



Business and Industry Advisory Committee to the **OECD**

Comité Consultatif Economique et Industriel Auprès de l' **OCDE**

"Trade, Investment and Growth Post-Cancún: What Role for the OECD?"

BIAC Statement for the 2003 BIAC Consultation with the OECD Liaison Committee

Summary of main messages

- **Growth and Structural Policies:** While the US and Japanese economies recovered strongly in the second quarter of 2003, the Eurozone remained lacklustre. The OECD's key message in this regard is consistent with BIAC's business view. Growth trends continue to diverge in the major world economies as a result of a multiplicity of factors stemming from varying national policy bouquets. However, overly rigid policy settings remain the major factor in limiting growth, and business continues to press for the implementation of reforms. The key role of effective national policy settings has led to productivity rebounds in some countries where new technologies have been allowed to flourish but not in others where initiative has been stifled. As innovation and its successful diffusion are key to influencing productivity, they remain important positive stimulants to growth.
- **Trade for Growth:** After the setbacks in Cancún, BIAC is urging OECD Trade Ministers to work with their WTO colleagues to revitalise the WTO Doha Round. BIAC has just released a Statement of the OECD Business Community to OECD Trade Ministers. The paper expresses business' strong concern about the breakdown of the 5th WTO Ministerial Conference at Cancún and underlines business' strong commitment to the multilateral trading system with the WTO at its centre.
- **Investment for Development:** For enhancing investment frameworks and thus promoting a competitive business environment, the OECD's work on Public Governance, its new initiative on "Investment for development" and its outreach work with non-OECD countries are important parts of OECD activity. In support of these initiatives, on December 8, BIAC and its French member MEDEF organised a Roundtable to examine what policies and initiatives are favourable to fostering the right investment framework for companies.
- **Role of the OECD and BIAC for 2004:** BIAC believes that the OECD has an even more important role to play after the setbacks in Cancún. At the same time, the OECD is at a crucial stage in its internal reform discussion and in its internal priority setting. Business needs to be part of this exercise. In this respect, we would like to underline the increasing importance of engaging non-OECD countries and their business communities in almost all issues that BIAC covers.

Introduction

The breakdown of the WTO talks in Cancún and the inability of WTO members to agree on a way forward has led to questions about the future course of the Doha Development Round. It is not yet clear whether the breakdown means only that the Doha Round will not be concluded in time or if there are more far-reaching implications for the WTO discussions. It is also unclear whether the emergence of a new geopolitical force in the form of the G 20 + countries is a temporary or permanent phenomenon and what implications this new grouping might have for the multilateral trading system as a whole. Finally, what impact will the Cancún impasse have on the OECD, its priorities and, as a result, on BIAC's own priorities?

The OECD has excelled in making the case for a multilateral open trading system and the benefits that can be derived from lowering tariff barriers on non-agricultural products as well as possible gains from further service liberalisation and trade facilitation. However, at this point, we believe that OECD will need to step beyond this function and broaden its work to expand its role beyond advocacy for the WTO to more systematic outreach to non-OECD members and including issues not tackled in the current Doha Round.

The role the OECD is now playing and should play in the future is a recurring theme throughout this BIAC statement and is interwoven throughout the different topics it addresses. After first setting the framework with an evaluation of the global economic outlook, we will share our thinking on a top priority issue for BIAC – trade – which has grown to become an even more critical focus for business since the Cancún breakdown. Finally, we will examine the implications of these multiple factors on what we see as the OECD's future role.

However, for business, it is not only regulatory frameworks for trade that make the difference in either stimulating or hampering growth, but also existing investment frameworks. Key messages in our paper concerning the importance of investment promotion take their inspiration from themes at our BIAC-MEDEF Roundtable on "Frameworks for Growth: Promoting A Competitive Business Environment", which makes a case for good modern governance, high-quality regulation and the importance of OECD work in shaping the investment framework in OECD and non-OECD countries.

Our statement concludes with an outlook on the role of the OECD over the coming years and the importance we attribute to outreach work, concluding with our request for continuing BIAC involvement in the current OECD reform discussion.

