

The Promises of the WTO for the Trading Community

I. Introduction

Legislators around the world—a world where a constantly increasing number of citizens live under democratic systems—are being called to ratify the Uruguay Round Agreements in Marrakesh last April.

Ratification is indeed the last move needed to turn into reality the results of the most ambitious and far-reaching multilateral trade negotiation in history; a negotiation which embraced practically all decisive aspects of trade, or better said, of international economic activity.

Even if, as could be expected, a number of Governments are having to apply all of their political weight in order to get legislative approval of the Uruguay Round results, there are no serious reasons to doubt that the World Trade Organisation (WTO) will soon be a reality.

I am convinced that my good friend Dr. Il SaKong, Chairman and CEO of the Institute for Global Economics, and many others share with me this opinion. Otherwise, why should he have so kindly invited me to explore with you the promises that the Uruguay Round final package carries with it for the world

trading community? In a world trading community, your country, Korea, is playing an ever growing role.

As I have just mentioned, the most striking result of the eight-year-long Uruguay Round negotiations will be the creation of the World Trade Organisation. For many analysts, the entry into force of this new institution on the 1st of January 1995 will mark the completion of a process which started immediately after the end of World War II and which was meant to establish an economic order based on three pillars, of which only two materialised at that time: the IMF and the World Bank.

To what extent are these analysts right? How far do the needs of today compare or differ from the ones which prevailed in 1950, when the United States Government decided not to ask the Congress to ratify the Havana Charter which was the first attempt to establish an international trade organisation? What have been since then the elements of continuity—if any—and the forces of change at work in the world market place? These are some of the questions that I intend to raise with you in the first part of my remarks.

In the second part of my remarks, I will address the following question: How far are the Uruguay Round agreements to be seen—in terms of their substantive content—as a logical and therefore essential follow-up to the successful implementation of the GATT as a substitute to the stillborn international trade organisation?

In the third part of my remarks—I hope you will go on bearing with me when we reach that stage—I will attempt to look into the future: Are the Uruguay Round Agreements “the end of the road” towards the twenty-first century economic order, or has an agenda already been established to take care of unfinished or new business?

II. The Lessons of History

During the 1930s—the majority of those sitting in this room were not born—the recipes adopted to overcome the deep crises the world was then facing took the form of discriminatory restrictions to trade, closed markets, embargos, retaliation and counter-retaliation, monetary devaluations, exchange controls and so on and so forth. These totally inadequate policies led to further increases in levels of unemployment, dried up flows of investment, depressed international trade and, worst of all, led to the deterioration in political relations which ended up in worldwide military confrontation.

It is with this catastrophic experience in mind, and whilst the United Nations security system was being put in place, that the decision was made in the economic field in 1944 to create the World Bank, the IMF and an international trade organisation. The basic motivation was to prevent a repetition of the tragic mistakes made in the past through the establishment of commonly agreed multilateral rules and disciplines in the trade, monetary and financial sectors.

You will certainly agree with me that this goal remains as valid today as it was at that time, and that any device which can contribute to its achievement must be strongly supported. From this sole point of view, the creation of the World Trade Organisation as a means to ensure the stable and harmonious

development of international relations is a must. Let us never forget that the GATT has all along remained—from the legal point of view—a provisional agreement.

The Changes that the World Economy has Undergone

If, as we have just noted from the conceptual point of view, the creation of the World Trade Organisation deserves to be supported as fully today as it should have been nearly half a century ago, we still have to find out how far the changes which took place in the world economy, particularly in the last two decades, have added to the practical value of the concept or made it less relevant. Let us therefore have a look at these changes. For the sake of presentation, I propose to classify them in the following categories: the structural changes; trends in the overall economic situation and in trade policies; and the trade tensions and inadequacies of the system.

In the last twenty years, three interlinked movements have reshaped the world economy: (i) the globalisation of economic activity and the corresponding deepening of economic interdependence; (ii) the emergence of new actors on the international trade scene; and (iii) steps achieved in the field of regional cooperation.

Capital market investment and production have acquired an international dimension drawing maximum advantage from the extraordinary progress achieved in the fields of communication and transportation. Technological innovation in products and

production methods spread around the world at a rapid pace. For enterprises, the notion of the market depends less and less on political borders. Their strategic decisions have therefore to rely to an increasing extent on the international environment and their actions have repercussions which often go beyond national boundaries.

Under the influence of these structural shifts, the profile of international trade has undergone profound changes. Inter-regional trade has expanded to unprecedented levels. During the 1980s, trade between Asia and North America and between Europe and Asia grew more than trade inside each of the regions. Approximately 11% in both cases; whilst the growth of North American regional trade was 8%, the corresponding figure for United States/Europe and intra-European trade is 6.5%. Since 1980, trade flows across the Pacific have overtaken trans-Atlantic trade flows in importance. Foreign investments have of course played a major role in this evolution. The most dynamic economies of Asia having indeed been able to attract such investments from the OECD countries.

In the process, new players have emerged in the world market place. This will inevitably lead to a redistribution of economic power at the world level. In other words, the move from a bi- or tripolar to a multipolar world is in process.

