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**TRADE DIRECTORATE
TRADE COMMITTEE**

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**Informal Consultation between the Trade Committee and Non-Governmental
Organisations**

AIDE-MEMOIRE

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AIDE-MEMOIRE

INFORMAL CONSULTATION BETWEEN THE TRADE COMMITTEE AND NON-GOVERNMENTAL ORGANISATIONS

23 October 2000

1. The Trade Committee and representatives from 24 non-governmental organisations (NGOs) representing business, labour, environmental, development and consumer points of view met in an informal consultation on 23 October 2000 around the theme of “Future Challenges for the Multilateral Trading System”. The consultation took place the day before the 129th session of the Trade Committee, which examined a number of matters related to issues discussed with NGOs. Discussion paper TD/TC(2000)11 framed the day-long meeting, which followed up a similar informal consultation with NGOs held by the Trade Committee in October 1999. The morning session focused on prospects for trade liberalisation and, in the afternoon, on the development, social and environmental implications of trade liberalisation.

Prospects for trade liberalisation

2. An agreed long-term vision and a corresponding level of ambition need to be restored if the multilateral trading system is to evolve and continue to produce the level of trade liberalisation that is needed to spur economic growth and development for all. This view was shared widely amongst participants and it became somewhat of a leitmotif for the discussion. But what should the vision be, who can develop this vision, and how can a wide array of issues and interests be forged into a “common vision”, as one Delegation put it? The latter question led at least one Delegate to point out that regardless of whether eventual negotiations are called “comprehensive” or “broad”, an agenda with something for everyone will be the only reasonable way to get negotiations back on the rails. A number of participants re-affirmed their support for the launch of a new round of broad-based multilateral trade negotiations. An NGO representative reminded participants, however that the broader the negotiations, the more difficult it will be for developing countries to participate effectively, and this must be borne in mind.

3. Participants also recognised that support for the multilateral system within domestic constituencies of WTO members has eroded and that the reasons for this loss of support must be addressed if liberalisation is to go forward. One Delegate stressed that WTO’s openness to civil society is fundamental and will establish the democratic base and popular support for what happens at WTO. Greater transparency both at WTO and at the national level will promote public confidence in the international trading system. An Observer country on the Committee implied there should be degrees of transparency when he drew a distinction between transparency as applied to the day-to-day workings of WTO which includes matters such as declassification of documents on the one hand and the issue of transparency in a broader sense and to what extent civil society and interest groups should participate in discussion at the WTO. In the latter regard, one Delegate said that his government thinks that transparency should extend even to allowing the public access to dispute settlement hearings.

4. Picking up the theme of a “common vision” a representative from one NGO noted that developing a common vision will require sharing of ideas and information, and proper consultation wherein views are exchanged and taken into account. She urged OECD governments to consider how they might facilitate development of a WTO that has proper consultations, that listens and takes account of what civil society says to a far greater extent than it does today. Noting that domestic NGOs can at least communicate their views to their governments, one group urged that WTO develop a system of accreditation for international NGOs so that their views can also be heard.

5. An NGO representative said that it is important to examine the effectiveness of the consultative process and whether it makes a difference at the national and international levels. Noting that if proper consultation does not take place domestically, the resulting pressures can be expected to bubble over into the international arena. She suggested a role for OECD in this area and circulated a one-page proposal for a study on Good Practices in Public Engagement on Trade-Policy Making.

6. Increasing transparency at WTO is only part of a wider effort that should include educating national publics about the value of trade and the role of the WTO, one group said. As part of this educational effort, one Delegate said, it should be made clear that the paradigm is not trade at any cost or trade for trade’s sake but rather trade for sustainable development. An important first step in adopting such a paradigm, some said, is to assess the development, environmental, and social impact of liberalisation.