1. Growth and Structural Policy

Growth and Structural Policies: While the US and Japanese economies recovered strongly in the second quarter of 2003, the Eurozone remained lacklustre. The OECD's key message in this regard is consistent with BIAC's business view. Growth trends continue to diverge in the major world economies as a result of a multiplicity of factors stemming from varying national policy bouquets. However, overly rigid policy settings remain the major factor in limiting growth, and business continues to press for the implementation of reforms. The key role of effective national policy settings has led to productivity rebounds in some

countries where new technologies have been allowed to flourish but not in others where initiative has been stifled. As innovation and its successful diffusion are key to influencing productivity, they remain important positive stimulants to growth.

Global economic outlook more positive

Business surveys suggest that after a sluggish start to the year, economic activity in the US and Japan has picked up strongly, while the Eurozone has remained flat. There are signs that the recovery in the third quarter will gain momentum during the fourth quarter, resulting from stimulative monetary and fiscal policies.

The private sector has had to correct massive savings and investment imbalances. Now, chances for a self-sustained upswing are looking favourable. The restructuring of companies has made headway, financing is becoming easier and profits continue to improve.

- Even in Europe, although many companies seem to still be sceptical in their assessment of the situation, for the first time since the upswing in 2000 there is an ascertainable improvement in business sentiment. For example, in Germany the continuing expansionary monetary policy in the Euro area is contributing to recovery. In addition, business financing has become easier, and the uncertainty that had paralysed the economy as a result of the Iraq conflict in the first half of the year has ended. Moderate wage agreements are contributing to an improvement of price competitiveness of business. However, capacity utilisation continues to be low and the appreciation of the Euro hurts exports.
- The US economy - the driving engine of world growth - is getting back into shape and is now sending positive signals around the globe. Driven by the tail wind of a highly expansive monetary policy, massive security /defence expenditures, and tax cuts, the US economy is clearly on the path to growth and positive news concerning companies profits are mounting.
- The surprisingly strong growth in Japan is also very positive. With annualised GDP growth rates of more than 3 %, leading indicators continue to point upwards. The medium-term sustainability of the recovery hinges on the health of the corporate sector and on asset prices. However, with Japanese productivity still very low by international standards, many companies continue to regard their employment rosters as excessively high.
- Not only Japan, but also Asia as a whole - and especially China - are helping to drive the world economic upswing. Relatively robust signs from Russia and Eastern Europe might have an important positive effect on the still slow-growing Euro area.

Although this outlook seems to be positive overall, differences concerning growth remain visible. The OECD has done major research on the reasons for divergence in growth and for the differences in economic performance across OECD members. Results show that the causes can largely be attributed to different national policies. Growth trend divergence has been caused by multiple factors. Overly rigid policy settings are to blame and reform

options urgently need to be considered. **BIAC urges continued OECD work on necessary reform efforts.**

New technology has led to a productivity rebound in some countries but not in others, again reflecting different policy settings. Innovation and its diffusion are key to productivity and must be encouraged. Business supports further work by the OECD regarding this important link.

The prevalence of heightened economic risk, which featured high on BIAC's agenda for its June 2003 consultation with Ministers, has seemed to diminish as factors have shifted. We have clearly seen some economies remain more robust in resisting shocks than others. Again, structural flexibility and structural policy settings are fundamental determinants of the resilience of economies to shocks. Work in the OECD on this message is important for business in order to keep the pressure on OECD governments to undertake needed reforms.

Eliminating impediments to business investment decisions - Policies to boost employment needed

Appropriate macro-economic policy and a regulatory environment favourable to entrepreneurship are necessary to boosting employment. The OECD has made an excellent contribution in this respect through its Jobs Study and follow-up reports, and BIAC urges countries to implement the necessary recommended reforms.