But, this is not the end of the story of the structural changes which are taking place in the world market place. I want to refer to one of the turning points in the history of the end of

this century. That is the final collapse—with a few exceptions, one of which I have not to identify here in Seoul—of the centrally planned economies. Today is not, of course, the occasion for me to dwell upon the many economic and political facets of this event. I have, however, to insist on one of its major consequences which is that practically all the countries concerned are engaged in drastic reform programmes with a view to implement market economy systems. By the same token, these countries have either renegotiated the terms of their membership to GATT or decided to join the GATT/WTO system. If you remember that China is negotiating to recover its status as a Contracting Party, that the separate customs territory of Chinese Taipei is negotiating its accession and that with very few exceptions all the developing countries have joined the GATT, you will conclude with me that the World Trade Organisation will be of practically universal application. This situation is in sharp contrast to the GATT whose membership evolved from 23 in 1947 to 62 in 1967, the number of participants in the Uruguay Round being 117. At this very moment, GATT membership stands at 123 and some 20 countries are in the process of joining. To sum up the 1944 political vision of an international trade organisation has—finally and to a certain extent unexpectedly—found its way into reality.

Some economists, I know, like to challenge this universal view by pointing to the simultaneous emergence around the world of what they call “regional trade blocks”. Let me make clear that in my view, there is no contradiction between, on the

one side, regional economic and trade cooperation, in the forms accepted and to be supervised by the GATT and the WTO and, on the other, the multilateral trading system. Of course, this is if the basic aim of regional agreements is, as it should be, to open markets to competition. By the way, I do not know of any successful regional agreement among countries which were not basically committed to apply open economic policies. I cannot, however, deny that protectionist forces exist in regional groupings as they exist in national economies, and I, therefore, insist that the trade and economic relations of regional groupings will always need to be formally placed under the rules of the multilateral trading system.

The structural changes in the world economic scene I have just identified offer, no doubt, to the world community the most challenging opportunities. However, whilst they were taking place and despite its successes, the world trading system was facing a number of tensions. From the 1970s on, it had to cope with the end of the system of fixed exchanged rates, the oil shocks, a succession of economic recessions, and the debt crisis. After a relative improvement in the overall economic situation in the 1980s, the countries of the so-called "old world" began to face hard times: low or negative growth rates, high levels of unemployment, drastic reductions of their production capacities in certain sectors. These factors together with the emergence of new competitors, not only in the traditional industrial sectors but also in the more technologically advanced ones, have prompted government intervention in the market place with distorting effects on competition in the form of subsidies, or

defensive use of anti-dumping legislation, of so-called “voluntary export agreements”, or bilateral arrangements and so on and so forth.

In face of such an evolution, it is not surprising that the multilateral trading system was put under strain and that its credibility began to suffer even more so since certain sectors of great economic and trade value for a number of Contracting Parties—like textiles and agriculture—were *de facto* kept outside the normal disciplines. At the same time, it appeared that a number of areas of economic activity which were playing a more crucial role in the world market place such as services, investment flows, intellectual property, to name a few, did not belong to the purview of the existing trading system—the GATT system. All these factors taken together demonstrated, in fact, that the GATT was no longer adapted to the new realities of world trade.

To sum up, the birth of the WTO is due to the combination of: (i) a political vision—the one that harmonious economic and trade relations at the world level are a necessary contribution to peace; (ii) urgent need to block a re-emergence of protectionist forces—particularly in the most developed areas of the world—as a consequence of a negative evolution of the world economy; and (iii) the necessity to adopt the system to the new realities of world trade—its diversification its globalisation its extension to new areas of economic activity.

III. The World Trade Organisation(WTO):

A Review of the Uruguay Round Agreements

Let us now move to the second of the points I raised in my introduction. The question is: how far can the Uruguay Round (UR) results be seen—in their substance—as a logical and, therefore, essential follow-up to the cooperation which developed under the GATT?

Tariffs

General Agreement on Tariffs and Trade. “Tariffs” and Trade. With such a denomination, it is understandable that for the widest circles of public opinion, and even for many in business and academic circles, negotiations under the GATT have traditionally been seen as addressing tariffs, and I would say tariffs only. It is a fact, nobody can deny, that the first six GATT rounds did indeed have as their main—not to say sole—objective to dismantle tariffs. This, they did with great success, because from 1946 to 1973, the average level of protection for manufactured goods was brought down from 40% to 10%.

The Tokyo Round (1973-1979)

The seventh round, the Tokyo Round (which lasted from 1973 to 1979) brought this average down further to 6.4%. But more

importantly, this Round was the first to break new ground. As a result, the rules and disciplines in respect of so-called non-tariff barriers were reinforced. Import licensing and custom valuation procedures were subjected to stricter disciplines. The interpretation of GATT rules in respect to subsidies and dumping was made more precise. A first opening of public procurement procedures to foreign bidders was agreed to. All these moves had been prompted by the need to make as sure as possible that the benefits to be drawn from lower tariffs would not be frustrated by other potential obstacles to trade and competition.

The Uruguay Round Agenda

This last comment, together with my previous analysis of the economic and political background against which the creation of the WTO has to be seen, gives us the key to what the Uruguay Round negotiations were all about in respect of trade in goods. In short and as in the Tokyo Round, negotiators aimed at: (i) improving access to markets through reciprocal reductions of protection at the border; (ii) eliminating non-tariff barriers to trade and; (iii) adapting to new realities and reinforcing the rules of the multilateral trading system in particular, regarding safeguard clauses, subsidies, anti-dumping measures as well as dispute settlement procedures.

As will become clear in a moment, the results achieved in all these areas go much beyond the ones obtained in the previous Tokyo Round.

However, this is the fundamental difference with previous Rounds, the basic novelty, the Uruguay Round negotiations entered the new ground of services, intellectual property and investment. Since I am referring to the new ground, I do not hesitate to mention in this context the decision to seek a more effective application of GATT rules to trade in agriculture and to trade in textiles and clothing.

