using data from other international organizations and NGOs in order to create a better picture of the incidence of subsidies in a sector or a market. The WTO member in question would first be asked to verify this information before the secretariat publishes it, which, in turn, would spur better national inter-agency coordination and exchange so that a country's WTO representative has accurate information for purposes of discussions within the WTO.

Engaging NGOs. Disciplines on subsidies begin with information, and this public good is under-supplied. NGOs can play important informational roles to supplement existing information. Where information is incomplete or unclear, NGOs can resort to ''provocative notification,'' a process of notifying what information is available or has been dug up. Where this information is incorrect, and in particular where it suggests subsidies larger than they are in reality, this kind of notification provides an incentive for the country in question to provide the correct information, if only to counter the impact of the NGO notification. For example, Global Subsidies Initiative (GSI) reporting of EU biofuel subsidies provoked the Commission to respond by giving more accurate and up-to-date figures than those available to the GSI. The transparency objective had been achieved.

Although no formal process exists (yet) for NGOs to submit notifications to the WTO, and the general economic support measures identified in the context of the trade monitoring exercise are not included in the public database, the secretariat at times does use NGO data that are relevant. For example, in the financial crisis monitoring undertaken by the Trade Policy Review Board, the secretariat makes use of data published by Global Trade Alert. With more information, members can learn from each other, and publication in TPR reports may help citizens learn that certain kinds of policies adopted in favor of consumers and producers, such as fossil fuel subsidies, are in fact perverse. Subsidy initiatives with active NGO involvement potentially can help governments remain accountable, reach compromise, and resist the pressure to subsidize.

The bottom line is that, in the area of subsidies disciplines as in other areas, sunshine helps. With better information, and robust surveillance, governments providing subsidies will need to explain themselves to their peers, and to citizens. And in the process they will generate new consensual understanding about subsidies disciplines, which is where law begins.

UNCITRAL Transparency Rules and the Mauritius Convention

Summary of Remarks by Julia Salasky[*]

Julia Salasky focused her presentation on the new 2014 United Nations Commission on International Trade Law (UNCITRAL) Transparency Rules (Rules) as well as the 2014 UN Convention on Transparency in Treaty-Based Investor-State Arbitration (Mauritius Convention). In her introduction, she noted their potential far-reaching effects on procedural transparency in Investor State Dispute Resolution (ISDS), and the applicability of the Rules to ''future'' treaties and the Mauritius Convention to ''existing'' treaties.

[*] Until recently, a legal officer at the UNCITRAL Secretariat in Vienna where she worked closely with governments to formulate and negotiate the new UNCITRAL Rules and the Mauritius Convention. She now runs an access to justice startup, Crowd Justice.

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How the Rules (1) Promote Better Outcomes and (2) Increase Legitimacy

In this regard, she noted the rationale of the Government of Canada and non-governmental organizations in pushing forward these initiatives, to wit: *good governance human rights* and *increased legitimacy of the ISDS system.* Further, the Organization for Economic Co-operation and Development pointed out that the lack of transparency across ISDS makes it very difficult to see how regulatory and fiscal policy decisions are being adjudicated.

Whether the Rules in Fact Do So

The new UNCITRAL texts normalize the concept of ''transparency'' in ISDS. For example, in recent discussions concerning Transatlantic Trade and Investment Partnership, it was interesting to note that transparency in ISDS was discussed as though it has been a permanent feature of the legal landscape and is not under debate. That said and separately, the new UNCITRAL Transparency Rules are already included in the Comprehensive Economic and Trade Agreement (CETA) being negotiated between Canada and the EU, as well as the EU-Singapore Free Trade Agreement. Nonetheless, it will take time for these rules to be included and applied to investor-state disputes in general, and thus for us to get a glimpse of how they work in practice.

To the Extent the Rules Do Not, How Might They Be Revised or Remedied

The UNCITRAL texts already represent an enormous step forward for transparency, and go beyond the 2006 revisions to the International Centre for Settlement of Investment Disputes Arbitration Rules in normalizing the idea of open hearings and public awards and general transparency of entire proceedings. But transparency has a cost, both in financial terms (to the parties) and possibly in terms of unintended consequences. For example, might the Rules lead to early, confidential settlements rather than transparent arbitrations? From a different perspective, the idea of transparency may detract from the broader question of whether *investment protection* is even necessary or appropriate in the circumstances of a particular treaty.

Review of Recent U.S. Practice in Free Trade Agreements and Bilateral Investment Treaties (2012 U.S. Model BIT)

By Mélida Hodgson[*]

My contribution to the panel's discussion was to review transparency rules that are used in practice because of their inclusion in United States investment protection provisions since the early 2000s in free trade agreements (FTAs) and bilateral investment treaties (BITs). I focused on the 2012 U.S. Model BIT (U.S. Model) provisions as the most recent iteration of these obligations. These provisions live and breathe—for example, it is now commonplace to see hearings in the Dominican Republic-Central America Free Trade Agreement (CAFTA)

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