WTO has excessive powers, and its agenda should not be expanded without extensive analysis. She said that productive capacity makes trade effective, although trade itself can improve capacity, adding that market access and export-led growth are necessary but an insufficient solution. She warned against the potential for de-industrialisation if preconditions are not set before import liberalisation. Robert Kirk said that implementation of the SADC Trade Protocol presents many challenges for the entire region, but that regional integration can play a role in WTO participation.

A representative from a consumers’ group asked how problems with implementing commitments might be solved when there is a lack of resources. A participant from the Centre for Policy Studies called for major efforts to build capacity, and pointing out the absence of key departments at the Symposium, stated that there are problems with coordination among government departments. A participant from the Financial Services Board enquired about the DTI’s plan should there not be a new round.

In response, Razeen Sally said that resource issues are not a “one size fits all” package, and that although lessons can be extracted from other countries, one must be cognizant of the local context. He suggested that governments might use checklists that look at country detail, or engage in bench-marking exercises. With regard to import liberalisation issues, he said that the basic point is if the border is opened, resources can be reallocated, including to export sectors. Tsediso Matona responded that coordination among developing countries has been successful in the past, but countries have to see themselves as benefiting from such engagement. Regarding the possibility that a new round will not be launched, he reminded

participants that the Uruguay Round took a couple of tries and there will be more opportunities, and emphasised the role of the business community in a successful launch of negotiations.

SESSION FIVE: COMPARATIVE PERSPECTIVES ON THE NEW ROUND

Session Co-Chair Garth le Pere invited participants to make suggestions regarding key issues, problems and themes that should be taken up in more focussed follow-up meetings.

A trade union representative stated that the South African position must be clarified broadly to the public, and that a shortcoming of the Symposium was insufficient involvement of civil society. Another participant noted that certain sectors were not present at the Symposium, such as the business community – including SMEs – and said that trade should be “for the benefit of the historically marginalised, not the middle-class, wealthy and capitalists”. He called for greater information dissemination, especially regarding technical issues. A development consultant underscored the importance of trade as it pertains to agriculture, rural development, and poverty. He emphasised a bottom-up approach and the involvement of all South African people, and the benefits of regional groups. A representative from the British High Commission stated that new trade issues are not going to disappear, and said that Doha is potentially a beginning, not an end. A representative from a consumers’ group highlighted access to funds for business promotion and loan guarantees for businesses. A participant from the Financial Services Board suggested forming a regional trade organisation so that positions can be clear when in multilateral fora, calling for increasing the trade relationships among SADC members, and pointing out the opportunities and threats of establishing networks with developed countries. Another participant highlighted the impact of liberalisation on indigenous communities.

Meenal Shrivastava suggested that South Africa could play a larger role in the international arena, in terms of North-South and South-South cooperation, because of its unique status. Razeen Sally added that the business sector has been very passive since Seattle, which is one factor that might go against a new round. He warned against a time-limited round, such as three years, which could damage developing countries in terms, *inter alia*, of interest definition. Robert Kirk said he was “heartened” by focus on the importance of the regional dimension, and said that activity at the regional level is intense despite limited resources. Dot Keet reminded participants that many unions are better resourced than NGOs, although they have tremendous pressures on their resources as well. She advised that civil society will have to be approached and warned against not waiting for them to attend meetings, and emphasised that there are many skilled people in Africa who can be drawn on to help with consultative processes.

In conclusion, Garth le Pere explained that the participants’ profiles had been carefully constructed to include a wide range of groups, but that many had not taken up the invitation. In his closing remarks, Faizel Ismail thanked the presenters, respondents and other participants, and said that the points made during the

debates would be used to help build the DTI analysis and assessment of what South Africa's interests are and how negotiations will be approached in various fora.