7. The view was generally shared that trade liberalisation can make an important contribution to economic growth and development. Open economies grow more quickly, one NGO representative observed. However, not all NGO participants agreed that trade liberalisation enriches all citizens in all countries all the time, and not all groups took the view that the time is right -- or even urgent, as one business group said -- for a new round of multilateral trade negotiations. Some developing countries are not ready for a new round, several observed, and hasty liberalisation might, in fact, confine some countries to low levels of industrialisation. An Observer on the Committee noted that restrictive trade practices that are not uncommon in developed countries discourage exports from developing countries with significant value added. This has the effect of hampering the development of agribusiness and agriculture products which are part of a normal industrial process.

8. Part of the solution is policy coherence between multilateral organisations. A number of Delegates and NGOs also agreed that there is a need to strengthen international organisations. The international financial institutions -- starting with the World Bank -- need to take into consideration the trade dimension of their programmes in a more substantial way than has heretofore been the case, one Delegate stated. However, he warned that delaying progress in Geneva pending results in this area would have even more negative consequences for developing countries. Link issues, in particular, need dialogue not just within national administrations, but also between international organisations with an eye to developing coherence between them, a Delegate said, so as to avoid creating unreasonable demands on the WTO that do not fit with its trade mandate.

9. Representatives from two development NGOs voiced strong opposition to a new round for the time being -- at least while negotiations are going forward on the built-in agenda. One of them evoked concerns of developing countries relating, for example, to agriculture and food security and said that such issues should be resolved before a round is launched because they are too important to be “horse-traded” within the context of broader-based negotiations. A few other groups stressed the importance of giving food security greater priority and that this should figure prominently in negotiations.

10. Similarly, the TRIPS agreement was raised together with the assertion that developing countries should be supported in their initiatives to protect indigenous and traditional knowledge which, an NGO representative noted, are public goods and which should not be privatised. In this regard, she suggested

that OECD undertake a study on the impact of the TRIPS agreement on livelihood security and development. Highlighting in particular the flexibility of the TRIPS agreement, one Delegate maintained that the TRIPS agreement is not detrimental to developing countries. On the contrary, it is a facilitator of trade, investment, and technology transfer -- all boons for development and growth. Furthermore, he asked whether the question of traditional knowledge and TRIPS belongs at the WTO, as it is being examined closely at WIPO, FAO and UNESCO.

11. A representative from one group said that while her constituency supports continued trade liberalisation, it also considers that there have to be limits on what can be liberalised. GATS, in particular, is of concern because in her group's view it does not properly define services. On the contrary, it could be interpreted as covering nearly any service -- even government services, because it is not clear in GATS what is meant by "government services." Her group would not support governments losing the possibility to regulate their public services such as education and health, owing to privatisation of these services and subsequent opening to trade.

12. The failure at Seattle to launch a new round of multilateral trade negotiations did not stop trade liberalisation, one group pointed out, which has continued in the form of regional and bilateral agreements. While in the longer-term these agreements will probably support the multilateral trading system, from the shorter-term perspective they pose a number of challenges to the multilateral system, namely to keep pace in the area of rules, because if Members do not agree through negotiation to expand or further define the rules of the game in WTO, the result could be trade policy through litigation, several Delegations noted. There nevertheless has to be a balance between the legislative and judicial aspects of trade liberalisation as undertaken at the WTO.

13. While the multilateral system has come under fire from NGOs, regional and bilateral liberalisation has largely escaped criticism, a representative from a business NGO observed. Nevertheless, he pointed out that the growing trend toward regionalism could be to the detriment of small and weaker states, who benefit in particular from the binding characteristics of the multilateral system -- a view that was held by a mix of NGOs and Delegations. It is only the multilateral system that can balance interests of the weak against the mighty, a representative from a labour group reminded.

