This document contains reports on transparency and consultation in relation with trade and environment activities in the Commission for Environmental Cooperation (CEC), the Organisation for Economic Co-operation and Development (OECD), the United Nations Conference on Trade and Development (UNCTAD), the United Nations Environment Programme (UNEP) and the World Trade Organisation (WTO). It is declassified under the responsibility of the Secretary-General.

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PREFACE

The Joint Working Party on Trade and Environment has been reviewing implementation at a national level, of the 1993 OECD Procedural Guidelines on Trade and Environment, (including the first Guideline on Transparency and Consultation), since 1995.

In the course of this review, JWP members noted the relevance of transparency and consultation practices in international organisations concerned with trade and environment. A bibliography of literature on consultation mechanisms and practices in international organisations and multilateral fora was presented to the April 1999 JWP meeting [COM/TD/ENV(99)27].

The JWP requested that international organisations concerned with trade and environment issues, many of whom are frequent observers at JWP meetings, be invited to contribute a short report on their transparency and consultation mechanisms. The OECD itself and four other international organisations were identified: CEC (NAFTA), UNEP, UNCTAD, and WTO, and each agreed to participate. The reports contained in this volume are provided by the Secretariats of the respective organisations for the information of JWP delegates.
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Introduction

Part I of this note responds to the request by the OECD for information on transparency and consultation in international organisations concerned with trade and environment issues. Although the request for information on mechanisms to promote transparency and public participation has been directed specifically towards work on environment and trade, the Commission for Environmental Cooperation’s (CEC) program on Environment, Economy and Trade falls under the general commitment of the CEC to public participation in all of its program areas. Part II is the CEC’s response to the questions posed by the OECD following a brief overview of public participation in CEC activities. A checklist for designing a public participation process from the “Framework for Public Participation in CEC Activities” is also attached.

PART I PUBLIC PARTICIPATION IN CEC ACTIVITIES

Principles in the NAAEC

The Commission for Environmental Cooperation (CEC) is an intergovernmental organisation whose members comprise Canada, Mexico and the United States. The CEC was created under the North American Agreement on Environmental Cooperation (NAAEC) to address regional environmental concerns, help prevent potential trade and environmental conflicts and to promote the effective enforcement of environmental law. The Agreement complements the environmental provisions of the North American Free Trade Agreement (NAFTA).

The North American Agreement on Environment Cooperation (NAAEC) emphasises in its Preamble, “… the importance of public participation in conserving, protecting and enhancing the environment.” In addition, the objectives of the NAAEC elaborate on the principles set out in the preamble, highlighting the importance of environmental protection, the linkages between the environment, the economy and trade, the need to strengthen co-operation in regulatory instruments to protect the environment, and the importance of promoting public participation and transparency in this process. In particular, the NAAEC has the specific objective of promoting “…transparency and public participation in the development of environmental laws, regulations and policies.”

Structure of the CEC

The Commission for Environmental Cooperation (CEC) is composed of a Council, a Secretariat and a Joint Public Advisory Committee (JPAC).
Council

The Council, the governing body of the CEC, is composed of the environment ministers (or equivalent cabinet-level representation) of each country. It meets at least once a year to discuss CEC programs and activities.

Secretariat

The Secretariat implements initiatives for work or research in its core program areas, as established by Council, on topics pertaining to the North American environment, environmental law and standards, or environment/trade issues, and provides administrative, technical and operational support to the Council. The CEC Secretariat is located in Montréal, Canada, and a liaison office is located in Mexico City.

The mandate of the Secretariat includes:

- Preparing an annual report each year pursuant to Article 12 of the NAAEC. These reports highlight the accomplishments of the CEC, the governments’ initiatives to implement the Agreement and meet their obligations, and a financial review for the year.
- Preparing reports for the Council on any matter within the scope of the annual program plan, or, under specific conditions, in other areas of interest pursuant to Article 13 of the NAAEC. The Council has received three such reports. One was on the Silva Reservoir, the second on the long-range transport of atmospheric pollutants in North American and the last one the San Pedro Initiative.
- Considering submissions from any non-governmental organisation or person asserting that a Party to the NAAEC is failing to effectively enforce its environmental law pursuant to Article 14 and 15 of the NAAEC. Where the Secretariat determines that the Article 14(1) criteria are met, it shall then determine whether the submission merits requesting a response from the Party named in the submission under Article 14(2). In light of any response provided by that Party, the Secretariat may recommend to the Council that a factual record be prepared, in accordance with Article 15. The Council may then instruct the Secretariat to prepare a factual record on the submission. The final factual record is made publicly available upon a 2/3 vote of the Council.

Joint Public Advisory Committee (JPAC)

The Joint Public Advisory Committee (JPAC) is composed of 15 members, five appointed by the government of each country. JPAC members act independently of the Council and do not seek or receive instruction from any government. The committee acts as a single, transnational body.

JPAC’s mandate is to promote continental co-operation in ecosystem protection and sustainable economic development and to ensure active public participation and transparency in the actions of the Commission.

Its responsibility is to advise the Council on all matters within the scope of the NAAEC including the annual program and budget. It also provides technical, scientific or other advice to the Council.

As a representative of the North American community at large, one of JPAC’s key responsibilities is to ensure that public concerns are communicated to the Council.
Others Advisory Groups

The countries may appoint other advisory groups, particularly National and Governmental Advisory Committees. They advise the ministers on national priorities. Other committees, working groups or experts groups are also established to fulfil specific mandates.

National Advisory Committees (NAC)

As provided for in Article 17 of the NAAEC, each Party has appointed a National Advisory Committee (NAC) comprising members of its public, including representatives of non-governmental organisations, to advise its Council minister on the implementation and further elaboration of the NAAEC.

Governmental Advisory Committees (GAC)

As provided for in Article 18 of the NAAEC, each Party may convene a governmental committee (GAC), which may comprise or include representatives of federal and state, provincial or local governments, to advise it on the implementation and further elaboration of the NAAEC. The United States has implemented a GAC but Mexico has not yet done so. Although Canada does not have a GAC, there is an intergovernmental Agreement that provides for the full participation of provincial and territorial governments in the implementation, management and further elaboration of the NAAEC.

Various Advisory Groups

Article 9 of the NAAEC also empowers the Council to establish and assign responsibilities to standing committees, working groups or experts groups and seek the advice of governmental agencies, non-governmental organisations or persons, including independent experts mainly related to specific CEC programs or to address a specific mandate.

Institutional Public Participation Mechanisms

Because the CEC involves the three North American governments as well as the public, the institution is ideally positioned to play the role of the “honest broker”—to convene stakeholders from the public and private sector, and build bridges of understanding that can facilitate environmentally-preferred results.

Acting as convenor, the CEC can also facilitate the co-ordination of initiatives on a regional scale to enhance the efficient use of scarce human and financial resources. Network building among the scientific, academic and other non-governmental communities remains an important strategy for public participation in the work of the CEC.

The CEC has a number of ways of obtaining public input on its operations.

Annual Meeting

The Council meets at least once a year in June for a regular session, which rotates annually by country, to discuss CEC programs and activities and adopt various resolutions. At this occasion, the Council meets with members of the North American public to discuss CEC initiatives and also holds in-
camera sessions on CEC issues. In conjunction with the Council regular session, JPAC organises a plenary discussion with the public and holds its regular session. Moreover, JPAC has the opportunity to meet the Council during a joint in-camera session to discuss JPAC advice, CEC programs and other administrative matters, as well as to respond to direct requests from the Council.