The business community is focused on dialogue with all stakeholders that will result in the necessary reforms to bring about more jobs and economic growth. In this context, BIAC has conducted a survey of its members¹ examining what positive steps can be taken to improve employment rates in OECD countries. The following are a number of key concerns raised by business in OECD countries in their survey responses:

- The heavy burden of taxation and social security contributions, which constitute a barrier to employment, in particular with regard to unskilled or low-skilled workers.
- Over-regulation and lack of flexibility in the labour market. For example, overly rigid employment protection legislation can act as a disincentive for companies to hire due to the difficulties they encounter in an economic downturn.
- Overly bureaucratic regulations for the hiring of temporary workers. In this context, instruments should be considered as a practical way for those with a vulnerable position to find a way into the workforce when possible and when employers are satisfied by their performance. Greater flexibility in working patterns and work arrangements would be beneficial.
- Imbalances between available skills and market demands. Closer links between the education system and the labour market are necessary.

¹ "Labour Market Reforms in OECD Countries: Views of Members of the Business and Industry Advisory Committee to the OECD (BIAC)", September 2003.

- Low activity rates of certain parts of the population (for example: older workers, young workers, and women). Increasing employment rates will be crucial in view of the demographic changes we face.
- Those receiving income support should be encouraged to resume work.

In this context, the following are BIAC recommendations to Ambassadors for further work by the OECD:

- **BIAC supports the revision of the OECD Jobs Study and is ready to contribute to this project.**
- **BIAC encourages analysis of the contributions of labour market and social affairs reforms to the productivity and the growth of companies.**

Enhancing career prospects – emphasising education and training

BIAC backs continued OECD assessment of life-long learning and human capital formation on employment prospects.

The stimulation of life-long learning plays an important role in engaging all groups that make up the work force. Higher levels of education and training (development of relevant competencies) reduce the risk of unemployment and increase chances of finding work, while lower levels of education imply vulnerability in the labour market. Thus, encouraging the work force to improve skills and respond to changing labour market requirements should be a paramount goal. Employees should also bear personal responsibility and be given suitable opportunities and incentives to strive to improve their employability in a rapidly changing economy.

Both employers and employees have a major responsibility with regard to further training. Employees need to take initiative to develop transferable skills and be receptive to learning that is not exclusively job- or firm-specific. Employers can provide development opportunities at the workplace as well as firm- and job-specific training. Indeed, large corporations spend massively on internal training and education. In addition to initial education, government can encourage further training by offering incentives for personal and company investment. At the same time, government has a special responsibility for those - unemployed as well as employed - who performed poorly or who never reached the first level of vocational qualification in the initial education system.

High-quality education systems are crucial to ensure an inclusive society and a sustainable economic growth. In this respect, new technologies can make an important contribution. Information and communication Technology (ICT) has the potential to transform teaching methods by giving students more control and by offering access to an unprecedented wealth of information. Through the application of ICT, teachers can improve their students' attention, interest and ability to retain, using activating methods. Well-used, ICT enables learners to engage more directly with the subject, through interactive systems, virtual experiments and networking with other learners and teachers. To make full use of these opportunities,

investment must not solely be in software and hardware, but in training teachers how to use ICT in the teaching/learning process.

2. Trade for Growth

After the setbacks in Cancún, BIAC is urging OECD Trade Ministers to work with their WTO colleagues to revitalise the WTO Doha Round. BIAC has just released a Statement of the OECD Business Community to OECD Trade Ministers. The paper expresses business' strong concern about the breakdown of the 5th WTO Ministerial Conference at Cancún and underlines business' strong commitment to the multilateral trading system with the WTO at its centre.

The setbacks in Cancún must be overcome

BIAC welcomes the opportunity to address ways to advance the Doha WTO negotiations and to resolve the Cancún impasse. We would like to use this opportunity to emphasise that the OECD business community remains strongly committed to the multilateral trading system with the WTO at its centre. A strong and effective global trading system is the necessary and most efficient source of global economic opportunities. BIAC demonstrated strong business support for the Doha negotiation in the months leading up to Cancún in its representations to the OECD Trade Committee, to the OECD Ministerial, and to the G-8 Evian Summit. BIAC's national member organisations were present and active at Cancún.

Liberalising international trade remains vital to lifting much of the developing world out of poverty. Multilateral trade policy has an important complementary role in helping countries absorb and capitalise on the growth and development potential of a rapidly changing global marketplace. For over 50 years, the disciplines of the GATT/WTO system have made a major contribution to economic growth and improved living standards around the world.