14. The future of the multilateral trading system and the WTO will not be solved until a decision is reached on the kind of globalisation that is desired, a representative from one group said, and he suggested the model of globalisation that should be pursued is a rules-based system which has governance as its theme, and which balances the needs of all key players. However, schemes that make WTO the ultimate instrument of global governance are not realistic, one Delegate said, pointing out that global governance instruments reside in a variety of international organisations. One NGO representative stressed that until human rights are brought onto the negotiating agenda with developing countries, abuse of human rights will keep all citizens from enjoying the fruits of trade liberalisation. This prompted a Delegate to point out that human rights is under the responsibility of the United Nations General Assembly and that WTO is bound to follow decisions made there.

15. Representatives from at least two groups said that trade and the WTO cannot be looked at in isolation because trade does not exist in a vacuum. That said, one of them urged that the temptation should be resisted to pile issues into the WTO on the pretext that they are "trade-related", because nearly everything is. Just because the WTO has a very strong dispute settlement process, she continued, is not a legitimate reason for assigning all issues to the WTO. The WTO is not equipped to deal properly with labour standards. Core labour standards should not only be enforced in exports, but in all sectors of a country. Noting that labour standards belong at ILO, a representative from another NGO said that ILO might need stronger enforcement mechanisms but that it should be given the tools to do its job properly.

Furthermore, keeping core labour standards out of the WTO would make it possible to engage developing countries in dialogue.

Developing countries

16. Participants agreed that more needs to be done to integrate developing countries into the international trading system. Both Delegates and NGOs pointed to the need for mechanisms and technical assistance that will help developing countries to participate fully and effectively in the multilateral trading system. A positive contribution in this regard, some said, will be improvement of the integrated framework at the WTO, which provides assistance in addressing implementation needs and which can help assess the rights and interests of developing countries.

17. An Observer on the Committee commented that in addition to bearing a disproportionate share of the burden associated with implementing agreements from the Uruguay Round, developing countries have also been adversely affected by the fact that developed countries who are in a position to satisfactorily implement their obligations from the Uruguay Round have often failed to live up to expectations. Excessive recourse to anti-dumping mechanisms or abusive recourse to technical barriers to trade were examples that he cited.

18. Many participants identified access to developed countries markets as a critical area for further improvement. Several Delegates also pointed out that developing countries are not a homogeneous group and that dialogue and reflection are needed to identify the best approach to take into account the varying degrees of needs and situations. Market access for developing countries is not enough, one Delegate said, because market access alone does not come to terms with the structural problems that many of these countries must address. Specifically, well-designed internal reforms that move developing countries in the direction of more market-based, private sector-driven new business opportunities are also important.

19. Several participants noted that the topic of trade and developing countries cannot be isolated from levels of official development assistance or the debt burden of developing countries. OECD countries should show the way. A representative from one NGO charged that it is disingenuous for OECD governments to continue to press for a new trade round -- especially one loaded with new issues -- while cutting official development assistance budgets, delaying effective debt relief, denying duty and quota free access to developing country exports, and stalling and backloading concessions in such crucial areas to developing countries as agriculture, textiles and processed goods.

Core labour standards

20. One important impediment to arriving at a common vision is the question of how to deal with the issue of core labour standards. While participants were unanimous that core labour standards are important, there were a variety of views as to the means that should be employed to achieve the end, and participants were split as to where core labour standards should be addressed. Some of those participants who advocated the WTO as the place for examining core labour standards recognised that a means must be found that overcomes the anxieties of the many countries who fear that taking the issue to WTO will lead to a loss of their interests and rights. It was suggested that dialogue between developing countries and industrial countries would help promote a better awareness about core labour standards. The joint ILO-WTO standing working forum proposed by the European Union was seen by several Delegates and NGO participants as offering a viable approach to such a dialogue. One Delegate said that there would be a

section in the upcoming WTO Trade Policy Review of his country reporting on his government's implementation of labour standards.

21. One Delegate called for enhanced co-operation between the ILO and WTO Secretariats and he said that ILO should be given observer status in WTO if it asks for it. It was suggested by a few participants that a more effective means of persuading developing countries to comply with core labour standards is to keep core labour standards out of the WTO. Instead, the dialogue with developing countries should be pursued in the ILO and other international organisations such as UNCTAD and the World Bank.