**Joint Public Advisory Committee (JPAC)**

The primary role of JPAC is to provide independent advice to Council from a diverse range of stakeholders. To achieve this goal JPAC organises plenary discussions with the public in the three countries on the Three-year Program Plan and on specific CEC programs. JPAC works closely with the Secretariat to advise the Council on the development of the Program Plan and the specific work program for the next three-year period. JPAC also organises public consultation on specific matters such as the revised Guidelines Submissions on Enforcement Matters under Articles 14 and 15 of the NAAEC or the Draft Framework for Public Participation in CEC Activities.

**National and Governmental Advisory Committees**

The National and Governmental Advisory Committees advise their respective country on the implementation and further elaboration of the NAAEC.

**Specific Public Consultations**

Some CEC working groups organise public consultations on specific issues related to their program such as the call for papers on the understanding of linkages between environment, economy, and trade and the draft North American Regional Action Plan (NARAP) on Mercury (Phase II).

**Information and Public Outreach**

Several tools have been implemented in order to facilitate the dissemination of information.

**Information Center and WebSite**

As a critical tool for outreach the CEC Secretariat has established a North American Information Center at its headquarters in Montreal. The center is open to the public and contains documentation produced by the CEC as well as a growing collection of research material with an emphasis on publications related to environmental and trade.

In addition, the CEC has developed a website at <www.cec.org> that includes public CEC documentation in the three languages of its member countries (English, French and Spanish), including the full texts of official CEC publications such as the Council resolutions, the JPAC advice and reports to Council and the summary records.

The Secretariat’s office in Mexico City also includes a small information center and a computer where members of the public can access the CEC’s website, electronic information and databases.
Those lacking Internet access or expertise can consult the Information Center directly or by telephone or fax, or contact the appropriate staff of the CEC Secretariat, including the staff at the Mexico Liaison Office.

**CECNet**

The CECNet is an electronic forum designed to disseminate information about the CEC and stimulate debate. The main goal is to raise awareness of North American environmental issues and the work of the CEC. In addition, this electronic tool fosters greater public participation by creating an electronic “meeting place” to exchange information and expertise.

The CECNet is operated by the Udall Center for Studies in Public Policy and is not mandated or funded by the CEC. It is a free Internet service open to nongovernmental organisations, public officials, researchers, and individual citizens interested in the work of the CEC, specifically on environmental issues of common concern in Canada, Mexico and the United States. The subscription address of CECNet is <listserv@listserv.arizona.edu>.

**Framework for Public Participation in CEC Activities**

In October 1999, the Council approved a Framework for Public Participation in CEC Activities in order to develop a more strategic and long-term approach to the work of the CEC. The CEC Framework recognises the need to maximise public involvement to ensure open and effective dialogue and engagement among all sectors of the public. Part of this approach is to encourage a trinational network of diverse stakeholders who are interested or affected by issues addressed by the CEC.

The Framework focuses on the goals, principles and basic mechanisms for optimising public involvement in the work of the CEC as well as for increasing the public’s understanding of the CEC’s role, mandate, program and budget. The guiding principles focus on equity, efficiency and timeliness, transparency and accessibility, inclusiveness, and financial support, as well as accountability to the public.

The term “public” is defined inclusively and is meant to accommodate all persons, organisations or groups of people in North America.

The Framework is not intended to establish rigid principles that inhibit, restrict or limit public participation, but aims rather to structure participation such that it contributes to the CEC’s consideration of the merits of the issues.

With respect to the goals and principles described in the Framework, one, or a combination, of these mechanisms could be utilised to encourage public participation:

- Consulting with JPAC as a vehicle for public participation, and disseminating CEC information to the public through the JPAC.
- Seeking the advice of the National and Governmental Advisory Committees in promoting informed public participation.
- Informing the public of ongoing activities through CEC publications, such as the Annual Program and Budget, CEC annual reports, the ecoregion newsletter, press releases, conferences and the CEC website.
• Obtaining information from the public on a specific issue via questionnaires, interviews, forums, meetings, seminars, community and site visits, focus groups, and Internet exchanges.

• Consulting with the public on a specific issue through workshops, round tables, electronic discussion groups and outreach programs.

• Preparing and distributing reports for all CEC public participation activities, to assist the public in evaluating follow-up decisions by the appropriate CEC body.

Other guidelines applicable to public participation or to other processes may be found in other CEC documents, such as the “Guidelines for Citizen Submissions on Enforcement Matters under Articles 14 and 15 of NAAEC,” the “JPAC Public Consultation Guidelines,” and the “North American Fund for Environmental Cooperation Administration and Funding Guidelines.”

The North American Fund for Environmental Cooperation (NAFEC)

The North American Fund for Environmental Cooperation (NAFEC) is a source of funding for community-based environmental projects in Canada, Mexico and the United States. NAFEC is funded by the CEC, which created the fund in 1995 in recognition of the important role played by community groups in protecting the North American environment.

PART II OECD QUESTIONNAIRE

Typology of available procedures

Standing mechanisms

The transparency and public consultation mechanisms described function across the board, for all programs and projects initiated by the CEC, including the Environment, Economy and Trade program. The following provides additional details on specific aspects of that program.

• The formulation of a work program: Like all other programs under the CEC, the process of program formulation is based on on-going public input and comment. Recently, the CEC adopted a three-year rolling program. Priorities and comments are received on an on-going basis by the Joint Public Advisory Committee (JPAC) from the public concerning specific areas of focus and attention. The Secretariat prepares a proposed three-year program plan, which is then available to the public for comment and input. The proposed work program is reviewed by the Parties in a series of meetings, at which the Chair of JPAC actively participates.

• The implementation of adopted or agreed policies: In implementing various aspects of the Economy and Trade program, public input and comments are sought on an on-going basis. The degree and design of public comments depends on the specific project within the overall program to some extent, while following the institutional provisions noted above. As an example, the Final Analytical Framework for the NAFTA Effects project was developed through a series of public meetings organised directly for Council, public input via the JPAC,
the advice of an Advisory Group to the project, and independent advice of different Peer Review committees.

- **On what occasion does exchange take place between stakeholders and policy-makers in the framework of these mechanisms?** As noted, given the considerable institutional emphasis of the NAAEC on public consultation, exchange takes place on an ongoing basis. This includes comment on project design and implementation, comments via JPAC meetings, comments via annual Council sessions, as well as meetings in which specific stages of the project implementation are set, and into which the public is invited. In many cases, public input is supported by the extension of financial assistance to some stakeholders.

- **How frequently does exchange take place between stakeholders and policy-makers in the framework on these mechanisms?** On average, exchange of views takes place at least four times per year through public meetings organised by JPAC, or through the Council session. In addition, the opportunity to submit comments or advice from JPAC, stakeholders and policy-makers is welcome on an ongoing basis.

**Ad hoc and emergency mechanism:**

Please enumerate and describe the ad hoc arrangements used for sharing information with civil society on issues relating to the interaction of trade and environment policies. It should be noted that although there is no specific ad hoc and emergency mechanism or committee, Article 9.3.b of the NAAEC states “The Council shall convene in special session at the request of any party.” This Article effectively provides for the implementation of such a mechanism.

