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MR. WELLINGTON: Good afternoon, ladies and gentlemen. Welcome to New York City. Those of you who are not from New York City, welcome to the New York Law School in Tribeca, and to this 1997 Otto L. Walter Symposium. New York Law School is a place that some of you may not know about. I take it to be a quintessential New York institution. It's been around for 106 years. I think that makes it the oldest or one of the oldest freestanding law schools in the country. It's a wonderful, dynamic, interesting institution with a diverse student population that reflects the changing nature of the City. It's really a very exciting place to teach; and it has a marvelous, marvelous faculty that is productive and extremely concerned with the City and the country and the world. I know about law school faculties and this really is an extraordinary one. It also has truly exceptional graduates. Probably our most famous graduate is John Marshall Harland who served on the Second Circuit and on the Supreme Court; but, it has a number of graduates who are Federal judges, State judges, members of the Bar, founders of large law firms, very successful practitioners in all fields of law, and also very successful businessmen in the City and in the country, and Hollywood producers, indeed, who have won Oscars. One of the people who exemplifies I think the best of our graduates is Otto Walter, and I just want to say a few words about him. Otto was born in Bavaria in 1907. He began his law career in Munich and escaped Hitler, and came to New York in 1936. When he came he was, of course, unable to continue as a lawyer and so he became a bookkeeper and an accountant in the City and was able in 1940 to set up his own accounting firm, Walter & Company. They were CPAs. It was located in Manhattan. Then in 1951 at the age of 44, Otto began his law career again by attending New York Law School. He was a very successful student. He was on the Law Review here. He then shortly after graduation in 1955 founded his own law firm. That law firm today is Walter, Conston, Alexander & Green. It's a well-known firm that specializes in transnational law, particularly German-American pacts, estate and commercial law, and comparative law. Otto has now assumed

the role of Senior Counsel, but he is an active participant in the firm and he graces it. He's been a great, great friend of New York Law School. He's been an adjunct professor here and really a benefactor of the institution, and for me he really exemplifies what this place is about. He's here today. Otto, could you stand up so we can give you a hand. (Applause.) Now today's symposium is sponsored by the New York Law School's Center for International Law. It's a wonderful, wonderful center. I'll let its Director tell you something about it. It's cosponsored by the New York Law School *Journal of International and Comparative Law* with the assistance of the International Law Society.

The Director? What about the man on my right, your left, who is the Director? Sydney M. Cone, III, known far and wide as Terry, not only is he the Director of the Center but he's also the C.V. Starr Professor of the Law of International Trade and Finance. I suppose there are very, very few people, if any, who can match his experience as a lawyer in international finance. He was for many, many years a member of the firm of Cleary, Gottlieb, Steen & Hamilton; and he ran their Paris office. He was in their Brussels office. He helped found their office in Moscow and Tokyo. He's been instrumental in making that firm, which is certainly a premier firm in the field, making its global practice what it is. Not only that, he is the author of a really terrific book that I urge on all of you which was published I guess earlier this year, perhaps in September, by Little, Brown & Company, called "International Trade in Legal Services." Terry has done a wonderful job since he's come to the New Law School and here he is. (Applause).

MR. CONE: The Center for International Law at New York Law School is greatly honored today to have with us Professor Jagdish Bhagwati, the Arthur Leman Professor of Economics at Columbia. He also has an appointment as Professor of Political Science at Columbia University which is a sister school here in New York, and he's made the trip down from Morningside Heights to be with us. We are very honored to have him with us today. We're honored to have with us today William J. Davey, who is the Director of Legal Affairs Division of the World Trade Organization. He is on leave as a Professor of Law at the University of Illinois. He has made the somewhat shorter trip today from Geneva to be with us. We are really privileged to have the two titans — one an economist, one a renowned legal scholar — in the area of international trade to be here with us to address perhaps the most vexing trade subject. If we put to one side Helms Burton, perhaps the most vexing trade subject today which is regionalism versus multilateralism. At the same time that the United States was pushing very hard for the conclusion of the Uruguay

