Joint Working Party on Trade and Environment

SYNTHESIS OF CASE STUDIES ON TRANSPARENCY AND CONSULTATION PRACTICES ON TRADE AND ENVIRONMENT IN OECD COUNTRIES AND THE EC

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The Secretariat has revised the synthesis paper discussed at the May 2000 meeting, to include three additional case studies which have been contributed since that draft was prepared. This document is submitted for declassification.

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Introduction

1. This paper has been prepared in the context of the ongoing review by the Joint Working Party on Trade and Environment of the implementation by OECD countries and the EC of the OECD Procedural Guidelines on Trade and Environment. The first of those Guidelines relates to transparency and consultation. This paper presents a synthesis of the case study reports of national practices for transparency and consultation with civil society on trade and environment issues, undertaken in 13 OECD countries plus the European Commission (EC) during 1999, 2000 and 2001 [COM/TD/ENV(99)26/FINAL, COM/TD/ENV(99)94/FINAL, COM/ENV/TD(2000)102/FINAL, COM/ENV/TD(2000)124/FINAL and COM/ENV/TD(2001)45/FINAL]. The reports, covering Australia, Canada, the Czech Republic, Japan, Korea, the United States, the EC, Finland, France, Germany, the Netherlands, Norway, Spain, and the United Kingdom, were prepared by OECD staff and consultants following interviews with government officers (or in the case of the EC, Commission officials) and with civil society groups. The Commission for Environmental Cooperation provided input for the reports on Canada and the US. The intention of undertaking the case studies was to explore more deeply how governments moved from the principles of transparency and consultation, to their practice.

2. The paper seeks to highlight the common themes and practices of note emerging from the case studies that have been undertaken so far. While it refers to particular examples of those practices, it is not intended to be an exhaustive list of where those practices are undertaken. It is intended that, by informing on different transparency and consultation mechanisms and drawing attention to particular examples of current practices, guidance will be provided to those considering techniques to establish transparency and consultation mechanisms, as well as to those seeking to improve existing methods. At the same time, it is acknowledged that the practices in 13 OECD countries and the EC are not necessarily representative of the 29 members. Accordingly this paper is intended to be only an interim synthesis, which can be revised when further OECD countries resolve to participate in the case study process.

3. In some cases the practices cited are those of government (or EC) sources, and in others, the subjective assessment of citizens with experience of the practices recorded in the case studies. It is clear that there is no “one size fits all” formula for transparency and consultation -- different practices will be appropriate in different types of countries according to the existing patterns of citizen self-expression.

Different types of governmental systems: centralised v decentralised

4. Some countries studied have a federal system where competences are shared with a sub-national level of government. In some instances, including Australia, Germany and Spain, the division of powers is such that the sub-national government has significant control over environmental policy. In the case of countries which are members of the European Union, including Finland, France, Germany, the Netherlands, Spain and the United Kingdom, although they contribute to the determination of the EC’s trade policy, the fact that final determinations are made in Brussels can reduce civil society’s perception of transparency. In some countries, such as Japan, the administration has a wide discretion to make policy, whereas in others, such as the United States, the discretion is more circumscribed by administrative requirements to undertake environmental impact assessment, to advertise proposed actions etc.
5. Through democratic processes operating in OECD countries, different styles of government have evolved, and this is reflected in the relations between the administration and the citizen and in the way that citizens organise themselves. Several countries (France, Japan and Korea), were described in the case studies as more centralised, in which administrative decisions tend to give the general interest of the public as a whole primacy over individual interests. On the other hand, the Dutch were described as having a long tradition of consensus building, including civil society, in policy making to minimise conflict. Similarly, Finland was generally recognised as a “consensual country” where normally efforts are made to reach compromise positions. In the Czech Republic, the involvement of civil society in policy making is still in its beginnings, although rapidly evolving in recent times.

6. The purpose of information sharing and public consultation differs between OECD countries, and between the different consultation techniques employed within countries. Among the purposes noted by countries studied for information provision and consultation activities were: information gathering (Japan), obtaining technical information in some fora, and practical information in others (France), ensuring input into international negotiations (US), improving the quality of decision making (Netherlands), and explaining government policies (Japan, Australia).