22. But the representative from a labour group charged that the trading system is part of the reason that substantial gaps remain between the ratification and enforcement of ILO conventions on core labour standards, and because the trading system is part of the problem, it has to be part of the solution. ILO, he said, is the place to set labour standards, but ILO is not the only place to administer or deal with labour standards. One Delegate drew attention to the intrinsic links between trade and labour, noting that things that are traded are by and large produced by labour.

23. Some participants drew the debate onto a moral ground, noting that trade and labour standards should be included in negotiations at WTO because it is the "right" thing to do. In a similar vein, others alluded to the need for the multilateral trading system to be not only rules-based, but also values-based. An Observer on the Committee, however, warned against framing the multilateral trading system in terms of values. What values would be included and who would define those values, he asked. Would those values be universal in nature?

24. Presented as purely a human issue, core labour standards could be used as a protectionist tool, one Delegate said. The issue of core labour standards, he continued, is double-faceted, with a human or moral aspect and an economic aspect. Discussing these aspects on the same table often confuses the discussion. The main reason for child labour is poverty, he said, adding that he doubts any parent in any country happily sends his or her child to work. Hence trade measures would simply aggravate an already bad situation in some developing countries. The application of sanctions could mean that families in developing countries depending considerably on child labour could starve.

25. Several Delegates joined in voicing their opposition to sanctions. One stressed that sanctions should only be used after all positive incentives had been exhausted. Indeed, incentives -- not sanctions -- is what the representative from one of the participating labour groups claimed that his group is seeking. He said that his group wants to put in place a multi-step process bringing the WTO and ILO together and that the first step would be to set up a WTO-ILO working group. He called upon OECD to set up a joint trade and employment working party on labour and globalisation, a proposal that found support with one Delegate. One Delegate warned that if OECD were to undertake more work in this area now it could have the effect of further polarising the debate in Geneva, dampening and perhaps even setting back the slow progress that has been achieved.

26. One of the Delegates who spoke against sanctions said that his government classifies "incentives" in the same category, in that both are linked to economic measures. An alternative way that developed countries can encourage developing countries to comply with standards without resorting to sanctions, he said, would be to provide appropriate economic and technical assistance while at the same time making efforts to upgrade their own industrial structure to one with higher value-added. Another Delegate pointed out that a very high percentage of imports to developed countries are already covered by GSP schemes that are linked to labour or environmental considerations. If they are largely already in place, he asked, why look to the WTO and not ILO on the issue of core labour standards? The answer, he conjectured, is that WTO's dispute settlement system mechanism implies sanctions.

27. Representatives from two groups said that low core labour standards that are common in export-processing zones disproportionately and negatively impact on women and their traditional family roles as caregivers and stressed the need for regulation in the areas of working hours and wages and asked that OECD include these aspects in further work on core labour standards.

Environment

28. If liberalisation is to move forward, it was suggested that another area with which the WTO and international trading system will have to come to grips is the environment. Unlike the debate concerning core labour standards, however, no one disagreed that issues that arise at the interface of environmental and trade policy should be dealt with by WTO. The environment is in the WTO, as one NGO put it, and cited as examples Article XX of the GATT, TBT and SPS agreements. One Delegate did ask the question of how far WTO should take the issue of the environment.

29. It was also widely recognised that the challenge on an issue like environment is to find a basis for distinguishing between measures that are legitimate restrictions on trade and those that are effectively protectionist and should be removed. For example, the only way to adequately come to grips with issues relating to processes and production methods, according to the representative of one NGO, will be for the WTO to agree what constitutes legitimate restrictions from those that are illegitimate and therefore protectionist -- and this will have to be dealt with in the context of environmental rules negotiated in the WTO framework, he said.