To this end, we believe it is vital that negotiators overcome the deadlock on agriculture. BIAC supports further work of the OECD's Trade and Agriculture committees to demonstrate the detrimental effects of excessive government agricultural support in OECD countries on producers and exporters in developing countries.

At the same time, BIAC expects developing countries and emerging markets to increase their own market access commitments for agricultural and industrial goods and services. To foster greater understanding the OECD Trade Committee should concentrate on raising awareness of the benefits of trade liberalisation to the developing world. It is also vital to explain to developing countries that the inability of the WTO members to achieve an ambitious outcome would be a setback for their economic development and an important missed opportunity to achieve greater liberalisation.

For BIAC, it is a top priority to get the Round started again and to continue to pursue an ambitious agenda which can achieve real progress on key market access priorities. In this regard, it is essential that negotiations focus on the priorities for OECD business and developing countries.

We recommend that the OECD strengthen its outreach activities on trade and use every opportunity to engage non-member representatives in exchanges on trade topics. This should

cover the main issues likely to remain on the Doha agenda and include an expansion of its advocacy work towards non-OECD countries. The Global Forum is a helpful instrument in this regard and business is prepared to continue and strengthen its involvement in events such as these.

The OECD could also make an important contribution to assist both developed and developing country WTO members on topics such as transparency of government procurement and trade facilitation. The OECD should be able to assist on moving these important issues forward by documenting best practices, analysing impediments and researching innovative solutions.

However, we believe that the OECD should not be restricted to advocacy work for the WTO. We feel that the organisation has to play its own role and forge ahead on issues like regulatory reform, investment and competition using the full range of instruments it has applied so successfully in the past, such as: peer reviews, recommendations and best-practice catalogues.

Liberalisation of non-agricultural tariff barriers remains a top priority

We would like to take the opportunity to highlight one of the more traditional trade issues: tariff liberalisation. BIAC continues to believe that market access for industrial goods (including both tariff and non-tariff barriers) remains the number one priority for business in the Doha WTO negotiations. BIAC recommends that negotiators pursue the elimination of all industrial tariffs by a fixed date. Business believes that such tariff reduction will greatly benefit developing countries as well as OECD members. The OECD has already done impressive research on this.

BIAC's position is based on the observation that the world trading system and open market that it promotes are essential to sustainable economic growth, supporting and diffusing innovation and technology, and reducing poverty by creating wealth. The majority of the trade that creates these benefits is in industrial goods. Trade in manufactures (a proxy for industrial goods) continues to dominate growth in world trade despite the decisive shift to services-based economies underway at the national level. The manufactures share of total trade has been growing steadily since the 1960's and now accounts for almost two-thirds of total trade compared with 20 percent for services.² As the OECD reports, trade in manufactures by developing countries is also on the rise: "Between 1950 and 1980, the share of manufactured products in the total exports of developing countries hovered between 30 and 40 percent. Beginning in 1981, this hitherto flat trend moved sharply upward, reaching a remarkable 84 per cent in 1996."³

In 1996 developing countries sold more than a third of their (total) exports to each other, compared to less than a quarter a decade earlier. The share of developing country merchandise

² See Preeg, E.H., "Surging yet Volatile Productivity Growth in U.S. Manufacturing Industry: The International Trade Dimension," (Manufacturers Alliance/MAPI, ER-524, October 2001), p. 5.

³ See "Open Markets Matter, OECD, 1998 p. 34.

exports going to other developing countries has risen from about 20 percent in 1965 to around 40 percent in 1995.⁴

Gains in manufactures liberalisation will benefit developing countries

Tariffs are still the main inhibitor of trade in industrial goods. The WTO estimates that 55 percent of all global trade is free but only six percent of that trade is bound duty free within the WTO.⁵ Most of the remaining tariff barriers are among developing countries.⁶

Because poorer countries have higher levels of tariff protection, they are the ones that stand to benefit most from tariff elimination and greater competition. The majority of gains from liberalisation of manufactures trade will be to the advantage of developing countries.⁷