The picture of what has been the agenda of the Uruguay Round would not be complete, if reference was not made to the decision to reinforce the GATT as an institution, with the double intention of ensuring an effective implementation of the agreements concluded and of ensuring greater coherence in its actions in conjunction with the Bretton Woods Institutions (IMF and the World Bank). You may recall my previous comments about the three pillars of the world economic system.

In all these areas, one can say that the results are in line with, or even have gone beyond, expectations.

Access for Industrial Products

Let us have a look at some of the elements of the package of major interest for you and start with access for industrial products.

In respect of tariffs, the results can be summed up in the following way: Tariffs will be eliminated by industrialised countries in sectors such as pharmaceutical products, medical,

agricultural and construction equipment. They will be reduced by 50% or more for scientific instruments.

In the sector of chemical products, tariffs will be harmonised at levels ranging from 5.5 to 6.5%. Tariffs higher than 15% will be cut in half for a great number of products, including particular textiles. For all other products, the average cuts will be more than one-third.

It is particularly worth noting that for the first time in history of GATT negotiations, developing countries have fully participated in the process. Their contributions have been made in line with their present levels of development. Without going through the whole list, may I mention in this respect a more than 40% cut by Korea? Singapore's custom tariffs will in their majority not be higher than 10%. Thirty-five percent of Hong Kong tariff lines will be duty free. A number of developing countries have furthermore "bound" a large part for their tariff schedules, which means that they have committed themselves not to increase them in the future, or if they have to do it, to offer compensation.

Still in the area of market opening for manufactured goods, you may know that a programme of elimination, over a period of ten years, of the quantitative restrictions in force under the Multifiber Agreement has been adopted. This meant that in the not-too-distant future, protection in this sector will be tariff-only protection.

Agriculture

The mention of tariff-only protection offers me a welcome transition into trade in agriculture.

It is not to a Korean audience that I have to insist on the tireless efforts which were needed to reach a consensus in this area. Even more so, since I have been personally engaged in some of the most difficult phases of the agricultural negotiations, there are indeed few areas of production and trade whose features I have had to explore so much.

My numerous visits to your country as Director General of GATT have been dominated by agriculture. So have been the talks I carried out in Geneva with innumerable Korean visitors. But, do not misunderstand me. Korea is by far not the only participating country which had a big stake in the agriculture negotiations. Just to mention one, my country of citizenship—Switzerland—shared many of the concerns of your country.

It would, however, serve no purpose to go back in history. Let us just have a look at the results: first, in the future, tariffs will be the instrument of protection in the agriculture sector as in all other sectors. (We have just seen that this would also be the case for textiles) I know that Korea has been able to negotiate a derogation to the so-called full tariffication commitment; second, imports of agricultural products will be liberalised to a limited extent through tariff cuts of 15% at a minimum, average cuts having to reach 36% over a period of 6 years; third,

internal support will have to be reduced by 20% as far as it constitutes a production incentive; fourth, a 36% cut will have to be achieved over a period of 6 years on the value of export subsidies, and the quantities of goods exported with the benefit of subsidies will have to be brought down by 21%.

The agriculture package recognises the multi-functions of the farm sector and authorizes direct payments to preserve them. A special safeguard clause has been introduced to cope with sudden increases of imports or drops in the import prices.

To sum up, one has to recognize first, that it was high time to introduce a higher level of national and international discipline in this sector. Second, nobody can pretend that the programme of reforms is revolutionary. I, for one, would call it evolutionary. Third, it was high time to offer countries—among them a number of developing countries—which have export interests in the farm sector a beginning of equality with those members of the trading community who have benefitted so much from the market opening process in the manufacturing sector.

Non-Tariff Barriers: Rules and Disciplines

Improved access—notably through tariff reductions—is not enough in itself, as began to be clear after the six first rounds conducted under the GATT. Operators in the market place need more. They need to see barriers to competition which take other forms than tariffs, so-called non-tariff barriers, being neutralised

in their protective effects. They also need a high level of security and predictability in the conditions governing trade. They need finally to be able to defend—through their governments—their rights under the system.

The Uruguay Round did offer the opportunity for a systematic review of all the GATT rules which are meant to cope with these needs, including the interpretation which were given to some of some—in the form of Codes—as a result of the Tokyo Round.

It would take too long to go into each and every detail of the results achieved. Let me just insist on the fact that the GATT system of rules and disciplines comes out of this review very much reinforced. This is good news for all those Contracting Parties—the great majority of them—which can only count on the rule of law to protect their interests.

This being said, let me make a few points in respect of anti-dumping, industrial subsidies and the safeguard clause.

The agreement on anti-dumping measures has been one of the hot points in the negotiations. It brings solutions to a number of problems which have arisen through the years in the interpretation of the relevant article of the GATT (Article VI). This is to be welcomed, even if the risk of seeing anti-dumping measures introduced as a disguised means of protection has not been totally eliminated. This is an area which will certainly keep the WTO busy and which may still be on

the agenda for further negotiations.

The agreement on industrial subsidies reinforces the existing disciplines in the granting of subsidies. Developing countries with a per capita income lower than 1,000 U.S. dollars will be exempted. The other developing countries were granted a transitional period of 8 years to apply these disciplines and to reduce progressively their export subsidies. New and stricter rules will also enter into force in respect of recourse to countervailing measures to nullify the impact of a subsidy. Here again, some flexibility has been introduced in favour of developing countries.

The new agreement on the safeguard clause—which will not apply to agriculture and textiles—forbids self-restraint agreements and similar arrangements, a decision which should be of interest for some Korean exporters. Four years has been provided for the elimination for such practices which—as I mentioned earlier—were eroding the trading system's credibility.