Round, the result of which was the creation of the World Trade Organization and the coming into force on January 1, 1995 of the most far-reaching multilateral trade agreements that have ever been concluded, it was also negotiating a regional agreement, the North American Free Trade Agreement, and seemed to be pushing in a quite different direction. If not content with that, the United States has also been talking about creating something called the Free Trade Area of the Americas. This is the subject on which Professor Bhagwati has written and spoken in the past. He clearly is one of the leading commentators on this dilemma, on this ambivalence, if you will, as between multilateralism and regionalism. I might add emphatically that Professor Bhagwati, so I just recently learned, almost went into law and not into economics. His father was a Justice on the Supreme Court of India and very much wanted him to be a lawyer. He, at one point, was studying economics at St. John's Cambridge while reading, or rather eating, to become a barrister at Lincoln's Inn in London. He, I think, really found the economists at St. John's more stimulating than the lawyers at Lincoln's Inn, but he claims that one of the deciding factors was that the food at St. John's was better than the food at Lincoln's Inn. At any rate, he is a widely renowned economist and I don't think that we have to regret that he's not a lawyer.

Bill Davey followed a path better known to some of the people in the room. He went to the University of Michigan Law School. He clerked on the Supreme Court of the United States for Mr. Justice Potter Stewart. He worked in the Brussels and New York offices of a well-known international law firm and he has become a Professor at a law school. As I mentioned, he is the Director of Legal Affairs Division at the World Trade Organization in Geneva.

Professor Bhagwati will deal first with President Clinton's Trade Choices: Regions of the World, a subject that he knows very well. Then, Professor Davey will talk to us a bit about the World Trade Organization's newly constituted Committee on Regional Trade Agreements, and also on the provision in GATT 1994 — Article XXIV of that agreement — that purports to deal with the problem of regional trade agreements. I am really pleased. I never thought I would have this honor, and I am really pleased to have the honor to present to you Professor Jagdish Bhagwati.(Applause)

(Professor Bhagwati's speech has been omitted)

MR. CONE: Thank you very much. I think it was most illuminating to hear about the hub and the spokes. The European spokes that Professor Bhagwati was referring to were the preferential trade agreements with

non-European countries by and large or non-Western European countries; and there are many agreements with former colonies. There are agreements with specific non-Western European countries and those were the spokes that he was referring to there. I now would like to give Bill Davey, Professor Davey, a chance to talk to us about the view from Geneva. Thank you.

PROFESSOR DAVEY: Thank you. It's a pleasure to be here in New York and at the New York Law School renewing some acquaintances with old friends. I've lived in New York four times in my life for various periods of time, and it's nice to be back. My topic is the World Trade Organization, the WTO, and its dilemma in dealing with regional trade associations or arrangements, agreements, whatever, such as NAFTA, Mercosur, which is in the southern part of South America, ASEAN in Southeast Asia and the European Union. I'll start with some general background information, but I should say in overview that although I was introduced as a professor, I'm now a cautious international bureaucrat. So I will attempt to be somewhat more factual and even dry and boring perhaps. But anyway, I'll try not to be too controversial so that I don't get myself fired. In any event, the view from Geneva, the view of the WTO on regional trading arrangements is complicated by a dilemma as I said. The basic principle of GATT and the WTO is the MFN principle, i.e. that there should not be discrimination between trading partners. In other words, if I give a benefit to Professor Cone, I have to give to everyone else in the room, as explained by Professor Bhagwati. Unfortunately, on an exceptional basis the General Agreement on Tariffs and Trade, GATT, and the WTO permit nations to deviate from this MFN principle to form customs unions and free trade areas. The situation is unfortunate, not so much because there's this exception, but because the exception is very ill-defined. The situations in which you can form these areas and the terms that you have to meet are not precisely set out; and it is further complicated by the fact that although this exception, when put into the agreement, was thought not to be very important, over time it has become used more and more. So what we have is a situation of an ill-defined exception to the basic rule being used by more and more members of the organization. Obviously that presents a dilemma for the WTO because how are you going to be able to control the use of this exception when virtually all of your members are starting to use it and probably are not going to be that interested in defining it more precisely. This can be seen in the ministerial declaration that the WTO issued at its ministerial conference in Singapore. A ministerial conference is a gathering of ministers, trade ministers, with the first one held by the WTO in Singapore