**Modalities of operation**

Are these mechanisms or arrangements limited to information sharing, or do they also extend to consultations and collecting feedback from civil society representatives? The mechanisms established to provide guidance to the CEC apply both to ensuring transparency, that is informing the public of proposals and initiatives underway, as well as seeking ongoing input of the public.

*Is information provided automatically, or on request? Both.*

*Is information available free of charge, or is there a cost involved?* All information generated by the CEC, both in the Economy and Environment program and in other areas of work, is provided free of charge. In addition to placing information on the website, considerable effort is made to maintain an up-to-date contact and mailing list, based on the particular program area. For example, in its work on shade-grown coffee and biodiversity conservation, a contact data base of organisations, NGOs, industry and interested individuals involved in various aspects of win-win trade-environment relationships was created, with information such as publications and data provided free of charge to the public.

*Are these mechanisms or arrangements supposed to allow policy modification on the basis of this feedback? If yes, how frequently does this happen in practice?* Yes, the public’s comments from all forums, including the JPAC meetings (which are convened four times per year) are taken into account. Public feedback from the JPAC meetings are sent to the three governments, and the public is consulted with each new three-year plan. As noted, the purpose of transparency and public consultations is both to inform the public of work underway, as well as to provide various means to receive and where possible integrate advice from the public in the formulation of programs.
What is the latitude allowed by existing policy-makers mechanisms for later stage policy modifications? The mandate of the CEC includes considerable latitude in the later stage modification of policies. The involvement of the public in the policy setting process necessitates the inclusion of this mechanism in the CEC.

**Beneficiaries**

Are information and consultation channels addressed similarly to representatives of businesses and environmental NGOs? If there are differences please explain. No distinction is made between different members of civil society. Efforts are made to ensure consultations include representatives from different groups and associations from all three NAAEC Parties.

Who are the principal beneficiaries of information and consultation channels (are they universal/open to any stakeholder expressing interest, or are they selective)? Every effort is made to provide information and the opportunity to comment to as broad a range of the public as possible. However, it is assumed that some groups, such as indigenous people or smaller communities, may benefit from additional assistance with respect to providing on-going information, providing financial assistance to facilitate attendance at Council sessions, and access to the CECNet through terminals in the offices and information centers.

**Assessment**

What is your overall assessment of these mechanisms / arrangements?

- **How efficient are they in allowing for information sharing and addressing civil society concerns?** The degree of efficiency is directly linked to the degree of public participation. The more involved the public is in projects, the more effective is the information exchange. Although there is always opportunity for improvement, efforts by the CEC in including as wide a range of public views as possible is generally regarded as being welcome.

- **How efficient are they in helping policy-makers identify and develop the best available policy options?** Experience suggests that the process of program design and implementation has benefited from on-going advice and comment from the public, thereby improving the efficiency of the program itself.

- **Are there types of constituencies that are better organised than others?** One assumption of the CEC’s outreach effort is that larger NGOs and representatives of business may be in a better position to follow and provide detailed comment on the program, compared to smaller NGOs, local communities and indigenous peoples groups. Therefore, special efforts are made by the Secretariat, by way of proactive means, to inform these groups of upcoming meetings and public comment opportunities.

- **Does your organisation promote pro-active mechanisms to help less organised constituencies participate in transparency and consultations mechanisms (such as providing financial and logistic support to NGOs and other citizens associations)?** Yes. For more information consult the Public Participation Framework in CEC Actions on the CEC’s website at <www.cec.org>. 
Annex Checklist for Designing a Public Participation Process

The following checklist, adapted from Standard Z764-96, "A Guide to Public Involvement," of the Canadian Standards Association, is a guide to assist those responsible for CEC public participation in deciding whether or not public participation is appropriate for a given CEC activity, how such an activity should be structured, and what process elements should be included.

1. Do you need to involve the public?
   - Describe the situation
   - Identify potential benefits
   - Assess the relevance of input
   - Analyse and evaluate the implications of not including public participation
   - Identify interests and positions
   - Study and assess the implications of not proceeding

2. Has the groundwork been laid for a well-constructed process?
   - Determine the nature and scope of decisions
   - State the purpose
   - Estimate the time frame
   - Identify potential participants
   - Review and select viable mechanisms
   - Estimate human and financial resources required
   - Validate budget

3. Do you have the elements in place to make the process develop satisfactorily?
   - Establish goals and limits
   - Define the work plan and program the activities
   - Confirm the availability at resources allocated
   - Send invitation to identified participants and confirm their attendance
   - Conduct follow-up to plan of actions
   - Mobilise resources
   - Establish the ground rules for the process

4. Did the process conclude satisfactorily?
   - Identify what and how to evaluate
   - Review process development and identify stages that need improvement
   - Ensure process feedback from experience gained
   - Include decisions made and circulate these among participants
   - Implement project decisions
ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD)

Brief background to OECD consultation practices and work on trade and environment

This chapter presents the main transparency and consultation mechanisms used by the OECD and particularly by the Joint Working Party on Trade and Environment (JWP)\(^1\), its parent committees and their respective Directorates, on trade and environment issues. It does not cover the transparency issues presented by the Multilateral Agreement on Investment, as those negotiations were not the responsibility of the JWP, its parent committees or the Directorates serving them.

Transparency and consultation mechanisms within the OECD predate the Organisation’s involvement with “trade and environment” issues, which commenced at the end of the 1980s. In 1962 an OECD Council Decision on Relations with International Non-Governmental Organisations decided that “any international non-Governmental organisation could be consulted by the Organisation provided that it:

a. has wide responsibilities in general economic matters or in a specific economic sector;
b. has affiliated bodies belonging to all or most of the Member countries in the Organisation; and
c. substantially represents the non-Governmental interests in the field or sector in question.”

The power to approve NGOs as satisfying this decision has not been exercised since 1962, and in effect only the Business Industry Advisory Committee (BIAC) and the Trade Union Advisory Committee (TUAC) are consulted under these provisions across the breadth of the organisation’s activities\(^2\). This approval does not make BIAC and TUAC observers to OECD meetings, but entitles them to request or be invited to exchange views at meetings convened by the OECD Council’s Liaison Committee, and to receive general information about the Organisation’s work.

The 1962 Decision also provided that other international non-governmental organisations “may be kept informed of such part of the Organisation’s work as is likely to be of interest to them and may in certain cases be consulted for the study of a given question” in accordance with the Organisation’s Rules,\(^3\) which provide that any OECD committee chair can ask the Secretary-General to invite any expert (or international organisation) to consult with the OECD committee. There is currently discussion about

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1 Prior to 1999 the Joint Working Party on Trade and Environment (JWP) was known as the Joint Session of Trade and Environment Experts. The acronym JWP will be used throughout this paper to refer to the committee, whether before or after the change in title.

2 Two agricultural NGOs (the International Federation of Agricultural Producers and the European Confederation of Agriculture) and a craft-based NGO (the International Association of Crafts and Small and Medium-Size Enterprises) were also approved. The first 2 have a continued dialogue with the Agriculture Committee, but the latter has not pursued consultation.