The business models of global manufacturing companies support this analysis. For many manufactured products, companies have developed supply chains that draw components from several country manufacture sites to produce the final product. Countries chosen to supply components must, in turn, be able to import raw material and manufactured inputs for these components without high tariff costs if the supply chain is to be cost effective, yielding products that can compete in the marketplace. Companies are less likely to outsource industrial production in markets protected by high tariffs. However, companies both trade and invest to deliver a product. More and more, firms prefer to sell their goods abroad by investing, rather than through trade. Formerly, such investment often found motivation in the need to leap over protective tariffs that denied trade market access. Today this is much less the case. Foreign investments are designed to make products adapted to local needs and tastes, which is now cost effective because of innovations in the technology of the production process. This type of investment also depends on low-cost import of manufactured components.

BIAC recognises that the rate of tariff liberalisation may have to take into account situations in individual economies. This involves both the potential impact on domestic industries but also recognition that many small economies depend heavily on tariff revenues to fund government expenditures. At the same time, the experience of the Uruguay Round has demonstrated that the former approach to Special and Differential Treatment (SDT) for developing countries, which in practice resulted in their non-participation, has had the perverse effect of impeding access to the benefits of trade and competition. To that end the meaning of SDT, the circumstances for its application and the timing for its phase-out should be clarified in specific terms.

⁴ Thomas W. Hertel, "Potential Gains from Reducing Trade Barriers in Manufactures, Services and Agriculture," Federal Reserve Bank of St. Louis Review, Vol 82(4), 2000, p. 79

⁵ M. Bacchetta and B. Bora, "Industrial Tariff Liberalization and the Doha Agenda," WTO Discussion Paper # 1, 2003,p.5.

⁶ "WTO Market Access Unfinished Business – Post Uruguay Round Inventory: Special Study No. 6 (2001)

⁷ Thomas Hertel, Op. cit., p. 92; and Thomas Hertel and Will Martin, "Developing Country Interests in Liberalizing Manufactures Trade," paper presented at the World Bank's Conference on Developing Countries and the Millenium Round, WTO Secretariat, Geneva, Sept. 19-20.

Services Trade Liberalization

Another top BIAC Priority is major services liberalisation across all sectors. With the exception of sectors such as telecoms and financial services, there has been little codified liberalisation of services under the GATS agreement. BIAC is very disappointed that any prospect of liberalisation must now wait even longer for a Doha conclusion.

OECD has made seminal contributions to the work on services in the WTO. It has made the clear case for service liberalisation in "Services Markets Matter". It has done much work to support the WTO negotiation in terms of identifying services barriers, exploring measurement of the impact of these barriers, clarifying existing commitments, and exploring horizontal issues such as transparency. BIAC believes that services, which are inseparable from manufactures trade, and which provide the backbone of modern economic infrastructure should continue to be one of the foci of increased OECD outreach to non-OECD countries. More needs to be done in outreach activities following on the lines of the advocacy work on trade in services, to explain the benefits of services liberalisation, to document the effects of recent unilateral liberalisation, especially in developing countries.

The counterparts to tariff barriers for services trade are regulations. For that reason efforts on services should be closely co-ordinated with the important and unique work of the OECD on regulatory reform, see that item below.

Business remains committed to multilateralism

The liberalisation of trade remains the key goal for international trade policy discussions and negotiations. Business wants to ensure that the suspension of talks at Cancun is only a temporary situation. There has been considerable comment post-Cancun that there will be an impetus to press ahead with regional and bilateral trade deals. It is not clear if this will indeed become the dominant pattern. Moreover, some bilateral or regional arrangements may be more symbolic or political than driven by economic imperatives. If there should be a proliferation of new arrangements, it is essential that smaller economies and their businesses not be excluded from trade by the creation of multiple rules of origin and national standards. Bilateral and regional arrangements can be very useful in promoting trade and growth between the partners (e.g., as in the NAFTA) but it is also essential that they be WTO consistent and minimise the creation of new forms of barriers.