As I pointed out earlier, with the conclusion of the Uruguay Round, the area of competence of the multilateral trading system will be extended to such new sectors as services, intellectual property and investment. New rules and disciplines have indeed been agreed in each of these areas.

Services

The adoption of new rules in the area of services opens a

new era for international trade. No global multilateral regulations existed until now in this area, which has turned into one of the major engines of growth in the post-industrial expansion. The agreement reached, "The General Agreement on Trade in Services", defines the fundamental obligations of all members in the exchange of services—financial services, telecommunications, transport, audiovisual, tourism, professional services—and in respect of the service providers. It extends to third countries the most favoured nation clause with a view to preventing discrimination. Signatories have furthermore taken specific commitments towards the liberalization of certain service sectors, in the application of national treatment clause and of other market access measures. Negotiations will go on in respect of telecommunications (deadline: April 1996) and maritime transport (deadline: June 1996) as well as in respect of financial services in order to improve the specific commitments taken until now (deadline: six months after the entry into force of the WTO).

In respect of intellectual property, the world community will benefit, for the first time, from a universal agreement covering all trade-related aspects of intellectual property (copyright, patents, brand names, trademarks, industrial design and trade secrets and the design of integrated circuits).

Governments will be required: (i) to grant national treatment; (ii) to ensure a certain level of protection for all aspects of intellectual property (for example, 20 years for a copyright); and (iii) to establish procedures which will offer foreigners the

possibility to defend their rights.

International investments are rightly considered as one of the main engines of international trade in goods and services. The fact remains that certain countries impose conditions on foreign investment such as obligations to ensure a certain degree of local content in their production or to export a certain proportion of their output, etc. All these practices can have a distorting impact on competition or can also result in discrimination since the agreements are negotiated case by case.

The agreement reached in the Uruguay Round will forbid a number of these practices and introduce greater transparency in this complex area.

Trade Policy and the Operators in the Market

What I have described to you—in a very succinct way—as the substance of the Uruguay Round may have appeared to you as very complex, difficult to understand and certainly not to fit into a lively debate about the merits or demerits of the Uruguay Round or of the new World Trade Organisation. But, trade policy—an integral part of foreign policy, but also of national economic policy and national political life—is just that: a combination of very respectable and easy to catch principles with very down-to-earth details, each of which have great relevance for operators in the world markets.

The operators in the world markets: they are the end users

of the trading system, not the Governments, even if the treaties signed under the Uruguay Round commit the Governments. It should, therefore, be of great interest to all to find out how the institutional aspects have been handled by Governments, and what kind of “machinery”—if I may say so—has been put in place to make the trading system work with a view to ensuring that the agreements reached will be faithfully implemented.

Institutional Aspects

The World Trade Organisation offers an institutional framework covering all the agreements concluded under the Uruguay Round. It had been understood from the outset that these agreements constituted a whole. No opportunity has been left to seek separate membership. At the top of the structure of the Organisation lies a Ministerial Conference which will meet, at a minimum, every second year. A General Council will be established to supervise regularly the Functioning of the Agreement and the implementation of Ministerial decisions. In this Council will sit the Permanent Representatives of the Member States. The General Council will carry the functions of supervising the settlement of disputes and I will come back in one moment to that point. It will also carry out the regular reviews of the trade policies of WTO members. The General Council is fully equipped to handle any trade questions falling within the competence of the Institution.

The Council will establish subsidiary bodies in the form of a Council for trade in goods, a Council on services, and a Council

on trade-related aspects of intellectual property. The Council will adopt the financial regulations and the budgetary forecasts. The WTO will preserve the established practice of the GATT which is to act by consensus. Certain voting rules have, however, been established more as a way to reinforce the consensus approach, if necessary. As in all international agreements, the WTO agreements define the conditions for accession or withdrawal, the procedures to be followed to carry amendments to the existing agreements and so on and so forth.

As a last point, the GATT in its original form is replaced by a new GATT, called the GATT 1994, which is part of the WTO agreements. It is to be expected that as soon as they rectify the WTO, Governments will withdraw from the original GATT. This means that the pressure to join the WTO will remain all along very strong.

Let me conclude the second part of my remarks by drawing your attention to two further points which are of great relevance for the future of the WTO: the settlement of dispute procedures and the relationship of the WTO with the World Bank and the IMF.

As you may be aware, GATT procedures for the settlement of disputes, which are considered as a pillar of the system, have been the subject of a profound reform. First, the new procedures will apply to all disputes arising in respect of all the agreements falling under the purview of the WTO. In the past, there were different procedures attached to different agreements, a situation

which often led—if I may say so—to disputes about the way to handle disputes. Secondly, the party in a dispute which has lost its case will not more, as is the case in the existing procedures, be able to block the adoption of the findings of the panel. Thirdly, and this is a key point, the new regulations stipulate that no country should determine that there has been a violation of the WTO rules and introduce retaliatory measures outside the agreed multilateral procedures for the settlement of disputes. This innovation is meant to discipline the unilateral instruments of defense that one major trading nation, but not only this one, has from time to time been tempted to use or threaten to use.

A ministerial decision taken at Marrakesh addresses in some detail the basic question of the coherence in establishing economic policies at the world level. The decision notes, in particular, that a greater stability in exchange rates, through more order in the economic and financial fundamentals, should contribute to the expansion of trade, growth and sustainable development. The WTO will, therefore, have to develop its cooperation with the competent institutions in the financial and monetary sphere. The Director-General of the WTO is asked to examine the impact of WTO responsibilities in cooperation with the Bretton Woods institutions. He is also asked to carry out consultations with his counterparts in the World Bank and the International Monetary Fund. We are back to the three pillars approach!