7. These variances in the purposes of information sharing and consultation, and different degrees of administrative and legislative autonomy between the subjects studied, need to be borne in mind when considering the appropriateness of one country’s transparency and consultation mechanisms for another.

8. A common observation by civil society in its evaluations of government transparency and consultation mechanisms, is that information dissemination is undertaken well, but the further step of obtaining civil society opinions is less well achieved. In particular, a commonly observed weakness in government practices is a lack of true dialogue between government and civil society or between different civil society groups.

Degree of integration of trade and environment issues within government

9. Trade and environment issues per se are not new, but formulating policies poses challenges when the Ministries involved have at their core very different concerns. These issues being of cross-ministry concern creates greater difficulty for those outside government to understand and to contribute to the decision-making process. In some countries there are inter-agency working groups, or meetings on a regular or ad hoc basis between the agencies, including for the purpose of presenting a common government position in international fora. Such meetings not only improve the mutual supportiveness of trade and environment policies (the expression “joined up government” has been coined in the UK), but it can also provide a focal point for the public seeking information or to contribute to these issues. It is often practical for one agency to take the lead in co-ordinating with the other ministries, and this is commonly the ministry responsible for trade or foreign affairs, as occurs, for example, in Japan, where government policies are established with unanimity.

10. In Norway an Inter-Ministerial Group on Trade and Environment has been in existence since the preparations for the 1992 Earth Summit. The group remains very active, having met 8 times in 1998. In Australia the commencement of an interdepartmental approach has been traced to the establishment of working groups to prepare the nation’s sustainable development strategy, and in Canada, a Commissioner for Environment and Sustainable Development reports to Parliament on the record of federal agencies in meeting sustainable development obligations. Canada has also established a Round Table on Environment and Economy which examines matters including trade and environment issues and allows the participation of a diverse range of the public. Other countries such as Germany, the Czech Republic or Spain are still in
the course of developing an integrated inter-departmental approach. **Priorities of civil society, degree of interest and competence in trade and environment issues**

11. Just as it is a challenge for governments to deal with issues spanning environment and trade, it is also a challenge for civil society organisations to encompass the breadth of trade and environment. The priorities of civil society groups differ according to the degree to which they have recognised and developed expertise on trade and environment issues. In certain countries, for example Japan, the priority for environment NGOs is to become better informed about these issues, rather than to influence government policy. Where NGOs have a longer history of engagement, such as with the European Commission and UK, NGOs are eager to influence policy and to offer well-researched policy papers to inform the debate. The degree of sophistication of NGOs on the issues tends then to become reflected in the attention which is paid to them -- if governments feel that NGOs do not have expertise, they have tended not to direct their consultative efforts toward them. Whereas the British government was flattering as to the level of NGO expertise on trade and environment, some governments explained that they did not feel that the NGOs had much to contribute to the debate.

**Rights to information**

12. Most countries studied have legislation providing access to government information upon request, subject to certain exceptions. The exceptions cover such situations as where the release could affect national security, the conduct of international relations, the candour of internal discussions, or in the EC, the institution’s interest in confidentiality. Some countries have had such legislation in place for a long time, e.g. Finland since 1952 (as revised in 1999) or Norway since 1971, whereas some others have a much shorter tradition: the Czech Republic’s relevant legislation exists since 1999 and Japan’s legislation came into force only in May 2001. The Japanese legislation is wide-ranging and gives a legal right of access to government information, including to non-Japanese nationals. In France, although relevant legislation exists since 1978, it is only in recent years that dialogue with civil society has become important. Other countries including Germany and the United Kingdom, do not yet have a general legislative obligation to release government information although legislation is under consideration in these two countries. The experience of Korea and of the Czech Republic, where information disclosure legislation has been in place respectively since 1996 and 1999, reveals a transformation in the attitude of administrative agencies from secrecy and inaccessibility of information regarding their activities to a system in which the public has a right to be informed.