in December '96. It said essentially five things about regional trade agreements. First, that they're having an increasing influence on international trade, and there is in particular an increasing concern about trade diversion. But secondly, going the other direction, it noted that many developing countries feel that these may be a mechanism by which they can develop faster. So ministers decided that the WTO should consider whether further clarification of the rules is necessary and then committed the WTO to assure that RTAs, regional trading arrangements, are complimentary to the multilateral trading system and are in conformity with the rules and that the WTO would further try and liberalize generally to make them less attractive in the long run. But you can see that essentially that statement doesn't give very much guidance to what actually should be done. It represents the fact that when you have almost every member belonging to a regional trade agreement, it's going to be difficult to negotiate new rules. Now, what I want to do in the remainder of my discussion is talk about essentially four topics. First of all, to talk a little bit about the history and the scope of the problem. Secondly, to describe the WTO/GATT rules on regional trading agreements, what are they, what problems there are in their enforcement. Past enforcement will be the third topic and the fourth topic will be prospects for the future.

The original U.S. proposal for an international trade organization which ultimately led to GATT included an exception for customs unions. During the course of negotiations, the exception for customs unions was broadened to also include free trade areas. The difference between the two is that in a free trade area, trade between the component members is free of tariffs and other restrictions. So in NAFTA trade between the United States and Mexico and Canada is tariff free; but vis-a-vis the rest of the world, the three components of NAFTA pursues its own commercial policy. That's a free trade area. A customs union is a free trade area with a common commercial policy. In other words, the components of a customs union have one policy, one unified policy, toward the rest of the world in commercial matters. The example, the classic example, of a customs union is the European Union. Now obviously free trade areas are easier to negotiate because you don't have to come up with a mechanism for coordinating your commercial policy with the rest of the world. So the decision back in the late '40s to expand the exception from customs unions to include free trade areas as well meant that it was going to be easier to deviate from the MFN principle when countries wanted to form these regional arrangements. Now, at the time, in fairness to the negotiators, this did not seem to be a big problem. The theoretical economic work on customs unions and free trade areas was not well-developed. The concerns of trade diversion as opposed to trade creation were developed by a

Professor Viner sometime after this provision was written. And it was thought at the time, a time when tariffs were in the thirty to forty percent range, that anything that brought tariffs down to zero would be a good step toward free trade, even if it was just among a few countries. Now, of course, when tariffs amongst the industrialized countries are five or six percent, the reduction to zero is no longer so significant. And the third factor is that no one really expected the customs unions exception to be used so frequently. Benelux existed. One of the reasons that the U.S. had proposed the exception in the first place was it did foresee some sort of European integration; but by and large it was not expected to be used that much, and in fact in the first 45 years or so of GATT only 83 regional trading arrangements were notified to GATT, on the average of, say, two a year. In the last five years, there have been 67 notified, or 12 a year. So there has been a huge increase recently. Now, I don't want to overstate that. Some of these are not very important. The Estonia/Slovenia agreement probably doesn't cover much trade. The Icelandic/Faroe Island agreement probably doesn't either. But what has resulted is that virtually all WTO members, I think the exceptions are Japan, Korea and Hong Kong, virtually everybody else, 127 countries, is involved in some regional trading arrangement now. That's the history and an indication that the problem is getting worse.