The Promises of the WTO

The entry into force of the WTO, whose wide ranging responsibilities I have tried to describe and analyse in a succinct and therefore incomplete way, carries a clear and positive message for economic operators around the world. This message is the following. Better and stronger rules and disciplines have been put in place. They will bring more predictability in the field of trade which will encourage investment and hopefully help to create more jobs. However, they will leave less room for maneuvering to all those participants in economic activity who are not willing to accept change or adjustment, in one word, undistorted competition.

This being said, the new rules are not perfect. Room for improvement is still with us. There are also new problems whose solutions will require negotiations.

IV. The Agenda for the Future

This last comment brings me to the third—and shortest—part of my remarks: What is the unfinished business and what are the means for further multilateral negotiations?

Let me remind you first that, in the course of my remarks, I drew your attention to a certain number of areas where further work has already been assigned to the WTO: in services, for example, as well as in respect of the relationship between trade—monetary and financial policies. I will not come back to these points. Furthermore, the new settlement of disputes procedures provides for an appellate Body which has to be organised and put in place.

However, if we look into the future of the new multilateral trading system what appears essential is to identify the major questions it has been asked to take up or will presumably be confronted with sooner or latter. Three catch words are relevant in this respect: environment, labor standards, and restrictive business practices. Let me take them one by one.

Environment

Environment: here the route to be followed is clear. The relationship between trade policies and environmental policies, with a view to promote a sustainable economic development,

will constitute a priority question for the WTO. This decision, taken at the Marrakesh ministerial meeting is the result of very tough—to say the least—negotiations. Their purpose was to find the right compromise between the developing countries, which were fearing that initiatives in this area would simply open the door to new protectionist pressures, and demands from the developed world, wanting to integrate commercial aspects of environment policies into the multilateral trading system. This is why the decision mentions explicitly that the trade interests of the developing countries will have to be duly taken into account.

In concrete terms, the decision, first, provides for the creation of a Committee on trade and environment, as a permanent organ of the WTO. This Committee will in fact replace the working party of the GATT; next, it makes clear that the Committee, contrary to the GATT working party, will not be limited in its mandate to analytical work. It is asked to make recommendations to determine if there is a need to modify the multilateral trading system in order to promote sustainable development having regard to the objectives defined at the Rio Conference.

I refrain from going further into details of the mandate of the new Committee since they all support and elaborate the basic elements I have just described. What appeared important to me was to carry to you the message that trade and environment is one of the major points in the agenda for the future of the WTO.

Labor Rights

The relationship between the multilateral trading system and internationally recognised labour rights is the subject of a wide ranging debate. The question had, in fact, been raised in 1986 when the Uruguay Round was launched. Developing countries on that occasion rejected any mention of the subject in the negotiating mandate. They thought that the introduction of the workers rights' question in the trading system would inevitably serve as a cover for protectionist forces. The question was again raised in Marrakesh during the final phases of the Uruguay Round negotiations, and several major delegations continue to insist on the need to take up the matter in the WTO in close cooperation with the International Labour Organisation. It is not the place here to speculate on how this very delicate matter will be tackled. However, one thing is sure. To try to put it under the carpet would simply mean that the way would be open to the worst of the solutions: the recourse to unilateral action.

The situation in respect of private restrictive business practices is exactly the opposite of the one we have just considered. Here, it is the industrialised countries which have opposed the inclusion of the subject in the Uruguay Round agenda. The truth is that the matter has been handled—partially I recognize—in respect of anti-competitive practices related to licensing of patents. The agreement on trade in services address similar problems.

Without playing futurology, I am convinced that the more Governments are successful in eliminating barriers to trade and competition, the greater will be the temptation for private sector operators to go into informal or formal arrangements. The need to help them resist this temptation may, therefore, emerge sooner than some expect. Is the WTO the right place to handle this matter? I suppose Yes.

General Conclusion

I had decided not to offer you a conclusion to my remarks since I came here with only one objective: to give you sufficient factual elements to allow you to draw your own conclusion in respect of the promises of the WTO for the trading community. I hope I have succeeded in this respect.

Discussions

Q Dr. Wan Soon Kim (Professor, Korea University)

After 7 years of tortuous negotiations and laborious work, the final agreement of the UR, reached in December last year, formally called GATT 1994, created a new multilateral trade system together with the biggest market access concession ever negotiated. The WTO agreement provides the most comprehensive global trade framework for external trade. Going beyond the scope of the GATT, which largely covered trading goods, WTO covers services and intellectual and cultural property rights, government procurements, safeguards, investments and finds more effective enforcement to resolve trade dispute in face of national sovereignty concerns. WTO is a major achievement and a significant step forward in liberalizing world trade. In this respect, Mr. Dunkel deserves the highest praise for his leadership in concluding the UR negotiation. The GATT final draft which bears the name of Dunkel Text is the birthplace of the WTO and will be remembered as the shining milestone in the history of multilateral organizations.

The successful outcome of the Uruguay Round has restored much of the credibility of the global trading system. However, as you seem to indicate, the Round made only modest progress in dealing with a number of contentious issues such as anti-dumping, dispute settlement procedures, and regional trading arrangements. Furthermore, it left many key problems such as

trade-environment linkages, labor standards, and competition policy issues unresolved.

My comments on your paper mainly address the unfinished business of the UR and a couple of new issues for the new trade organization. I refrain from saying anything about your excellent account of the evolution from the GATT to the WTO and will focus on the dispute settlement procedures.

The dispute settlement procedure under the new WTO agreement significantly improves the existing system by including 6 new features. But, in reality, the WTO system does not seem to be a very significant departure from the GATT mechanism.