13. For information access tools to be used, the public needs to be aware of that they exist and how they operate. Although the European Commission has a *Code of Conduct on Access to Commission Documents*, civil society organisations were not universally aware of its existence. To assist the public in understanding the processes for obtaining access to information, the US Trade Representative’s office has published a guide to gaining access to information it holds. In Spain, a booklet called “Good practices in access to environmental information” was issued by an environmental NGO to provide guidance to officials.

14. Both in Japan (in the absence of relevant legislation until this time) and the United States (where such a right does exist), document viewing facilities have been an important avenue for becoming aware of government information. In Canada and in Norway, the right of access to information is monitored by the office of an ombudsman, whereas in Australia, individuals can take legal proceedings against refusal to permit access to documents under “freedom of information” legislation. The Czech Republic’s 1998 Act on the Right to Environmental Information, aimed at harmonising Czech legislation with the European standard, represents a breakthrough as compared to former restrictive practices by state bodies.
Information dissemination mechanisms

15. The traditional manner of advertising government’s intention to proceed with policies is the posting of notices in publications reserved exclusively for government notices, or in widely circulating newspapers, to give notice of proposed government action, of opportunities to comment on government policies or of consultation sessions. This occurs in Australia, Canada and the US. In the US, each agency is also required to publish twice a year, a list of regulatory actions it is in the course of developing or has recently completed. The use of internet sites has become almost universal among the governments studied, although there are differences in the currency and degree of detail provided.

16. Several governments have information sheets on general issues available for those who make inquiries, and Canada has a toll free telephone number on which general inquiries are answered and through which more specific inquiries are referred to the appropriate personnel.

17. Beyond simply making information available, some governments have active information dissemination programs, for example Korea’s environment ministry distributes its departmental newsletter of environment-related news, free to firms and business associations, government financed think-tanks and environmental NGOs. The UK’s Code of Practice on Access to Government Information contains a positive duty to publish certain information. In Spain, under the so-called “Open line project for the identification of Spanish enterprises in the Single European Market”, non-tariff barriers to trade within the EU (e.g. eco-labels, eco-taxes, packaging and recycling regulations) are examined and the results published.

Consultation techniques: formal and informal, ad hoc and regular

18. Governments use both formal and informal techniques in different circumstances, although there is a difference in the degree of reliance upon each. For example, in France greater use is made of formal advisory committees, whereas in Norway, there is a practice of regular informal meetings. There are also changes over time in the relative importance of each. For example in the Netherlands, there was formerly a tradition that business and labour formed a tripartite group with the government in a formal committee structure aimed at consensus building. However labour has progressively lost representation, whereas environment issues have become more important, so the formal consultation committees have been supplanted by informal consultation fora in which representatives of the changing issues concerning civil society, including currently environment, can participate.

Formal consultation mechanisms

19. Almost all the countries studied have some form of formal consultation mechanism. These include advisory committees or councils, think tanks and hearings. On occasions these are chaired by, or provide advice directly to Ministers. The disadvantage of such high level participation is that the meetings tend to be short with little time for discussion, as Ministers have limited time available.

20. Members of advisory councils may be chosen according to the organisations they represent with the aim to achieve a balance of interests, such as Australia’s International Environmental Issues Advisory Group. The Council’s members are chosen by the Minister and include business and industry, environment and development groups, professional and academic organisations. In contrast, the members of the UK’s Green Globe Task Force, an advisory group established to advise the Minister for the Foreign and Commonwealth Office, are chosen for their individual contribution to trade and environment issues, rather than as representatives of a particular organisation.
In some cases, advisory councils have been formed particularly for trade and environmental issues, for example, in the US, advice is provided to Ministers by the Trade and Environment Policy Advisory Committee (TEPAC), Finland has a Working Group on Trade and Environment, and Norway a Reference Group on Trade and Environment. In Canada there are Sectoral Advisory Groups on International Trade (SAGITs) in a large range of industry sectors, including one on environment, each of which report to Ministers. In other cases, trade and environment is discussed in a more general forum, in Germany, such issues are discussed by the Advisory Council on Global Change. In many cases these issues will be raised in bodies which are predominantly occupied with either trade or environment, like the Czech annually held so-called “Green Parliament” at which officials of the Ministry of the Environment discuss with environmental NGOs the current and planned work of the Ministry.