3 Article 10b.
devolving the authority to issue such invitations to Directorate level\(^4\). NGO representatives from time to time attend OECD meetings in national delegations as expert advisors to the delegation.

There have been recent discussions in the Executive Committee of a range of options for improving the Organisation’s processes of relating with civil society, which are currently being further considered. There have also been discussions in the context of the Environment Policy Committee as to how an “environmental organisation equivalent” to BIAC and TUAC could be established, but lack of resources and uncertainty about the benefits on the part of NGOs has so far prevented this. The European Environmental Bureau (EEB) has been seeking funds to establish a full time OECD liaison officer, and is seeking financial support from the OECD and its member countries\(^5\).

**Transparency and consultation mechanisms in relation to trade and environment**

Transparency and consultation mechanisms in place in relation to trade and environment in the OECD include:

- formal and ad hoc discussions between the Secretariat and civil society groups,
- workshops on particular topics (e.g. PPMs, eco-labelling, assessment methodologies),
- regular consultation meetings between the OECD’s JWP and civil society representatives,
- the opportunity for other international organisations concerned with trade and environment issues to attend OECD committee meetings,
- discussions between BIAC and TUAC and the bureaux of Ministerial meetings,
- transparency mechanisms of the JWP’s parent committees and OECD-wide activities on trade and environment,
- de-classification of relevant OECD documents so they can be viewed on the internet, or purchased either from OECD bookshops or electronically, and
- an electronic discussion forum for national delegates and Ministries and the Secretariat to exchange views.

**Meetings with the Secretariat, workshops and events**

In 1990, the Environment Directorate called the OECD’s first meeting with environment NGOs in response to requests from environmental NGOs to meet with OECD officials in the lead-up to the January 1991 OECD Environment Ministerial. Around 10 NGOs from Europe, Canada and Japan attended the first meeting. At least 3 further such meetings were held in the two following years, and “trade and environment” was on the agenda of each of them\(^6\).

\(^4\) ENV/EPOC(99)8.

\(^5\) See ENV/EPOC(98)19 paragraph 45; ENV/EPOC(99)8 paragraph 9 and ENV/EPOC/MIN(98)20 page 30.

\(^6\) Meetings were held in July and October 1991, and in December 1992.
The Secretariat continues to have informal meetings, to correspond with civil society groups, and to interact at conferences and workshops hosted by civil society groups, other international organisations and the European Commission. These contacts and the discussion of ongoing or proposed work are important for gauging the relevance of the work, finding out what work is being undertaken in other fora and to avoid overlap, allowing civil society expertise on these issues to be harnessed, and informing civil society of the work that is taking place in the Secretariat. Examples of recent events at which such contact has taken place include the Chatham House Workshop on Environment in the Millennium Round, France Europe Environment’s meeting on L’environnement dans les prochaines négociations commerciales internationales, launch of the Transatlantic Environmental Dialogue, informal planning meeting of the Commission for Environmental Co-operation on Trade and Environment, WTO High Level Symposium on Trade and Environment, SOLAGRAL meeting on Environnement et négociations commerciales multilatérales, European Commission’s DG-XI Brainstorming on Trade and Environment; regular briefings for the BIAC Committee on Raw Materials. NGO experts are also sought for their perspective at OECD events such as the OECD Workshop on Methodologies for Environmental Assessment of Trade Liberalisation Agreements in October 1999, at which BIAC, WWF and the International Institute for Sustainable Development participated.

Consultation meetings with the JWP

The JWP held its first informal meeting with environmental NGOs in September 1992, the year following its establishment. Although the first meeting was held separately from a consultation session with BIAC and TUAC some months later, the agendas were virtually identical and it was decided that future consultations with the different groups would occur jointly. Further consultation sessions between the JWP and BIAC, TUAC and environmental NGOs took place in June 1993, June 1994, December 1995, December 1998 and May 2000. The consultations generally focus on the work programme of the JWP.

The Secretariat organises JWP-civil society consultations in the following manner: a small steering group of JWP delegates is formed, and one international environmental NGO is identified as the co-ordinator of participation by all international environmental NGOs. Discussions are undertaken between the steering group and the 3 civil society groups - environment NGOs, BIAC and TUAC. While the practice of appointing a single environmental NGO contact point was introduced to ensure that the NGOs themselves decide who should be informed and invited to the consultation, this practice has also had its drawbacks. The lack of time and resources within environmental NGOs which has sometimes led to the deferral of NGO consultations, has also limited their ability to marshal significant NGO participation for some of the consultations that have taken place. National delegations (which are encouraged to consult on their own policies with national civil society groups) are encouraged to invite to the consultation sessions up to three national representatives of business, environment and development groups.

The OECD Procedural Guidelines on Trade and Environment (then in draft) were discussed at the 1993 JWP-NGO consultation session, and adopted later in 1993. The Guidelines became the first statement agreed by OECD Governments on the importance of transparency and consultation. The first of the four Procedural Guidelines on Trade and Environment reads as follows:

“Governments should provide for transparency and for consultation with interested parties in the development and implementation of trade and environmental policies with potentially significant effects on each other.”

7 International environmental NGOs nominated for this purpose have included the European Environmental Bureau and WWF International.

8 OCDE/GD(93)99.
Since December 1995 official NGO-JWP consultation sessions have occurred less frequently. The next consultation session was not held until December 1998. The most recent consultation has taken place in May 2000. In between these events informal contacts between the Secretariat and NGOs, as outlined above provided opportunity for continued awareness of and input into the work programme.

The reduced frequency of consultations has been mainly because NGOs have indicated that, given the crowded trade and environment agenda, they have not had time to prepare for and attend meetings at the times proposed by the JWP. Several times the proposed dates have conflicted with meetings of the UN Commission on Sustainable Development. It can also be explained that NGOs with expertise in globalisation issues were preoccupied with the Multilateral Agreement on Investment at this time. While the JWP was not involved with the MAI negotiations, the negotiations are notable as having generated a greater awareness of the importance of public consultation and transparency throughout the Organisation.

The lessened enthusiasm of NGOs for consultations with the JWP may also be attributable to the establishment of the WTO’s Committee on Trade and Environment (CTE), which caused NGOs to focus their attention on Geneva, and in some cases to establish their personnel concerned with trade and environment in Geneva. In fact the NGO consultation session planned to take place in conjunction with the November 1999 JWP meeting has been postponed until Spring 2000 in view of the proximity of the Third WTO Ministerial meeting in Seattle less than 2 weeks later.

**Parent Committee and OECD-wide activities**

The parent committees of the JWP, the Environment Policy Committee and the Trade Committee also conduct their own consultations with civil society. The Environment Policy Committee (EPOC) holds consultation sessions on an as-needed basis between the Bureau of EPOC and BIAC, TUAC and EEB, (as co-ordinators of their collective constituencies). EPOC also discussed in late 1998 how to increase its involvement with stakeholders. Possibilities suggested ranged from pre-meeting consultations with the EPOC Bureau or Committee, to inviting BIAC, TUAC and environmental NGOs to part of each EPOC meeting, or to the whole meeting on an ad hoc basis. EPOC decided to adopt a flexible, pragmatic approach. For the November 1999 meeting of EPOC, these groups of stakeholders were asked in advance whether they wished to contribute to the meeting, either in writing or at a working lunch with the Bureau of the Committee.