To be specific, retaliation for failure to implement the Panel's recommendation will be far easier under the new system than it was under the GATT. However, neither the WTO can organize an international trade embargo to punish recalcitrant countries nor does it have an army to enforce its ruling. As it was under the previous system, a country like the U.S., the world's largest trader, may simply refuse to comply to the panel's judgments and simply accept the complaining country's retaliatory measures as a tolerable price for continuing a particular disputed trade practice. Because of the concern for the supposed loss of sovereignty due to the WTO dispute settlement procedures, if the U.S. refuses to endorse and embrace the new system in its domestic legislation, the very foundation of the multilateral system will be in great jeopardy. Therefore, it is most important

for the WTO that the US be a bona fide user of the WTO dispute settlement procedures when it is necessary.

Q **Dr. Cae-One Kim** (Professor, Seoul National University)

Let me express my sincere appreciation for all the efforts you have made as director-general. In the mid 1960s, when the 6th Canada Round was underway between 1964-67 and the final stage negotiation of agriculture threatened the Round, thanks to Mr. White, then director-general, although there was no successful settlement of the agricultural negotiation, the Round was maintained. This time, in the case of UR negotiations, the negotiations have been successful in agriculture and the scope has been expanded to include service and agriculture which I think was due to Dunkel's leadership. Depending on the director-general's capability, the results are different. In the case of Mr. Dunkel, he deserves many compliments for leading the Round to a great conclusion.

At present, the WTO system is about to be launched while the system of GATT still exists, therefore, leaving us with two remaining tasks. One is the imbalance of bargaining powers which will be an eternal task for the WTO. As it has been under the GATT, the main principle of the WTO will give priority to bigger countries which will make it difficult for smaller countries to play an important role. This will remain so in the future. Among industrialized countries, they can keep balance and control and harmonize. But, the biggest difficulty is in our case because we have no bargaining power, but rather are the

target of negotiation and concession. So, this issue of balance will remain in the new system as it has been in the past. Consequently, countries like Korea will continue to be forced to make concessions without enjoying full bargaining power or having enough voice. The reason is that even if we have multilateralism on the surface, in practice, bilateralism will continue to be the key factor. In a sense, it is a formal multilateralism, and formal equality, but in practice, equity is not fully reflected. I think this will be an important task to be solved by the WTO.

Another eternal problem that will not be solved so easily is that of regionalism and compatibility of regionalism and multilateralism. In his presentation, Mr. Dunkel said that emerging regionalism does not conflict with multilateralism, but we have experienced discrimination in the case of regionalism. Bloc regionalism is developing, although it is not so negative as we have seen in the past. But, discrimination and division of trade blocks will cause some problems. As mentioned by Mr. Dunkel, the solution will come when we have a truly open system although no one can guarantee that the system will be truly open. Even the US is leaning towards regionalism as in the case of NAFTA and also AFTA is being formed among Asian countries with its internal risk of protectionism and retaliation.

In this situation, the biggest dilemma of the WTO will be balance between regionalism and multilateralism and reinforcing Article 24 in order for WTO to control and regulate the negative

effects of regionalism. The TPRM, Trade Policy Review Mechanism, is set up and this TPRM can be strengthened so that countries belonging to regionalism can be stopped from advancing to protectionism.

One more point is that after the settlement of the UR negotiations, optimism is quite dominant. Maybe it is true, but I think that liberal and open free trade are idealisms with the ever-present danger of protectionism. According to the article of GATT, if trade balance deteriorates or if there is any damage on internal domestic industry, protectionism is acceptable.

The unemployment rate in advanced countries is around 10%. And one strong view of the advanced countries is that NIEs are contributing factors to their level of unemployment. In the case of former socialist countries and China becoming members of the WTO, those countries also have low wages and are very competitiveness. Therefore, they can further confuse the markets of advanced countries. Also, if WTO extends universal membership to former socialist economies transformed to market economies, with all these heterogenous members, the market may be destabilized with all these heterogenous members. My one question is that after the WTO system starts and dispute settlement body begins operating, if the US applies the Super 301 to Korea and Korea brings the case to the WTO, how will it be different?

With the inauguration of the WTO and the discussions about the new issues and agenda, I think international efforts to

liberalize the international trade has almost been completed. What we can feel from watching the negotiations is that the norms and rules of advanced countries have become the norms and rules of the world. Therefore, stabilized trade, environmental policies, labor policy and competition policies of advanced countries will be understood as the world's norm. That is developing countries will have to adapt and take the rules of advanced countries as international rules. So the basic framework of advanced countries have become the global framework. If so, the future effort of the WTO will be harmonizing the already established norms and principles among the countries in areas of labor, environment and competition policies.

Concerning environmental policies, the demands of the developing countries are worth listening. Labor standards, environment and competition are very important and the principle is quite understandable. Protection and preservation of the environment are very important. But, on the environment issue, the responsibilities of advanced countries can be discussed, also. For example, in the pollution of environment, advanced countries have also caused them and they must bear responsibility. The polluter payment principle is also important and protectionism of environment is important. But, in linking trade and environment, industrialized countries must consider what portion of responsibility they must bear. In the case of labor rights, if you emphasize labor rights excessively it interferes with the internal affairs of other countries and contradicts with the comparative advantage principle.