The example of Spain shows that the existence of a formal advisory body on a national level is not always successful. The Advisory Council for the Environment (CAMA) was created in 1995. Since 1998, however, it has not convened due to failures, inefficiency and a general disagreement as to its function. However, efforts have been undertaken to render it operative anew.

Several countries also hold hearings prior to introducing new laws or policies. In Germany, under the Joint Rules of Procedure, public hearings are required prior to the introduction of every new law. In France, it is also compulsory that all legislation and economic and social policies are the subject of consultation with the Economic and Social Council, and hearings may be held.

In some cases, government establishes and finances permanent advisory institutions, whose task is to research and advise government on particular issues. Examples of such institutions are Korea’s think-tanks, three of which are working on trade and environment issues or the Czech “Programmes of care for the Environment”. These think-tanks or projects are almost entirely dependent on government funding and contracts and have close contact with Ministry personnel. However, in the course of researching potential future government policies, organizing conferences and seminars to which business and NGOs may be invited, they can play a role in disseminating and consulting on government policies.

Formal ad hoc meetings

In addition to the established committees outlined above, there are also an increasing number of meetings which involve ministers, or in the case of the EC, high-level European Commission officials, but which occur with a less structured rhythm. This is no doubt in reaction to the increased attention that was paid to trade and environment issues in the lead-up to the Seattle WTO Ministerial meeting including the WTO’s High Level Symposia on Trade and Environment and on Trade and Development, as well as the drive to engage to a greater extent with civil society following the failure of the negotiations towards a Multilateral Agreement on Investment (MAI).

Some such meetings are open for the participation of any interested party, such as series of the public meetings convened by the EC and attended by high level EC representatives in the lead-up to the Seattle WTO Ministerial meeting. The EC gave notice of its intention to hold the meeting to all those who had expressed interest in the issues to the Commission. In other cases, civil society is able to nominate a certain number of meeting participants from among themselves, such as those conducted on the subject of trade and environment by the UK Ministers responsible for trade, environment and international development in 1999.

Meetings also commonly revolve around the schedule of international environmental meetings, such as Conferences of the Parties of Multilateral Environmental Agreements (MEAs). A number of countries including Canada, France, Germany, the Netherlands, UK, US and the EC hold briefing and/or
debriefing sessions on the results of meetings of MEAs. As noted above, Korea reports on such meetings in a regularly distributed newsletter.

**Role of Parliaments**

28. Parliaments can also play a number of roles in the relation between governments and civil society. These include the role of watchdog, as in the United Kingdom, where the House of Commons Audit Committee reported critically on the Government’s conduct of the MAI negotiations. In the Netherlands, Parliament commonly holds public hearings and information sessions to consult and to gauge public opinion, and in France, Parliament recently (and exceptionally), acted as an organ for direct consultation with the public, on the issue of GMOs. In Finland, the Parliament, by means of its diverse Committees, plays a crucial role in the decision making process in the environmental field, particularly in the involvement of civil society in such a process: Parliament staff has the duty to assist those wishing to express their views in formulating such opinion. In Canada, the Parliamentary Standing Committee on Foreign Affairs and International Trade was to conduct hearings across the country to obtain the public’s views on future trade negotiations, as has its Parliamentary Standing Committee on Agriculture. In Germany, Parliament can establish "Enquête Commissions" consisting of members of the Parliament and experts which can prepare decisions and strengthen the position of Parliament vis-à-vis the government. In Australia, there are Senate Committees which meet annually, through which information on the administration of public policy can be obtained by Parliament.

**Informal consultation mechanisms**

29. The informal consultation mechanisms that will be elaborated below span a wide range of activities, including invitations to comment on proposals, brainstorming sessions, conferences and seminars, questionnaires, meetings held at the initiative of government or civil society, exchanges of personnel with civil society groups, providing funding for the consultative activities of NGOs, and including civil society representative on national delegations to meetings on trade and environment.

30. The process of seeking public opinion can have an information gathering component, obtaining expert advice on current public policy issues, as well as a political element, that is making sure that the government position is acceptable to the public at large. For obtaining expert advice, a narrower more targeted audience would be identified. For measuring political acceptability, the views of a broader representative sample of the population would be appropriate.