Overall economic integration could be impeded by the creation of discriminatory arrangements that distort trade and investment flows and hamper the efforts of BIAC member companies to explore new markets. On the other hand, business is pragmatic. Even if the Doha Round is slowed, the WTO remains in place, and businesses will continue to trade and invest internationally. This may lead to business in some regions encouraging their governments to pursue bilateral or regional agreements for the benefits that can be delivered (and those benefits are there). However, this does not change the important role that a strong, effective and multilateral system can deliver. Where RTAs are put into place, it is most important for business that the provisions of RTAs have the least discriminatory effect on non-members of the agreement. Transparency of, for example, the "rules of origin" and extension of benefits on a MFN basis can be crucial elements. OECD has done some excellent work on these aspects already ("Regionalism and the Multilateral Trading System") and should continue.

BIAC continues to strongly encourage governments to remain focused enhancing the multilateral trading system and seeking a successful conclusion to the Doha Development Round. Regional Trade Agreements (RTAs) can be an important complement to a strong rule-based multilateral trading system but are not a substitute for a truly effective worldwide system.

3. Investment for Development

Investment for Development: For enhancing investment frameworks and thus promoting a competitive business environment, the OECD's work on Public Governance, its new initiative on "Investment for development" and its outreach work with non-OECD countries are important parts of OECD activity. In support of these initiatives, on December 8, BIAC and its French member MEDEF organised a Roundtable to examine what policies and initiatives are favourable to fostering the right investment framework for companies.

The topic of the 2003 BIAC-MEDEF Roundtable "Frameworks for Growth: Promoting a Competitive Business Environment" asks the question: how can government policies positively impact on company investment decisions and improve competitiveness? Drawing upon recent OECD analyses and "real world" business cases studies, the Roundtable provided examples of government investment promotion policies that have spurred company expansion and growth. Regulatory measures have been examined that governments have taken to reduce risk, increase company confidence and attract investment. This includes the positive impact that legislation can have on companies, company experiences in working with government to implement or turn projects around, the importance of understanding local company needs in order to create economic recovery and development, the importance of a solid, transparent and dependable investment framework and regulatory infrastructure to project success. BIAC looks forward to bringing conclusions from the Roundtable to its consultation with Ambassadors.

Business has a major interest in work of the OECD on the subjects of modern governance and investment frameworks working toward promoting a competitive business environment.

Private sector investment depends on modern governance

The evidence from business is clear: good governance is a vital prerequisite for attracting foreign direct investment (FDI) as well as for encouraging the local private sector. Although macroeconomic policies, market size and risk environment are important determinants of private sector investment decisions, there is a growing consensus that the quality of business regulations and the institutions that enforce it are equally important. A solid regulatory environment has decisively stimulated the success of many emerging market economies.

As a matter of fact, for investing businesses, quite often the critical focus of their choice to invest or not to invest centres around the reliability and clarity of the host government's administration and decision-making process. Investors ask themselves questions such as:

- How layered and complex is the government decision-making process?
- Is someone truly in charge? Can they be identified? And will they make a timely and binding decision?
- Are there different levels of government (local, state, federal or regional) involved that are supportive of each other?
- Is the decision-making process transparent, predictable and stable?

Prerequisites of modern governance supportive of investment

For every country (no matter what its size, level of development, location, language or resources) attracting investment is a competitive exercise. Thus, all countries and local communities alike must be able to offer business the right conditions and environment, including a transparent and predictable policy framework, if they want to be chosen as the site for a new or expanded operations base.

Good governance implies the basic ingredients for attracting investment, which hold true for all parts of a country's policy process. Most of these elements rely on effective and reliable delivery of these basics by governments.

Good governance for attracting private sector investment, especially FDI, requires as a minimum the following:

- The absence of burdensome administrative measures, (i.e. screening and complicated approval requirements for foreign investments) and a minimum of ownership, control or performance requirements as a condition of entry;
- Frame national laws (such as planning regulations, corporate disclosure requirements or labour relations) in a manner that is stimulating to private investment;
- Host states should offer constitutional guarantees for the peaceful enjoyment of private property and may want to reinforce these by the conclusion of bilateral investment treaties with home governments of investors, requiring international minimum standards of treatment for foreign investors;
- An effective and transparent system for settling disputes over investments;
- Non-discrimination guarantees for foreign investors;
- While efficient and transparent customs legislation and procedures are prerequisites for entering the market, a high standard intellectual property law and vigorous enforcement enhances the chance to attract high-quality FDI;
- An established and reliable banking and legal system as well as a predictable regulatory and fiscal environment including the efficiency, accountability and predictability of the judicial system.