The Trade Committee’s first consultation session with environment NGOs (and others) in October 1999 was warmly welcomed in the lead-up to the Seattle WTO Ministerial, although there have been consultations from time to time with BIAC since at least the mid 1980’s.

The OECD Round Table on Sustainable Development, is an ad hoc group assembled to provide intellectual stimulus from outside the OECD to the OECD 3-year Sustainable Development project. It brings together in their personal capacity, high level officials from Ministries of Finance and of Environment, international organisations, and international environmental and business NGOs. In 1999 the Round Table focused on trade and environment issues. The OECD-wide Sustainable Development project was the focus of a consultation session with NGOs in February 2000 at which the relationship between Trade and Sustainable Development is likely to be one of the topics of discussion.

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9 The NGOs and international organisations participating in the Round Table on Sustainable Development include the World Bank, WTO, UNEP, UNDP, UNCTAD, WWF International, World Business Council on Sustainable Development and World Resources Institute.
Ministerial meetings

There is long-standing provision for civil society groups to undertake discussions with the Chair and Bureau of OECD Ministerial meetings, both for the OECD Council Ministerial (held annually) and for the Environment Ministerial (held roughly every 3 years).

For the most recent Environmental Ministerial meeting in April 1998, three civil society groups – BIAC, TUAC and environmental NGOs – were invited to submit written statements in advance, and to attend a half day multistakeholder consultation immediately before the Ministerial meeting itself. The meeting was chaired by the Chair of the Ministerial meeting, and after each group had briefly presented its statement, the representatives have the opportunity to discuss their concerns with Ministers and with each other. The 1998 Environment Ministerial meeting was the first time that Ministers met with all three groups simultaneously.

Ministerial Council meetings cover the breadth of OECD activities. The consultation sessions held in conjunction with the Ministerial Council involve the organisations that have official consultation status under the OECD Decision noted above, i.e. BIAC and TUAC.

International organisations

A number of international organisations working in the area of trade and environment are observers to the JWP, including the World Trade Organisation, the United Nations Environment Programme, the United Nations Conference on Trade and Development, the Commission for Environmental Co-operation, the European Free Trade Agreement, and the International Monetary Fund. As a result they have a standing invitation to attend all JWP meetings, although on occasions they may be asked to leave the room when confidential matters, such as the negotiation of a Ministerial Report, are under way. On occasion, specialised environmental bodies, such as the MEA secretariats, are invited in relation to agenda items of direct relevance to them. On occasion observer international organisations outline their own work programmes or make presentations on matters of relevance to the JWP, such as the CEC’s ongoing methodological work on the environmental effects of NAFTA. Several non member economies (Hong Kong, China, and the Slovak Republic) are also entitled to attend JWP meetings.

Access to documents

Since the commencement of the OECD work on trade and environment, the aim of its work has been to produce analytical documents which after review by delegations, can be derestricted and become part of the public dialogue on the subject. The first joint OECD work undertaken on trade and environment, the Report on Trade and Environment submitted to the 1991 OECD Ministerial Council meeting, was derestricted and quickly made publicly available.

Documents may be declassified either by Member countries in a committee (such as the JWP) or on the responsibility of the Secretary-General of the OECD. If Member countries declassify a document in a committee, it is understood that the messages contained in the document are messages from OECD Member countries, which gives greater weight to the document. Documents declassified under the Secretary-General’s responsibility cannot be attributed to any particular government. But nevertheless, since the OECD operates by consensus, if any country has strong objections to a document it will not be de-classified. Documents can be declassified more quickly under the responsibility of the Secretary General, and this is the procedure followed for most JWP documents. According to long-time participants
in the JWP, the process of achieving de-classification of documents by the JWP has become progressively easier.

Once de-classified, documents are placed on the OECD website or may be purchased as publications through the OECD bookshop. The environmental NGO statement to the 1998 Environment Ministerial welcomed the website and called for it to be used more fully, and echoed a recommendation of the OECD High Level Advisory Group on the Environment for the prices of OECD publications to be lowered.

New procedures following changes to the OECD’s document classification system give BIAC and TUAC secretariats access to all “For Official Use” documents. In the case of EPOC documents, the vast majority of “For Official Use” documents are now also made available on request to environmental NGOs through the networks of the EEB, WWF and Climate Network Europe.

In addition to the website which is open to all who have access to internet facilities, an electronic discussion forum has been in place since 1997 for the circulation and discussion of information and work associated with the JWP meetings. Delegations, Ministries and non-Member country observers have access to the forum, where Secretariat or country proposals, on matters such as work programme items, can be posted and commented on by other users.

Summary

The OECD trade and environment group and the Directorates servicing the group were leaders in the OECD in reaching out beyond consulting just the established OECD partners (BIAC and TUAC) to engage also with national and international environmental NGOs. Today the group is using a wider range of tools to reach out to stakeholders from the business, trade union and environmental communities. The approach is responsive to the increasing interest and sophistication of civil society groups, and the means of consulting are continuing to evolve. Increasing opportunities for access to documents and for formal and informal contacts on some occasions outstrip the resources of stakeholders. At the same time, a certain competition for consultation opportunities vis-à-vis the NGOs – both from other OECD committees and Directorates as well as from other international meetings and organisations – means that consultations have to be increasingly focused and timely.
UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT
(UNCTAD)

Introduction

The UNCTAD secretariat holds regular consultations with Member States, other intergovernmental organisations as well as civil society. Consultations with civil society aim to enhance further the participation of civil society in UNCTAD’s work and to build a lasting partnership for development between non-governmental actors and UNCTAD.

Typology of available procedures

Arrangements for the participation of NGOs in the inter-governmental activities of UNCTAD are governed by rule 77 of the rules of procedure of the Trade and Development Board (rule 81 of the Conference) and decision 43 (VII) of the Board. To qualify for formal status, applicant organisations are required, inter alia, to be international in character and scope of work, and to be concerned with issues relevant to UNCTAD's mandate.

The Board establishes relationship arrangements with NGOs for the purpose of enabling the Conference, the Board and its subsidiary bodies to secure information or advice from organisations having special competence on the subjects for which arrangements are made, and to enable organisations which represent important elements of public opinion to express their views. A distinction is drawn between those organisations which exercise functions and have a basic interest in most of the activities of the Board, which are placed in the general category, and those which have a special competence in, or are concerned with, specific activities. These are placed in the special category. National NGOs of recognised standing deemed to have a significant contribution to make to the work of UNCTAD are placed in the Register after consultation with the Member State concerned.

There are currently 177 non-governmental organisations in status with UNCTAD, 95 in the general category and 82 in the special category. There are ten national NGOs in the Register.

Every year, the UNCTAD secretariat holds consultations with NGOs. Also, in conjunction with the ILO Meeting of the General Council, the UNCTAD secretariat organises annual consultations with trade unions.

Modalities of Operation

Modes of operation include:

- Feedback from civil society is collected by UNCTAD secretariat, through annual consultations mentioned above and through regular briefings (for example, in preparation for UNCTAD X).
− Information on inter-governmental meetings is automatically sent to all NGOs accredited with UNCTAD. There is also a database of NGOs which are not accredited, but to which information is provided on a regular basis.