31. Informal consultation mechanisms are commonly associated with the mechanisms for providing information outlined above. For example, notices of intended government actions are commonly accompanied by invitations to comment on the proposals.

**The internet**

32. As well as providing the text or titles of documents and other information, the internet is being used to seek the opinions of the broader public. In Japan, a recent law requires the solicitation of public comments on proposed legislation, except in cases of urgency, and this is commonly done via the ministry website. Websites are also being used for this purpose in the Netherlands. Canada's website has a "Trade Negotiation and Agreements" page, with discussion papers on relevant issues. In the United States, more traditional methods are in use, but not only are public opinions sought in relation to regulations and proposed regulations, but all public opinions expressed are published, grouped according to their subject,
e.g. environment. The Czech administration utilises the internet, which has become in a short period of time the principal means of conveying the information.

**Targeted information seeking**

33. An example of more targeted opinion-seeking is found in Korea. The Korean government sends “information notes” to interested private sector organisations and to specialists in the particular field. For speedy information dissemination, the Korean trade ministry has also established a list of experts: academics, private and public researchers, media, and congressional committee members, to whom it sends information by email or facsimile.

34. In Japan and the UK, questionnaires have been used to seek the views of a previously identified audience, in Japan the questionnaire was directed to the business community to identify items to be included on a meeting agenda, and in the UK to those who had already indicated interest in a national eco-labelling scheme.

**Benefits of informal consultation**

35. Informal consultation mechanisms have among their advantages that they can involve a wider and more flexible range of participants than formal committees. Also, individuals who are not engaged full time on the issues can nonetheless respond to invitations to notice and comment, or questionnaires. It was observed in Germany that the flexibility of informal consultation mechanisms allows new participants to contribute their views as new issues emerge. Whereas in Australia’s more formal committee system, it was noted that social issues are not systematically covered, the inclusion of the UK Ministry for International Development as a regular participant in trade and environment meetings has assisted the consideration of social/development aspects.

36. Informal meetings also provide a greater opportunity for a real dialogue and exchange of views, rather than prepared position statements. The use of less formal meeting venues has been suggested by one civil society participant. To promote even greater frankness, meetings convened through the British NGO/research institute, the Royal Institute of International Affairs which is based at Chatham House, are held on the basis that comments will not be attributed to any participant (“Chatham House Rules”).

**Government contact persons**

37. Many governments and the EC report that they are available to meet with civil society as requested. To make contact with the responsible government personnel easier, a number of governments have nominated contact points within the government. In the UK trade ministry, this officer’s tasks include establishing meetings with relevant personnel at the request of NGOs. France has recently established an officer charged with relations with civil society in the Ministry of Economy, and a similar post exists in the Ministry of Co-operation.

**Conferences**

38. Conferences have been co-ordinated by, or on behalf of, a number of governments to discuss and explore trade and environment issues with the involvement of academics and other experts. Examples include Norway’s government-funded conference on the Environmental Assessment of Trade Liberalisation Agreements, a workshop sponsored by UK Ministries and held at Chatham House on the
role of environment in the new Round of trade negotiations; workshops held as part of the development of methodologies for the assessment of the environmental effects of NAFTA; or the Czech “Dobris initiative” which led to the Pan-European “Environment for Europe” process under the auspices of the UN Economic Commission for Europe.

Personnel exchanges

39. Countries are increasingly open to including non-government representatives in their national delegations to trade and environment meetings. This is particularly the case for meetings of the Commission on Sustainable Development, and Conferences of the Parties of MEAs. Several countries have also included NGOs in delegations to more trade-related events, including WTO Ministerial meetings, the High Level Symposium on Trade and Environment, and meetings of international organisations including the OECD. The UK government has also commenced a programme of staff exchanges between Ministries and NGOs concerned with environment and development issues.