Q Dr. Kihwan Kim (Chairman, KOPEC)

I would like to join all those who preceded me in complimenting Arthur for his contribution to world free trade. I was wondering whether Dr. Dunkel should be considered as one of the fathers of the WTO or the father of the WTO. If WTO is the child, then there is no other way but to view Dunkel as the father of the WTO. I would also like to compliment him on his excellent presentation. In a limited time, he gave us an succinct summary of the origin of the GATT. He more or less gave a similar evaluation of the UR that the improvements were much more outstanding than the others. For example, in my view, given the importance of investments, the agenda was divided into two parts; into old issues and new issues. Some of the issues that haven't been treated well in the UR should be called the "new old" issues. So, one question that can be raised is: what should those "new old" issues be? Another question is: who is to assume the initiative for the next round?

In my view, the world trading system, in spite of the successful conclusion of the UR, has many urgent problems to solve; one of them being the inadequate limit on investments. In the past, the US was the convener of every round. But, the US position in the international stage has definitely changed. The US does not enjoy as much power as it used to. Furthermore, US attitude towards the multilateral trading system has also changed. Lately, the US is more insistent upon result-oriented trade policy rather than rule-based trade policy. Also, there is still reports that Europe is reluctant to begin any

negotiations. In the G7 meeting last July, the US proposed that G7 countries take initiative to launch a new round soon. But, no country agreed with the US proposal. And given this situation, the question is: who should take the initiative for the next round?

Another question is how can we maintain the momentum for trade and investment liberalization between rounds? We just concluded one round and countries are in the process of ratifying it. If the past indications have any meaning, it will take another 10 years to launch a new round. I happen to believe the “bicycle theory” of trade negotiation: unless you keep negotiating the world tends to relapse into protectionism. So, what can be done to maintain the momentum? In this regard, a number of people have been pointing out that the Asia-Pacific countries ought to do something about this. Whether the Asian Pacific countries should do it or some other nation should do it is a question I would like to put to Arthur.

The next question has to do with remarks made by Arthur about labor rights. If I heard him correctly, he said that labor rights should not be part of the WTO agenda; the WTO is already overloaded; labor rights are a social issue. If putting labor rights issue into the WTO is a mistake, then maybe a similar argument can be made about the environment. The environment is related to trade but for that matter, all these things are related to trade. That doesn't mean that the WTO should try to become the world government. In any case, I would like to have his insight of putting the environment issue

into the WTO. Lastly, I would like to raise a question for the benefit of the Korean audience. Many people say that Korea ought to renegotiate the UR because some of the problematic aspects, especially the agricultural issue. Arthur, can you tell the audience whether it is possible for Korea to renegotiate the UR at this stage.

Q Dr. Il SaKong (Chairman & CEO,
Institute for Global Economics)

I would like to add two more questions. The first question is: under the WTO, are we going to have mega-rounds such as UR or mini-rounds for specific issue areas? This is still an unsettled issue and some people I know argue that there should be mega-rounds as before under the GATT. However, once we have an establishment such as the WTO, some people would argue that we should just deal with issues individually which may be in fact be viewed as a mini-round. I think this issue should be settled.

Secondly, regarding the so-called new issues, many developing countries argue that they are still in the developing stage and therefore they should take advantage of low wages. They also argue that when industrial countries started to develop after the Industrial Revolution, they also polluted the environment and allowed poor labor conditions. Today, these industrial countries are saying to the developing countries that they should invest more even though they cannot afford it. What I would like to propose is that industrialized countries should provide

not only technical but also financial aids to these developing nations. I don't think that it is really fair for the industrial countries not to do so and maybe the WTO should take up this issue.

Questions from the Floor

1. I would like to ask a formal definition of developed countries versus developing countries. How do you make the determination? For example, some people say that Korea is a developing country while others say that it is a developed nation.

2. For Korea, the exchange rate system is extremely important. My question is: in what capacity and to what context and how closely can WTO work closely with the IMF? Is there any bargaining taking place between these two institutions? If they are not, what could take place?

3. Inside the Korean government—Ministry of Trade, Industry and Energy; Ministry of Science and Technology; and the Bank of Korea—there is a trend to restrict the flow of capital to foreign companies. If you and the GATT take over the operation, what types of function will the Korean government still have to stop these flow of capital or will they be prohibited from giving transfer of technology?

A Mr. Arthur Dunkel

The WTO can be only what the governments want it to be.

It is true that a certain number of persons and countries can have an influence in the course of events. But, we should never forget that it is a human creation. Since it is a human creation, we will always have to take care of complicated factors. For instance, negotiators are not free agents, but representatives of their countries. And, a democratic system is a combination of process and confusion. As mentioned earlier, we are not in a world of perfection, but we are making efforts towards making perfection which leads to my first point.

First, what is new in relation with the previous system is that now if you have a dispute, it is a sovereign right of a country to ask a disputed case to be seen. Previously, there were many possibilities. Second, when the panel has made a finding, there are three possibilities: either the country at fault has to comply and correct the situation or it has to offer compensation or the party "hurt" can redirect. At any rate, we are in the world of unequals and if we could invent a better system, the world community would have done so.

I received the other day an article by one of the best American lawyers. The article is entitled "Will Arthur Have the Last Word?" He is relating to the fact that the dispute settlement procedures go far beyond in preventing the major economic power, the US, to go on with unilateral trade policy and the so-called Super 301. This is part of my satisfaction.

The second point: bargaining power. We could have a very long discussion on this. I happen to have started a lecture to

my students in Geneva called “Techniques and Modalities of Negotiation.” It is a very difficult but also fascinating subject. It is not just a question of quick moves, economic power, political power, and capacity of the negotiator. It can be a question of weather, telephones working, fax machines working; it can be a question of multiplicity of factors. And, I think bargaining power of middle or even small class of trading countries is proportionally higher than that of bigger countries. Major countries like Germany cannot say, “This is our interest and listen to me because this is a real world.”