− Information is generally free of charge, with the exception of sales publications.

− Civil society feedback can influence intergovernmental discussions. Accredited NGOs may speak in meetings and even put forth proposals.

− Most negotiations in UNCTAD are non-binding in nature.

**Beneficiaries**

Businesses generally organise themselves through non-profit organisations considered as NGOs, e.g. the International Chamber of Commerce.

During UNCTAD’s Partners for Development Summit meeting in Lyon, France (November 1998), 18 partnership agreements were signed between the UNCTAD secretariat and private and public organisations. Currently, UNCTAD’s legal advisor is drawing up Guidelines for Co-operation between UNCTAD and NGOs, Institutions, and Private or Commercial Enterprises.

Since southern NGOs have financial difficulties in attending UNCTAD meetings, the secretariat tries to raise extra-budgetary funds to help developing country NGOs come to the annual consultations and to UNCTAD’s quadrennial conference. The purpose is to enhance their knowledge of UNCTAD’s work, help them build their platform vis-à-vis relevant issues, and have contact with other constituencies abroad.

**UNCTAD X: Specific activities in the area of sustainable development and trade and environment**

The UNCTAD Conference, held in Bangkok from 12 to 19 February 2000, adopted two substantive documents: the Bangkok Declaration and the Plan of Action (TD/386). The Bangkok Declaration inter alia recognised that:

"Solidarity and a strong sense of moral responsibility must be the guiding light of national and international policy. They are not only ethical imperatives, but also prerequisites for a prosperous, peaceful and secure world based on true partnership. Such partnership requires more inclusive, transparent and participatory institutional arrangements for international economic decision-making so as to ensure that the benefits of globalisation are accessible to all on an equitable basis. In addition, the success of international development efforts depends on account being taken of all stakeholders, including the private sector, non-governmental organisations (NGOs) and academia."

The Plan of Action recognises that “in order to help developing countries prevent and overcome any negative effect of economic and financial globalisation, to reap its benefits and to respond to its challenges and opportunities, there is a need for the international community to reconsider and elaborate development strategies and policies, taking into account development’s social, human and environmental dimensions” (emphasis added). Member States have also reaffirmed that sustainable development should

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10 Bangkok Declaration: Global Dialogue and Dynamic Engagement, paragraph 9
11 Plan of Action, paragraph 3.
be one of the important cross-cutting issue in UNCTAD’s work\textsuperscript{12} and have highlighted challenges in the areas of environment and development and of other issues addressed in major UN Conferences\textsuperscript{13}.

The Plan of Action sets out a mandate for UNCTAD’s work in the next four years. This comprises consensus building through intergovernmental work, research and technical assistance.

The Plan of Action, in paragraphs 146 and 147, provides UNCTAD with a large mandate for further work on trade and environment\textsuperscript{14}. In accordance with UNCTAD’s main functions, the mandate on trade and environment is implemented through intergovernmental work (in particular discussions by the Commission on Trade in Goods and Services and Commodities and the Expert Meetings that the Commission may establish), policy research and technical assistance. This work includes consultations with relevant NGOs.

**Capacity building in trade, environment and development**

The Plan of Action highlights the need for capacity building and mandates UNCTAD to identify specific capacity-building needs of developing countries and to promote a broad programme of capacity building on trade, environment and development\textsuperscript{15}.

A number of these technical assistance activities are regularly carried out in collaboration with NGOs such as the International Centre for Trade and Sustainable Development (ICTSD) based in Geneva, the Consumer Union Trust Society (CUTS) in India and the Foundation for International Law and Development (FIELD) in London\textsuperscript{16}.

**Co-operation with other international organisations**

The UNCTAD secretariat is co-ordinating its activities with other intergovernmental organisations, such as the WTO, UNEP, UNDP, UNIDO, FAO, WIPO and WHO, as well as with the secretariats of some multilateral environmental agreements. Co-operation between the secretariats of UNCTAD and the World Trade Organisation (WTO) is taking place in the context of a global arrangement (agreed in September 1995) between the WTO and the United Nations as a whole. In addition, specific arrangements between the secretariats of WTO and UNCTAD have been pursued. Co-operation with other international organisations includes participation in their consultations and workshops with civil society.

\textsuperscript{12} Paragraph 9 of the Plan of Action reaffirms paragraph 84 of the Midrand document “A Partnership for Growth and Development”

\textsuperscript{13} Plan of Action, paragraph 35.

\textsuperscript{14} For further information on the trade and environment work programme in UNCTAD, please refer to the website: www.unctad.org.

\textsuperscript{15} UNCTAD’s existing programme is described in UNCTAD, “Building Capacity in Trade, Environment and Development, UNCTAD’s Technical Co-operation Programme”. Information can also be found on the UNCTAD website (subsite on Trade, Environment and Development): http://www.unctad.org/trade_env/index.htm.

\textsuperscript{16} For example, the UK Government is financing a project on strengthening research and policy-making capacity on trade and environment in developing countries. This project is being implemented in collaboration with FIELD (Foundation for International Environmental Law and Development).
UNITED NATIONS ENVIRONMENT PROGRAMME (UNEP)

Standing mechanisms

The United Nations Environment Programme (UNEP) is built on a heritage of service to the environment. As one of the productive consequences of the 1972 Stockholm Conference on the Human Environment, UNEP provides an integrative and interactive mechanism through which a large number of separate efforts by intergovernmental, non-governmental, national and regional bodies in the service of the environment are reinforced and interrelated. UNEP was established as the environmental conscience of the United Nations system, and has been creating a basis for comprehensive consideration and co-ordinated action within the UN on the problems of the human environment.

From the very beginning, UNEP recognised that the environment could not be compartmentalised. UNEP’s uniqueness lies in its advocacy of environmental concerns within the international system. In this, it makes a particular effort to nurture partnerships with other UN bodies possessing complementary skills and delivery capabilities as well as enhancing the participation of the private sector, the scientific community, NGOs, youth, women, and sports organisations in the achievement of sustainable development.

At its 1999 meeting, UNEP's Governing Council renewed UNEP's mandate to examine policy options for integrating environmental considerations into trade and trade policies. This was done with a view to assist Governments in their efforts to develop mutually supportive trade and environment policies, and to assist countries, particularly developing countries and countries with economies in transition, to enhance their capacities to integrate environmental considerations into development planning and decision-making. At that time, the Governing Council further requested UNEP to conduct its economics and trade work in close co-operation with other international organisations dealing with the relationship between the environment and trade.

Activities of the Economics and Trade Unit (ETU)

The formulation and implementation of UNEP ETU’s activities, including the identification of priority activities, are undertaken through the adoption of an open and transparent approach which involves major stakeholders, including government departments, NGOs, industry, the private sector and relevant international organisations.

Relations with Non-governmental Organisations (NGOs)

ETU is primarily involved in interacting with civil society on trade and environment issues. NGOs are of central importance in carrying out ETU’s work. These organisations often provide a wide network of individuals and institutions interested in environment and sustainable development, among other important advantages.
Special co-operative arrangements exist with international NGOs on a wide arrays of subjects. One example is the joint IISD/UNEP guide aimed at enhancing the understanding of the basics of trade and environment targeted at the public at large, including those interested in the issues but not necessarily aware of the linkages between trade and environment (including academics and university students). Another example is the project with the Center of International Environmental Law (CIEL) on the precautionary principle. CIEL in this case has assisted ETU in developing a paper dealing with the application of the principle and its implications for the multilateral trading system.