What are the WTO rules on free trade agreements? The basic rule is in Article XXIV of GATT. I'll talk mainly about that. I will just mention that there is also a provision on the formation of customs unions, free trade areas in the GATS agreement, the General Agreement on Trade in Services. There's also a provision on the formation of these areas amongst developing countries in something called the Enabling Clause, which allows preferential treatment of developing countries. But if you look at Article XXIV of GATT, paragraph 4 sets out the basic principles. It recognizes the desirability of economic integration and says that the purpose of customs unions and free trade areas should be to facilitate trade between constituent members and not to raise barriers to the trade of other WTO members with those constituent members. In principle that's not really such a bad rule. The problem is that it's only a general statement and there's no agreement on whether or not you really have to comply specifically with the commitment in that general statement of not raising trade barriers with the outside. The reason for that lack of agreement is that the following paragraph, paragraph 5, says "accordingly" if you have a free trade area or a customs union you should comply with the following specific rule. And the argument is, well, paragraph 4 sets out a general principle, you don't have to comply with it. The word "accordingly" means that you only have to comply with paragraph 5. But it's important

to remember that this general principle that free trade areas and customs unions should not raise barriers to the trade of other WTO members with the constituent members of the customs unions and free trade areas. It is important to remember that that general principle does exist.

Now, what are the specific requirements in paragraph 5? Paragraph 5 is essentially concerned with the level of restrictions applied to outsiders before and after the free trade area or customs union is brought into force. For customs unions the rule is that duties and other regulations of commerce imposed at the institution of the customs union shall not on the whole be higher or more restrictive than those that prevailed before the customs union came into force. The same basic principle applies for free trade areas. Paragraph 5 also provides that if you have an interim agreement leading to a free trade area or customs union, and since you can't do this overnight, there are almost always interim agreements involved, the interim agreement should only last for a reasonable period of time. Now, consider the problems that we have in looking at paragraph 5 of Article XXIV. The rule for duties is not so difficult. There are a lot of calculation issues but basically you can more or less figure out if the duties went up or down after the formation of the free trade area or customs unions. But it's unclear what the term "other regulations of commerce" means to begin with — and measuring whether or not the incidence of those regulations went up or down or became more restrictive is also a problem. The third problem is what is a reasonable period of time. The Turkey-EU customs union took some 30 years to form. Now, there were other problems in the Turkey-EU relationship but many times the interim agreements leading supposedly to these free trade areas take a long time to be implemented. In the Uruguay Round there was an agreement that normally a ten-year period should be the maximum but it was stated to apply except in exceptional cases, raising the question of what constitutes an acceptable case. It's important to remember why the existence of these problems is important or causes a bigger problem, and that is that the easier it is to form these entities and deviate from the basic principle, the more likely they're going to be such entities formed and the more likely that the general principle in fact won't be applied.

Now, the other substantive aspect of the WTO/GATT control of free trade areas and customs unions is in paragraph 8 of Article XXIV where the definitions of free trade area and customs union are given. I've talked about that in general but paragraph 8 adds one important thought and that is in order to have a customs union or free trade area duties and other restrictive regulations of commerce, with some exceptions, must be eliminated between the constituent members with respect to substantially all trade between them. In other words, you can't have a free trade area

in one product. The idea is that if you're going to take advantage of this exception, you have to have pretty much free trade in the whole amount of your trade. Now, there are problems with this as well. To begin with, it's unclear. With duties, it's clear. It's easy to tell whether or not you've eliminated the duties on trade between the constituent parts. What about these other restrictive regulations of commerce? It's unclear exactly what regulations are covered; and in fact when you examine free trade areas and customs unions, there are usually restrictive regulations on commerce that have not been eliminated. A second problem is what is substantially all trade. This is a particular problem with respect to agriculture. Often agricultural trade is so restricted that there is no trade between the two constituent members at the beginning. Does that mean there doesn't have to be in the future, "because we're covering substantially all trade and we don't allow that trade. So we meet that substantially all trade requirement." Or should there be some sort of qualitative test that you have to cover all sectors, or something like that. Anyway, I think you can say in short there are number of rather significant disputed issues in the way the WTO/GATT controls free trade areas; and as I've said, the looser this interpretation, the more likely you'll have these areas. The more areas and customs unions you have, the more deviation from the basic GATT principle that most people would say is where the world ought to be going.