Funding for NGO activities/participation

40. A number of governments also assist the functioning of civil society groups by providing funding in a number of ways. Some funding is available from the Japanese, German, French, Netherlands and UK governments and the EC, several of them supporting the core activities of selected NGOs. In Finland, officials acknowledge that differences among civil society groups exist as regards their level of resources and expertise. Therefore, certain NGOs with sufficient own funds do not receive financial assistance from the government whereas other less well-resourced groups receive regular government funding. Some NGOs prefer to remain independent from government structural funding, but governments also give consultancy contracts to NGOs, such as for undertaking the task of public consultations (France and Netherlands), while others provide the travel expenses of attending government consultations. Both in the Czech Republic and in Spain, where NGOs generally do not have a long tradition, funding remains a major problem.

Process issues: agendas, timeliness

41. Other issues arising with regard to government’s consultation sessions with civil society include the timeliness with which information is provided, the timeframe in which a response is required, and by whom the agenda is set for consultation.

42. Civil society commonly criticises the time at which information is available from government, because it is observed that the earlier that comments can be made on government policy, the greater the chance that civil society views can be incorporated. A related issue is what non-business groups including those in Australia, the Czech Republic, the United States, the EC, Germany, Finland, the Netherlands, Norway, and Spain, describe as the too-limited time frame in which responses to government invitations to comment are sought. Due to the limited resources and range of issues confronting non-business groups, such groups may not be able to respond adequately in a short time frame. In Finland, however, it was recognised that this was often due to the fact that the government officials themselves receive documents at a late stage and are subject to tight deadlines. The lack of availability of information in the native language has also been criticised in the Netherlands.

43. NGOs in a range of countries including Australia, the Netherlands, Norway and the UK appreciate the opportunity to propose the addition of agenda items of interest to them for consultation meetings. In Germany, NGOs regularly meet with government at their own initiative on issues of interest
to them, and report that they have changed government’s priorities through their actions, for example by
drawing attention to the issue of genetically modified foods. In Finland, however, NGOs felt that there was
generally no, or little, feedback on their position and input from the administration. As a result, NGOs are
now taking a more proactive approach, providing views in advance, without awaiting a draft for comments.

Selection of civil society interlocutors

44. The interlocutors selected by government or the manner of choosing them will depend on the
purposes of the consultation. As noted above in the discussion of formal mechanisms, the participants in
such groups are sometimes selected for their personal expertise or representation of certain interests
groups. Participation in informal discussion groups is not necessarily open to all interested parties, or such
potentially interested parties may not be made aware of the event. In Japan, the ministry chooses the
participants at both formal and informal meetings. The US Trade and Environment Policy Advisory
Committee (TEPAC) is required by legislation to be open to the public, to publish prior notice of meetings
and to publish the advice it submits to ministers for full public review and comment.

45. For making contact with non-business groups, several governments have selected a sole NGO as
their contact point with NGOs interested in trade and environment. In Norway, Forum represents 60
NGOs in relations with the foreign affairs ministry. The UK ministries delegate to the UK Trade Network
the task of selecting which NGOs will attend participant-limited meetings, such as those with Ministers.
The French NGO SOLAGRAL was entrusted to organise a brainstorming event on trade and environment
issues and to build up a civil society network. The Netherlands government has enlisted the help of the
bigger NGOs to identify the smaller or newer NGOs interested in the field.

46. An issue which arises on any occasion when participants are selected or limited, is the
representativeness of those who present views to government. For example in France, where environment-
specific civil society groups are less well developed, there is sometimes an impression that NGOs present
the positions developed by their international counterparts, which government does not always accept as
being in accordance with the views of local society. Similar concerns have been expressed in Japan in
respect of the views expressed by environmental NGOs. In contrast, in the Netherlands, representativeness
of opinions expressed no longer concerns government; it claims to welcome all well-considered views.

47. While some countries hold consultation meetings and briefings with all interested sections of
civil society, in others, meetings are held separately, with either business or environmental groups. In a
number of countries business is a more frequent correspondent on trade and environment issues, and it is
commonplace for governments to have one or a range of business advisory groups. Bilateral meetings
between government and sections of civil society are commonly held in Germany, more frequently than in
conjunction with other civil society groups. In order to improve the transparency of such meetings for the
rest of the public, the UK Advisory Group on Business and Environment, which brings together business
representatives with the trade and environment ministries, publishes the advice it provides to ministers. In
Finland, it was generally felt that sectors of civil society are unequally involved in consultations.