ETU also maintains regular contact with, and participates in meetings and seminars organised by NGOs and organisations representing the private sector, including the International Centre for Trade and Sustainable Development (ICTSD). Through these arrangements, assistance and advisory services are provided to governments and to other organisations. For example, UNEP convened a meeting for NGOs in Seattle during the WTO Third Ministerial Conference on 29 November 1999 with almost two dozen NGOs, to exchange views on environment and environment related issues, hear their expectations of the Third WTO ministerial meeting and their views on UNEP’s future role.

Capacity-building in the developing world

Country Projects

When carrying out the country projects, ETU has placed emphasis on developing innovative approaches to assess and respond to environmental challenges. Over the past two years, UNEP has worked closely with six countries – Bangladesh, Chile, India, the Philippines, Romania and Uganda – on comprehensive projects to identify the impacts of trade liberalisation on environmental resources and the use of economic instruments to sustainably manage these resources. Unlike other previous studies undertaken primarily by expatriate experts and international organisations, these projects were entirely country-driven – conceived, designed and conducted mainly by a national team of practitioners – making them among the first of their kind.

Projects have involved multi-stakeholder participation in numerous consultations to accurately identify the dynamics involved in environmental degradation, and to develop innovative and widely acceptable national response strategies. The projects do not end with published studies, each country project’s second phase involves a pilot implementation of proposed measures undertaken by national authorities in collaboration with each project’s national team and UNEP.

Project studies have recently been completed and pilot implementation is just beginning in each of the participating countries. During these demonstration exercises, the environmental effectiveness and economic efficiency of implemented measures will be assessed. Based on evaluations, measures will be fine-tuned to optimise their long-term utility. Throughout this process, UNEP will assist governments by providing its expertise and mobilising international assistance to maximise the yield of these efforts.

Regional and Sub-regional Workshops on Trade and Environment

Raising public awareness on environmental issues is an important activity of UNEP. The ultimate goal is not only to change the attitudes of people, but also to motivate and empower them to act for the environment. Through a joint UNEP-UNCTAD collaboration effort, ETU expects to be able to

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This paper has not been published yet.
stimulate community and non-governmental action through its training programme for regional and sub-regional workshops on trade and environment currently being planned.

**Expert meetings**

ETU’s expert group meetings place special emphasis on the involvement of institutions and individuals from developing countries and countries in transition. By bringing together the experts, UNEP is able to solicit the advice of trade and environment specialists and prominent development policy professionals. These meetings have proven to be effective in ensuring that needs of countries are taken into account and in better equipping UNEP for the provision of technical assistance to countries. In 1999 alone, ETU has convened two expert meetings on Multilateral Environmental Agreements (MEAs) and the World Trade Organisation (WTO) and on the precautionary principle. Two more expert meetings are expected to be convened in the year on subsidies and on the Trade-related Aspects of Intellectual Property Rights Agreement (TRIPs) and the environment. Meetings are attended by approximately 40 experts from developing and developed countries representing various organisations, NGOs and civil society at large.

**Briefing Sessions with Governments**

UNEP ETU believes in working closely with national governments to ensure that their environmental as well as developmental concerns are taken into account. In this context, UNEP ETU convenes regular briefing sessions with Government representatives to further promote consultations and dialogue, build consensus and bridge the gap between countries’ positions to enhance their understanding of the relationship between trade and environment, and hence their effective contribution to the trade and environment debate.

**Relations with other UN organisations**

Closer co-operation between relevant international organisations and civil society is essential. UNEP ETU focuses on strengthening and fostering relationships with UN organisations as another important way to reach civil society. In this connection, UNEP ETU is establishing formal co-operation mechanisms as well as strengthening existing ones as a means to foster its relations with UN and non-UN organisations, including WTO, UNCTAD, among others.

**Publications**

*Environmental Economics and Trade and Environment Series*

UNEP continues to promote the understanding of the interface between trade and environment through studies and research work, and its publications and dissemination in both the UNEP Trade and Environment series and the Environmental Economic series. Both series are intended to provide the trade, environment and development communities, as well as members of international civil society and industry with background information on and analysis of various issues related to trade, environment and sustainable development. Thus far 17 publications of the Trade series and 26 of the Environmental Economics series have been disseminated by ETU.
Other ETU publications

As part of its information dissemination activities and in order to reach the public at large, ETU publishes various non-recurrent publications, which have included: case studies on Environmental Impacts of Trade Liberalisation (following the country projects above-mentioned); Criteria and Benchmarks for the Assessment of Trade Agreements to be used by policy-makers and practitioners in assessing proposed trade rules and agreements; a study on the Implications of the Precautionary Principle for Trade and Sustainable Development and a handbook on Better Understanding Trade and Environment.

Other UNEP publications

ETU provides regular input and feedback on: UNEP’s State-of-the-environment reports which create world-wide awareness on emerging environmental problems; Global Environmental Outlook (GEO) --produced through a co-operative, participatory and region based assessment process involving regional policy makers, institutions and experts--, World Resources Report (WRR) produced jointly with the World Bank, the United Nations Development Programme (UNDP) and the World Resources Institute; State-of-the-Environment Source Book; a joint project with Environment Canada and the Dutch National Institute of Public Health and Environmental Protection; Indicators for Sustainable Development, with partners DPCSD, UNSD, SCOPE, on the development of indicators for sustainable development used to communicate and make more assessable statistical, scientific and technical information for non-technical user groups; System-wide Earthwatch, with its partners across the UN system, UNEP co-ordinates and integrates the efforts of the entire UN system for environmental observations, assessments and reports to improve information for decision making and provide early warning on emerging environmental issues.

Some databases/networks complement the outreach activities of UNEP targeted at civil society: Global Resource Information Database (GRID), through which UNEP provides GEO-referenced data and information for its partners and other users; Environment and Natural Resource Information Networking (ENRIN) which helps develop national and sub-regional capacities of institutions for environmental data management; Infoterra, a global network for environmental information exchange and scientific and technical query response services operating through a network of government designated focal points, hand in hand with the People.
WORLD TRADE ORGANISATION (WTO)

Introduction

Two Divisions of the WTO are principally involved in interacting with civil society on trade and environment issues. The External Relations Division is the contact point for relations with NGOs and civil society in general. The Trade and Environment Division maintains regular contacts with, and regularly participates in meetings such as seminars and debates organised by NGOs and organisations representing the private sector.

It should be noted that the WTO does not make any distinction between the various components of civil society. Representatives of business, trade unions, farmers, development, environment and consumer associations are all considered as NGOs and placed on the same footing with respect to arrangements made with NGOs.