Well, how in the past has GATT enforced these rules? I think you could guess that given the lack of precision in the rules, enforcement was difficult in GATT. The first issue of course is how did GATT go about enforcing the rules anyway. And there were essentially two mechanisms. One was the review by a working party of these agreements, and the second way to enforce the rules was through dispute settlement. Paragraph 7 of Article XXIV requires that countries that are going to form one of these areas notify GATT, or now the WTO, of their decision to enter into the area; and they're obligated to provide information so that the area or the customs union can be studied. Prior affirmative approval though is not required. You just have to submit information and give your notice. In fact, in GATT practice what would happen is that a working party, which consists of all members interested in coming to the meeting, would be formed to study the free trade area or customs union. Well, some of the people interested in that issue would of course be the members of the union or the area. So they would be part of the working party studying the matter. Since in GATT practice recommendations of working parties have to be by consensus, they would be able to determine whether or not there would be any conclusions critical of the agreement in the report. The result is that there were many working party reports, at least 124 one count. Only one agreement was found to be in conformity with

Article XXIV rules. On the other hand, no agreements were found not to be in conformity. So you had 123 out of 124 agreements that were found to be -- well, we couldn't decide. So I think it's fair to say that by the 1990's the GATT control, at least through that sort of review process, was completely ineffectual. It was just not working.

Now the second possibility of control that I mentioned was through dispute settlement. One country that felt it was affected by the free trade area could complain under the GATT dispute settlement provisions that it was being denied MFN treatment. There were three cases in which the GATT compatibility of free trade areas was considered by GATT panels. But under GATT practice, you needed consensus in the organization to adopt the report of the panel which might find that a violation of rules had occurred. Well, since part of the group that had to form the consensus to adopt the report would be the group that was in the free trade area that had been criticized, not surprisingly in those three cases, the panel reports were not adopted. So I think you could say that immediately prior to the WTO or GATT didn't have an effective way of controlling these free trade agreements. Now, what are the prospects, to turn to the last topic, for more effective enforcement under the WTO. Despite the rather tame ministerial declaration that I mentioned at the outset, there have been two significant changes under the WTO which may lead to some improvements. The first is the creation of the Committee on Regional Trade Agreements, and I can imagine what you're thinking that I have truly become an international bureaucrat because only a bureaucrat could believe that some sort of substantive problem has been solved by the creation of a committee. Nonetheless, there is some reason to think that this committee may have some positive elements. That's a little bit qualified. Anyway, the committee will have two functions. The first function will be to take over the review function of working parties, whether the agreement is under GATT, GATS or the enabling clause. Now, that doesn't sound like much of an improvement; but if you are just standardizing the practice in the way in which these agreements are looked at and considering the fact that many of them are virtually identical, particularly with respect to a lot of the European agreements, both EU with other parts of Europe and other parts of Europe with each other in that other part of Europe, just organizing the work more coherently may be valuable. In addition, if the review can be made more standardized and expedited, there will be more information available sooner about these agreements; and it may be possible if you can get the review done quickly enough even to sometimes have enough influence on the way these agreements are implemented, even if you can't change the negotiation. It's true though that with the consensus rule still prevailing ultimately, the

chance for real control through review is probably not that great. The production of more information about these agreements, the transparency aspect probably will be valuable. The second aspect of the committee's work is that it is charged with making various systemic studies, how these agreements affect trade more precisely than has been done in the past. There are a lot of studies on the effect on duties. It's less clear how the formation of regional agreements affects the standards that are applied in telecommunications or issues like that. These other issues are often covered by free trade areas, but whether or not the way they cover them promotes ultimately multilateral standards or whether it hinders the adoption in the long run of multilateral standards is not clear. So it's hoped that the committee by looking at some of these issues may make some progress in our ability to decide which parts of regional trade agreements we should focus on and try and do more about. The second major change in the WTO is an improved dispute settlement system. Under the Uruguay Round understanding in Article XXIV, which did not do very much, it was made clear that issues with respect to regional trade arrangements are subject to dispute settlement. Under the new WTO dispute settlement understanding, panel reports are adopted automatically unless everybody agrees not to adopt them. This means that in the future a party complaining about a regional trading arrangement will be able to get a decision of a panel and the panel reports will be adopted. Now, you shouldn't think that this means that suddenly these regional trading arrangements will disappear even if there's a negative panel finding; but it will mean that compensation will be owed by the trading arrangement to the country that was adversely affected. At least in theory that should be an improvement over where we were in the past. Today the WTO dispute settlement system has been operating I suppose for a little over two years. There's only been one matter challenging a free trade arrangement. Actually, it was a customs union arrangement, between the EU and Turkey; and India and Hong Kong both challenged certain aspects of Turkey's textile restrictions which were put in place when it became part of the EU's custom union. Now, that case seems to have disappeared at the moment. They seemed to have reach some sort of settlement, but it does highlight that there's a potential here of enforcing these rules. This potential may be quite important because if you think back to those rules I described, I said there were disputes over how they should be interpreted. Well, dispute settlement can decide the answer to those disputes. It will no longer be a question of what the consensus in the room thinks. It will be what the dispute settlement system thinks. It's possible that if that dispute settlement system takes a more strict approach to the interpretation of Article XXIV, that the ability to deviate from the MFN