Furthermore, other criteria that enhance investment opportunities, which are also associated with good governance at all levels of the public sector, are just as important as the requirements mentioned earlier when attracting business to a region or a community. These "softer elements" can be thought of as infrastructural in nature, but to a business looking to invest they are a necessary support to the successful establishment of a new or expanding business.

These "softer elements" encompass:

- the availability for appropriate road, rail and air links,
- a reliable supplier network for inputs and maintenance needs,
- a skilled and flexible work force to draw on,
- an educational backdrop that allows for appropriate skills enhancement and
- a safe and healthy environment to attract permanent employees and their families.

Doing business requires high-quality regulation

BIAC continues to believe that the unique OECD work on regulatory reform can make a major contribution to further trade liberalisation. Regulatory reform is vital for reduction of trade barriers encountered by services and investment. BIAC reaffirms its strong support for the BIAC member reviews of regulatory reform, and supports even more focus on work with non-OECD countries such as the recent OECD/APEC cooperation on regulatory reform.

Regulatory reform that encourages open markets and competition must overcome entrenched interests and this requires a horizontal approach and an international dialogue. The OECD analysis and data are indispensable to this effort. One of the most important contributions of OECD work is to identify patterns of regulatory reform for which strong logic has been established in one or more countries. The main focus should be to promote adoption of these patterns in members and non-members alike.

Studies show that less developed countries tend to have a higher regulated environment often inhibiting business potential to unfold. In fact, it is the quality of business regulation and the institutions that enforce it, which are the major determinants for private sector investment.

For business, the core test for good regulation is the ability of governments to choose the most efficient policy tools that are least burdensome on commercial activity, whether regulatory or a non-regulatory ones.

Unfortunately, bureaucracies in OECD and non-OECD countries tend to be conservative and there are few incentives for government officials to be innovative in regulatory approaches. Outdated regulations tend to accumulate. From a business point of view, every new regulatory measure impacting on the business environment should meet two general criteria:

- Whether there are other possible solutions to regulation (self-regulation, voluntary agreements)?
- What were the considerations that led to the rejection of non-regulatory options?

It is important that alternatives to command-and-control regulation are transparent and can be discussed publicly involving independent business organisations as major stakeholders. Regulatory Impact Analysis (RIA) is another crucial requirement for modern rule making. The OECD continues to lead the discussion on RIA and issued in 1997 the publication "Regulatory Impact Analysis: Best Practices in OECD countries". OECD and non-OECD governments should implement these recommendations and RIAs should be carried out on a regular basis.

Shaping the investment framework is a necessary cornerstone of OECD work

Especially in the developing world, much has still to be done to overcome regulatory barriers to investment and to create a competitive business environment. After the failure of the negotiations for an OECD Multilateral Agreement on Investment in 1998, the process of promoting such an agreement shifted away from the OECD to the WTO where its prospects remain unclear. Nevertheless, the OECD is still engaged in investment promotion related activities, be it with the National Treatment Instrument, the Codes of Liberalisation of Capital Movements or with the many studies published in recent years concerning investment frameworks in OECD as well as non-OECD member countries.

However, the scope of an instrument such as the National Treatment Instrument is fairly narrow. It focused on surveying the impact of international investment in developing countries, such as in the more recently published "Foreign Direct Investment for Development - Maximising Benefits, Minimising Costs", and includes few recommendations concerning the policy implications of the findings.

On the other hand, in its outreach-related activities the OECD has very explicitly recommended policy options for countries seeking to attract investment. The recent Investment Policy Review of China ("China - Progress and Reform Challenges, 2003") or the study on "The Investment Environment in the Russian Federation" (2001 - currently updated) are cases in point. With its "Monitoring Instrument" for South East Europe, the Secretariat, working together with the Stability Pact, not only proposes policy reforms for attracting investment but even "monitoring" the progress in each of the countries of the region on a regular basis.