48. The US Department of Commerce has 17 industry sector advisory committees which advise the
responsible minister. Canada’s Sectoral Advisory Groups on International Trade are similar, however they
also include some non-business civil society representatives. Bringing together business representatives
from both sides of the Atlantic on trade issues, the Transatlantic Business Dialogue (which has an
environment working group), undertakes discussions with governments, including the US government and
the EC Commission, on trade issues. More recently, transatlantic organisations representing environment
groups, labour and consumers have also been established.
49. In Australia, the main government advisory body on trade issues, the Trade Policy Advisory Committee, is a committee through which business views are conveyed to government, although NGOs were planning to request access. In Korea, the government consultation groups tend to be more focussed on business, although the environment ministry has separate but parallel discussion groups with business and with NGOs. The latter comprises 20 representatives of a wide range of interest groups: 10 from environment, 5 from economic groups, 2 for consumer protection and 3 representatives of religious groups. The French and Dutch governments have a special relationship with business and labour representatives, who form a tripartite partnership with government. Formal consultation with the French Social and Economic Council representing business and labour is compulsory on all draft legislation and social and economic policies, but there is no provision for other groups in the public to attend or participate in its debates.

50. While holding separate consultation sessions can allow greater frankness in the discussions with government, participants in discussions which are held with all civil society groups have also indicated benefit in hearing and having the opportunity to respond to the views expressed by other groups.

Conclusion

51. This paper was intended to illustrate and to provide examples of the transparency and consultation mechanisms in place in OECD Members and the EC. Rather than formulating one model for transparency and consultation in OECD countries, this synthesis of the practices observed in 13 countries and the EC in the course of the 1999-2001 case studies, shows that there are a range of models of transparency, information sharing and consultation practices which have evolved in the different circumstances of each. Among the subjects studied are a range of forms of governance. In some countries, there is a long tradition of citizens exercising their democratic rights only at the ballot box with no further involvement in government decision making, in others, there is a history of active civil society involvement through representatives of labour and industry, and through representatives of specific issues such as environment. In some, there is informal co-ordination between the individual separate ministries, whereas in others standing inter-ministerial working groups have been established to deal with issues of mutual concern. Eventually, in some countries, there is no extensive tradition of active civil society involvement, due to recent political situation. Currently, this is rapidly evolving.

52. A range of common difficulties can be distilled from the case studies: while governments are generally succeeding in providing information more freely to civil society -- the transparency component -- they have been less successful in creating the institutional framework for a genuine dialogue with civil society, with the opportunity and time for each group to hear each others’ views -- the consultation component of the Guideline. And while relevant information is commonly made available ultimately, civil society groups feel that it should be released at an earlier time, particularly to allow them to prepare for consultations with, or submissions to, government. There is also a degree of variation among civil society groups in their satisfaction with the process. Business groups express greater satisfaction than their environmental counterparts with their access to and influence on policies. In some countries where trade and environment issues are less well integrated, the central trade policy making body undertakes discussions, if at all, only with business, to the exclusion of environmental NGOs. ‘Trade and environment’ is in some such cases dealt with in a less influential committee.

53. Countries which have for a long time left the process of government exclusively to those whom they have democratically elected, take time to accept that un-elected ‘pressure groups’ may also play a role in expressing the diversity of society’s views. In some countries, Parliament plays a more important role than the government officials in interacting with the general public, although for policies which will not result in legislation, government officials are primarily responsible. In other countries, where until no long
ago transparency and consultation mechanisms were not in place, some difficulties have still to be overcome.

54. The form of society’s engagement is not static over time. Some interest groups grow in importance in response to particular current events, whereas others lose public support and impetus. And in recent times there have been a breadth of new initiatives for transparency, some of which have yet to come into force and others are yet to have their full effect on government decision making processes. Just as the practices in the OECD countries studies will continue to evolve, is it also likely that the range of practices that this paper summarises will expand when the practices of a wider range of OECD countries are observed and recorded.