principle by invoking Article XXIV will be restricted. So I think that may be helpful. Now, the one other thing I suppose I should talk about for the future is would it be possible to change the rules. There have been some proposals recently that the rules ought to be changed. One proposal you have in your materials, it's a summary overview of a study that if you look on the page numbers of the actual document are xi and xii. Anyway, they make five proposals. One of them is that there should be a more precise understanding adopted by the WTO of Article XXIV, in particular with regard to tariffs and rules and origin and that transparency in enforcement should be promoted. I think it's fair to say that transparency in enforcement are probably being promoted as much as one can do it at the moment. Whether or not you could have a new understanding on these rules, I have some doubts. There was an attempt at the Uruguay Round to have an understanding on Article XXIV, and there was not much progress made. One of the most difficult issues would be if you were trying to make progress is to decide what to do with all the existing free trades and customs unions. Would they be grand-fathered in or would they suddenly be held to higher requirements. It seems unlikely that the many members of those groups would agree to allow themselves to be held to higher requirements. The second and third recommendations is to do more on harmonization of the rules and to push at least the free trade areas toward custom union-like aspects. The problem with that is that customs unions are harder to negotiate; and one of the ideas it is made is that, well, you ought to have a mechanism which every free trade area or customs union has which explains how to accede to the customs union or free trade area and that anybody that meets the criteria automatically becomes a member. Well, you can imagine that working perhaps a bit in free trade areas; but in customs unions where you have a political component that makes decisions about the common commercial policy, it's kind of hard to imagine that sort of accession clause working. Anyway, that's just a couple of thoughts on those materials. It might be more useful, I suppose, for me to summarize and to let us go into questions. I think I can summarize my remarks by saying that the prospects for WTO control of these entities is not so bad, both through the new Committee on Regional Trade Agreements and through especially improved dispute settlement procedures. Secondly, I would also suggest that the interest in regional trade agreements may be a bit of a fad that may pass. I think at the moment they are something that is talked about a lot. There are certainly a lot more of them. The only reason I make this comment, which I know I'm making up not based on what I said during my talk so far, is that Professor Bhagwati pointed out that the WTO system is working reasonably well. One of the major accomplishments at Singapore was an

agreement on trade and information technology products that has since been put in place and by July 1st tariffs should be on their way out in trade in those products and it's a sector that's huge. It's hundreds of billions of dollars of trade. At the negotiations of that in Singapore, some countries were hesitant to join because to join the declaration that was going to be stated on information technology products, they were committing themselves to go to Geneva in March and make commitments on technology products. Those commitments of course would come into effect only if there was a consensus decision of the group involved in this deal on information technology products to go forward. So it wasn't very much of an obligation that they were being asked to put their name on at Singapore; and a number of countries did not do that, even though three months earlier their presidents had made a similar commitment in APEC. I had the impression that part of the reason they weren't willing to do it in Singapore is that when you get down to talking about WTO commitments you're talking about something serious. When you're talking at APEC about a presidential declaration, you're not. To a degree I think there may be a bit of a fad in the regional arrangements. They may be more about occasions for political leaders to meet at the highest level which may be quite useful but which may in the end not really lead to real free trade agreements. The third thing I would say is simply to underscore what Professor Bhagwati said, that the WTO is working at the moment reasonably well. The recent negotiations on telecoms were successful. The ITA that I've already mentioned, to the extent they do succeed, the original trade agreement problem of course is solved because no one will have much of an interest in regional trade agreements if in fact you have an effective multilateral system. Thank you.