Let me conclude on the bargaining power by giving you some food for thought through a rude example. In very high level dealing, by the tough position they have taken on defending agriculture position, if a Swiss or Korean or Finnish negotiator sitting in a room with liberalization of trading services was attacking protectionism of country A or B on financial services, you can make sure than an exporter on agricultural goods would ask for the floor and ask whether the delegate of Switzerland is talking about agriculture or manufacture. And, after that, the Swiss delegate would immediately lose his point. So, the point is that you have to remember when talking about bargaining position in economic terms that there is also an important point in the logic across the board of a country’s position. The reality is as such that everyone knows what the left hand is bargaining while the right hand is bargaining. In the old days, that was not the case. You could forget about your position on agriculture and negotiate. Nowadays, everything is interlinked.

Next, can Korea renegotiate? The answer is no, but I would like to say, my god, Koreans negotiated until the very last minute and they were a 'hard nut to crack.' And on agriculture, it was no secret that I've been saying to the Korean government that this time agriculture would be the central issue and Korea will have to prepare to make certain concessions. But, as I said, it is very evolutionary, thus, giving Korea time to adapt progressively. And, I don't see why your farmers cannot be as competitive as your manufacturers.

I would like to remind you that the European Union concept has not, at the outset, been mainly an economic device, but a political device. The economy has been used to materialize the political device. But, on the other hand, one of the most important aspects of NAFTA, in my view, is that it leads to giving jobs to the Mexicans and other Latin American immigrants in Mexico and prevents Latin Americans from immigrating into the United States. So, we have to look at North American regional cooperation not only from the point of view of it being a beginning solution to the national movement of people from other regions to developed regions. Every worker in Mexico who earns something is a buyer and a purchaser in power. So, one should look at the problem not as a vicious cycle, but a virtuous one.

Furthermore, how is Europe going to solve the problem of Eastern and central Europe without trading with these people. There is tremendous pressure on these people to get jobs within the European developed economies. But, the problem of Europe

doesn't stop east. There is also the problem of the south. There is the problem of making sure that the goods produced in these areas move around the world. I am sorry to have gone into details, but this was to show my support for regional cooperation provided, as I said always, that it be under the strict control of the GATT. And here comes the first of my disappointments; that is Article 24 remains weak and it should have been strengthened.

Regarding the definition of developing countries: there is no definition. Nations that have come to declare themselves as "developed" have been put on the list of the so-called "developed nations." The problem is that when developing countries gain access to preferences, the problem is that preferences are not binding; one makes preferences based on political and economic domination. This is the reason for the position I took 15 years ago against preferences. If I were a developing country, I would forget about preferences. Instead, I would want sure, solid answers consolidated and then I can plan and develop.

The only real definition that the international community has been able to make is the definition of the least developed countries which refer to the 40-45 countries or so with a per capita income below a certain number. And, as you can imagine, two-thirds of them are located on the "Lost Continent" which is Africa. I must say that one of the great changes at the UR is that countries which in the past claimed to be "developing" came to the negotiating table and began to bargain.

And I applaud this.

Exchange rates: In Tokyo when we launched the Tokyo Round, the leader of the French delegation was Giscard d'Estaing, Finance Minister, and the US delegation leader was George Schultz. And Giscard d'Estaing stated that the French were not going to launch the Tokyo Round unless there is a sentence in the statement saying that the results of this Round will only be put into effect if in the meantime a new monetary system is evoked. So, it was a political game saying trade negotiations cannot be accepted as long as there is such instability in the exchange rate. Finally, the sentence that came out as a result was: The results of this negotiations will have much greater impact if they can arrive on a well functioning monetary system. Since then, you know what the world has created.

The difference at the time was that nobody knew what GATT was except for finance ministers and bankers. Today, everyone knows what GATT is and what the WTO means. Therefore, I am sure the successor of Peter Sutherland who will be the first director-general of the WTO will have a much stronger voice in relation with Bretton Woods than my predecessors and me. Yet, the real problem is how far the governments want to see the IMF return to its original purpose which was to facilitate the payments traffic.

Environment: Yes, you are right. If China were to produce today per capita the same quantity of electricity as western

Europe, they would double the carbon dioxide pollution in the world. And, one possible reaction to this is: Why not? Afterall, the only problem is that they are coming only after the others. Yet, another reaction may be: No, we cannot accept this and we, the developed nations, need to work to finance ways and means to prevent this from happening. And, my view is that the truth will be somewhere in-between in a sense.

Now, who will initiate the next round? A group of countries, I suspect. I can very well see a number of countries in this part of the world finding out it necessary to tackle the unsettled business. And, we need a global round because it is a trade-off between different sectors and so we have to do it.

About my disappointments: My first disappointment is that we lost three years in the process. Maybe the revival of the world economy we are going through now may have come earlier if we finished earlier. The second is that with respect to dumping, we didn't have any real advances. The third is the difficulty in persuading the developed world to pass on the message that expansion of trade is not a zero-sum game, but a positive game. Instead of complaining when seeing that new products are coming from different countries, they should be very happy because the second wave will be imports into these countries.

I was told by some French people that Korea has killed the ship building yards of France. To this statement, I said that, "You can't say that Korea has killed your ship yards. The reality

is that Korea has managed to be more competitive than you were." Then came the usual complaint about low wages and so on and so forth. And to these statements I said, "You know for each ship that Korea sells around the world it gives them purchasing power and they buy machines and tools and other products from you. And, they buy the TGV. This is the type of argument that answers some of the preoccupation. But, I have to say that I know of some French politicians who refute this point by saying that in two or three years from now all the TGVs in the world will be produced in Korea and no more in France.