Arrangements with Non-Governmental Organisations

Article V:2 of the Marrakesh Agreement Establishing the World Trade Organisation (the "WTO Agreement") enables the General Council to "make appropriate arrangements for effective co-operation with non-governmental organisations concerned with matters related to those of the WTO". Pursuant to this provision, the General Council adopted, on 18 July 1996, a decision entitled "Guidelines for arrangements on relations with non-governmental organisations", where Members recognise the role NGOs can play in increasing the awareness of the public in respect of WTO activities and agree to improve transparency and develop communication with NGOs. Members also agree to ensure that more information about WTO activities is made available, in particular by de-restricting documents more promptly than in the past, and direct the Secretariat to play a more active role in its direct contacts with NGOs, for instance by organising symposia on specific WTO-related issues. Pointing to the "special character of the WTO, which is both a legally binding intergovernmental treaty of rights and obligations among its Members and a forum for negotiations", the General Council states that "there is currently a broadly held view that it would not be possible for NGOs to be directly involved in the work of the WTO or its meetings" and notes that the primary responsibility for interacting with NGOs lies at the national level18.

At the same time, the General Council adopted new rules to facilitate the derestriction of WTO documents. It agreed that working documents, background notes by the Secretariat and minutes of meetings of all WTO bodies shall be considered for derestriction six months after the date of their circulation. Notwithstanding the six months rule, any Member may, at the time it submits any document for circulation to WTO Members, indicate to the Secretariat that the document be issued as unrestricted.

18 Guidelines for Arrangements on Relations with Non-Governmental Organisations, WT/L/162 (23 July 1996).
Panel and Appellate Body reports are de-restricted at the same time they are circulated to WTO Members. These decisions apply to all WTO bodies but are particularly relevant for the work of the CTE and other environment-related issues in the WTO, which have generally attracted most of the public’s attention.

The Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU)

Article 13 of the DSU gives a panel the "right to seek information and technical advice from any individual or body which it deems appropriate". In the dispute United States – Import Prohibition of Certain Shrimp and Shrimp Products, the Appellate Body ruled that the right to seek information under Article 13 of the DSU included the right for a panel to accept non-requested information from non-governmental sources. It considered that the DSU accords a panel "ample and extensive authority to undertake and to control the process by which it informs itself both of the relevant facts of the dispute and of the legal norms and principles applicable to such facts."

The Appellate Body specified that:

"[i]n the present context, authority to seek information is not properly equated with a prohibition on accepting information which has been submitted without having been requested by a panel. A panel has the discretionary authority either to accept-and-consider or to reject information and advice submitted to it, whether requested by a panel or not. The fact that a panel may motu proprio have initiated the request for information does not, by itself, bind the panel to accept and consider the information which is actually submitted. The amplitude of the authority vested in panels to shape the processes of fact-finding and legal interpretation make clear that a panel will not be deluged, as it were, with non-requested material, unless that panel allows itself to be so deluged."

Documents submitted to a panel in the course of a dispute settlement proceeding are in principle confidential. Nothing in the DSU, however, precludes a party to a dispute from disclosing statements of its own position to the public. Moreover, in order to increase transparency, a party to a dispute which submits a written submission to the panel must, upon request of another Member to the dispute, provide a non-confidential summary of this text that could be disclosed to the public (Article 18.2 of the DSU).

Secretariat’s activities

Trade and Environment Bulletins

Since April 1993, the Secretariat regularly issues the Trade and Environment Bulletin. So far, more than thirty bulletins have kept readers regularly informed about the work of the EMIT Group, the Sub-Committee on Trade and Environment and the Committee on Trade and Environment. The Bulletins have also provided information on GATT/WTO’s follow-up to the UN Conference on Environment and Development, environmental issues emerging from the Uruguay Round, environment-related trade

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disputes and any other relevant news. These publications aim at facilitating public understanding and awareness of the trade and environment policy agenda.

The *Trade and Environment Bulletin* is available on request at the Information and Media Relations Division of the WTO, or can be consulted on the WTO homepage at http://www.wto.org.

**Symposia with Non-Governmental Organisations**

Since 1994, the WTO Secretariat has organised yearly (with the exception of 1995) a Symposium on Trade, Environment and Sustainable Development. These symposia, which are held under the Secretariat’s own responsibility, are generally attended by participants representing environment, development, consumer NGOs, industry interests, academics, as well as WTO Member governments. Voluntary financial assistance provided by some WTO Member countries or by private institutions has facilitated the participation of developing country NGOs.

The main objectives of the symposia are to keep civil society informed of the work underway in GATT/WTO on trade and environment, and to allow experts in the field to examine and debate the inter-linkages between trade, environment and sustainable development. The symposia were all organised along the same pattern: presentations from invited panellists on specific topics were followed by an informal debate among all participants. Various themes, covering the different facets of the trade and environment relationship, were on the agenda of each symposium, for instance, the synergies between trade liberalisation and the environment, the relationship between multilateral environmental instruments and the WTO, the work of the CTE, WTO relations with civil society, etc. No attempt was made to summarise views or to identify consensus positions.

On 15-16 March 1999, the WTO Secretariat organised a High Level Symposium on Trade and Environment (HLS). The idea of organising an HLS in the WTO was put forward in early 1998 by Sir Leon Brittan. This initiative was supported a few weeks later by President Clinton, on the occasion of the 50th anniversary of the GATT. Throughout 1998 and early 1999, WTO Members held consultations on how such a symposium could contribute to ongoing trade and environment discussions. It was felt that it could represent a useful opportunity to: (i) encourage greater dialogue between governments and civil society; (ii) bring both high level officials from the trade and the environment communities together, and (iii) allow fresh ideas on the linkages between trade and environment to be exchanged. The HLS brought together senior officials from capitals, senior representatives from inter-governmental and non-governmental organisations (of the 175 NGOs invited, 130 attended the HLS); private sector and academics were also well represented. Three successive panels addressed the following themes: (i) linkages between trade and environment policies; (ii) synergies between trade liberalisation, environmental protection, sustainable economic growth and sustainable development; (iii) interaction between the trade and environment communities. Overall, these two days allowed for more than 100 interventions to be heard.

The HLS on Trade and Environment was followed by a HLS on Trade and Development on 17-18 March.
Initiatives taken by the Director-General

On 29 November 1999, the WTO organised the Seattle Symposium on International Trade Issues in the First Decades of the Next Century. Approximately 1000 delegates, comprising representatives of WTO Member States, intergovernmental organisations, NGOs and journalists participated in the Symposium, which was web-cast live.

The WTO Secretariat receives a large number of requests for information from NGOs, including environmental organisations, which are promptly responded to. Moreover, the Secretariat staff meets with NGOs on a regular basis - both individually or as part of organised events.

During the General Council on 15 July 1998, the former Director-General of the WTO, Mr. Renato Ruggiero, informed Members of certain new steps he was taking to enhance the transparency of the WTO and improve the dialogue with civil society. These initiatives were implemented by October 1998. They include: (i) regular briefings by the Secretariat on WTO activities, along the lines of the briefings already offered to the media, but tailored to the particular interests and perspectives of the NGO community; (ii) the creation of an NGO section on the WTO web site, containing information of particular interest to civil society; (iii) a monthly list of NGO position papers received by the Secretariat is circulated for the information of Members who can receive them upon request; and (iv) the Director-General has initiated a process of regular informal meetings with different NGO representatives, with the goal of improving and enhancing mutual understanding.

The current WTO Director-General, Mr. Mike Moore, has participated in several encounters with NGOs. He has also initiated a monthly electronic WTO Bulletin for NGOs which is sent by e-mail to NGOs and individuals worldwide.

This section is at <http://www.wto.org/wto/ngo/contact.htm>