MR. CONE: We will do this sort of by consensus. I will assume what the consensus is. The speakers will remain seated and every one who wants to address a question will do so and will be recognized and the speakers remaining seated will answer the questions. Are there any questions? Yes, sir.

AUDIENCE MEMBER: This is a question for both panelists. The Professor Bhagwati's thesis is that the WTO is working and Professor Davey agrees with that. The examples you're citing are the new agreements since the last negotiating round. The question is this: In both of the successes, the recent successes, that you had a confluence of economic interests that made for everyone able to agree. Yet, in December when you did you ministerial declaration, everything that I've read about it was that the whole conference almost came apart over the

ministerial declaration, it was so difficult to do, and that all the members swore that they would never try to do something like that again. And so my question is: Isn't there a place for regionalism here for incremental steps where some economic interests are the same as a way to start momentum as opposed to one where you have everyone on the same wave length at the same time because otherwise you're going to be delaying certain movements because you can't get agreement across the board from all kinds of nations at the same time?

(Professor Bhagwati's response has been omitted)

MR. DAVEY: A couple of things. I think the fact that the market forces are pushing toward liberalization is probably the most important factor, and I think it makes it less interesting to think of regional solutions. I think they are less necessary than Brock might have thought in the early 1980s when he could not get the Uruguay Rounds started. The other thing is I think you have to consider often when you're talking about topics that could come up, you're talking not so much about regional topics but new subject areas. I'm not sure how much a regional approach helps you in solving a new subject area of negotiation. It's true that sometimes a regional agreement might deal with the subject and the model might be used in the multilateral system, but I'm not sure that that has worked all that much. The services agreement was a different approach. I mean you could find some things in NAFTA that were used in the Uruguay Round but some things in NAFTA that weren't used in the Uruguay Round. If you think in terms of competition in investment having a small group get together of like-minded countries rather than the multilateral system isn't going to get you very far because the small group of like-minded countries doesn't really need an agreement on investment amongst themselves. It needs the broader group to come into it. Negotiating their own agreement and then trying to impose it on the rest in a multilateral context probably won't work. If you think just in terms of regionalism, there I think you have the trade diversion issue which if you're just talking about lowering tariffs. So if you separate out new subjects as opposed to tariff reductions, I don't think in either case the WTO would necessarily want that. On tariffs, there's the trade diversion issue on the other subjects and that may not be the best way to go.

AUDIENCE SPEAKER: (Question inaudible.)

MR. DAVEY: Quickly on dispute settlement, I think the system over the years has become less dependent upon diplomacy and has now reached the point where it's basically a judicial system. So to the extent that its success maybe to some degree in the past had some — well, there were diplomatic elements in it but now there aren't any with reports being adopted.

MR. CONE: If I could add to that, I have no hesitation in saying that the world Trade Organization's dispute settlement system is the best multilateral dispute settlement system that exists. I sort of think, and I don't this is a purely cynical thought, that is one of the reasons that the European Union has tried to get Helms Burton before the WTO's dispute settlement body because that's a dispute settlement body which, were it to do something, might be effective. But this is not a meeting about Helms Burton. Although we're past time, maybe we can use the host's prerogative to say we'll have one more question.

MR. CONE: In the material earlier legal services which I think I know a little bit about, I wonder if they were liberalized trade even though they were part of the Uruguay Round. I want to thank Professor Bhagwati and Mr. Davey for a wonderful contribution to our understanding of the issues that have been discussed. I can't thank you enough. We will now have refreshments. I want to thank all of you for coming and contributing to this conference. Thank you very much.