30. A couple of participants noted that it would be unrealistic to think that the environmental issues can be addressed without also addressing some key developing country concerns, such as implementation and market access. But one Delegate recalled that developing countries in the past had reacted negatively to combining market access with environmental considerations as they were fearful that such an arrangement would set up trade-offs. A problem, it was said, is that the agenda for environment on the table so far is one in which developing countries do not recognise their own interests. A real effort needs to be made to balance the environmental agenda in WTO through bringing on board the environmental concerns that developing countries have in the trade context and linking those closely with sustainable development.

31. In view of reluctance on the part of many developing countries to adopt environmental assessment processes, one Delegate said that environmental assessments need to be designed so they don't pose an onerous burden on the tradable goods and services sector, nor affect the competitiveness of an economy. In effect, the mechanism to assess trade agreements will have to meet the needs of business, governments, and civil society, and these groups will have to be engaged in a dialogue. A representative from one NGO expressed the view that many developing countries would support the use of assessment tools in the agricultural sector if they were used not only to assess the environmental effects of trade liberalisation measures but also the environmental effects of trade distortive measures. A Delegate noted that developing countries will have to come to their own conclusion that environmental assessments are in their interests. To this end, it will be important to share information on what is learned about designing and using these tools and the impression avoided that environmental reviews will be used as excuses for protectionist pressures.

32. In order to contribute to carrying out such assessments, it was suggested that OECD can continue efforts to provide greater access to the cross comparison work it has undertaken to date, which may help frame the wider debate. A representative of one group said that OECD should continue its work with respect to methodologies and conduct sectoral case studies on the effects of trade agreements and try to gauge not just the trade and economic impacts, but also the environmental and developmental impacts.

Codes of conduct as an instrument to address labour and environmental concerns

33. Participants expressed a spread of views ranging from sceptical or pessimistic to qualified pragmatism regarding the scope for codes to serve as an instrument to address labour and environmental concerns. The advantages identified were that they are flexible and can go beyond minimum standards that is usually the norm from legislation. On the positive side of the ledger, one Delegate added that codes offer an opportunity to take a voluntary market approach, as opposed to regulatory approach, to corporate responsibility; that they are less costly to administer than regulations; and that they encourage innovation. More work should be done, the Delegate said, to examine and articulate better the linkages between trade and codes. For example, how can codes be structured so they do not pose barriers to trade? Furthermore, a methodology should be developed to assess the effectiveness of codes and for monitoring compliance, thus addressing one of their chief weaknesses.

34. Monitoring and compliance were not the only weaknesses of codes pinpointed in the discussion. Because codes are difficult to monitor, they are unlikely to be sufficient on their own and invariably will need legislative underpinning. One NGO representative suggested that there could be a monitoring role for government to assess whether the goals of the codes are being achieved. The same participant noted that codes are often promoted widely in developed countries amongst consumers, but workers in developing countries, whom the codes are supposedly designed to protect, rarely even know of their existence. The governments of developed countries should challenge companies to communicate the codes to workers, she said.

35. On labour issues, one NGO representative said that codes of conduct can be a complementary mechanism, but no substitute for binding rules. He drew attention to other instruments for enhancing corporate responsibility, notably framework agreements negotiated between companies and international labour secretariats and the OECD Guidelines for Multinational Enterprises and suggested that there could be a role for perhaps ILO to develop a framework of guidance for social auditing that is built around measurable standards. This might help codes work in practice.

36. A representative from a business group said that OECD's work on codes is narrowly focused and not representative of what business really does. Furthermore, he said, just because a company has no formal codes does not mean it has no internal disciplines. The OECD study on codes demonstrates their diversity, said one NGO representative. As a result of the multiplication of codes that vary in content, it is hard for consumers or workers to understand fully the situation. A role for OECD would be to identify 'model codes' against which corporate codes could be measured to assess whether they meet basic standards.

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Non-Governmental Organisations**

**Consultations Informelles Entre le Comité Des Échanges et des
Organisations Non Gouvernementales**

Paris, 23 October 2000 / Paris, 23 octobre 2000

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PART 2 The development, social and environmental implications of trade liberalisation

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