BIAC views this outreach work on investment with major emerging markets as one of the major areas of value added OECD activity in the post-Cancun environment, and governments should give it an even higher priority.

OECD's "Investment for Development" Initiative needs to focus on risk reduction

BIAC welcomes the new initiative and the fact that the OECD is planning to strengthen their work related to investment promotion.

However, we would like to see the focus of the strategy is put on reducing risk for investors. These risks can take many forms: macroeconomic risks, risks related to market developments, risks of changes in laws and regulations, risks stemming from unstable financial markets, and non-enforcement of intellectual property rights. The recent OECD reports on "Guiding Principles for Policies toward Attracting Foreign Direct Investment" and the "Framework for Investment Policy Transparency" are welcome contributions to addressing issues of risk prevention for the investor.

For business, it is important that the further expansion of these reports and any future comprehensive framework takes into account the high standards laid out in international investment agreements (the investment "acquis") as a starting point. The proposed strategy includes some references to existing rules and state practice on investment, including international investment protection, market access, non-discrimination and transparency. The relation of these elements to the Declaration on National Treatment should be elaborated.

It is also critical that this exercise in synthesising the instruments and components of OECD investment activity should not reopen debates about the relationship of commercial and social issues that have been resolved in creating the existing individual elements. There is a high risk that current political pressures could produce results that would unnecessarily restrict commercial activity and that such results would actually discourage investment.

BIAC would encourage the OECD to conduct in connection with this strategy:

- **A review of the current legal instruments on international investment, including bilateral investment treaties and the treaty establishing ICSID;**
- **A distillation of their common elements, such as non-discrimination, national treatment, expropriation, free transfer clauses and investor/state dispute resolution.**

The strategy mentions the OECD Principles of Corporate Governance, the OECD Guidelines for Multinational Enterprises and the potential roles of developed countries in encouraging multinational enterprises not to lower their corporate responsibility standards in developing countries. BIAC thinks that this should not involve increased assertions of investor responsibility, but that there should be a positive message aiming towards:

- **A greater international recognition that investors maintain high standards wherever they operate;**
- **A greater international acknowledgement that many initiatives taken by investors in addition to compliance with their legal obligations are voluntary and may or**

may not be taken by investors in the light of their respective corporate policies, available resources and the environments in which they are operating.

4. Role of the OECD and BIAC for 2004

BIAC believes that the OECD has an even more important role to play after the events of Cancún. At the same time, the OECD is at a crucial stage in its internal reform discussion and in its internal priority setting. Business needs to be part of this exercise. In this respect, we would like to underline the increasing importance of engaging non-OECD countries and their business in almost all issues that BIAC covers.

The role of the OECD post-Cancún

The outcome of the WTO's Cancún conference has left the business community concerned about the future path of trade liberalisation, more especially so if the WTO fails to get back on track soon. For BIAC, this reflection leads logically to the question of what role the OECD should have, especially on trade and investment issues, vis a vis an apparently stalled WTO process.

An important path to consider is enhancing engagement in building understanding and fostering reform in non-OECD countries. In fact, contributing to economic development in non-member economies is a founding principle of the OECD, written in black and white in its Convention. Refocusing priorities on this mission is exactly what it is needed now: intensified work with non-OECD countries on all facets of economic development, such as trade and investment liberalisation policies, protection of intellectual properties, the fight against corruption, taxation, good corporate governance and regulatory reform.

The OECD is a unique institution in that it brings together a wide range of policy knowledge under one roof. At the same time, the Organisation has the credibility to encourage governments in the developing world to implement these policies by using instruments that have proven extremely successful over the years such as policy recommendations, guidelines, comparison of best practices, and peer reviews.

Business regards the outreach work of the OECD as one of its most crucial activities. Outreach is essential in countering the rising tide of criticism amongst some developing country governments and NGOs against the globalisation of economic activities and the further liberalisation of markets.

Of course, this is one step away from the internationally binding and enforceable WTO agreements. However, after Cancún, it appears more likely that the "soft approach" the OECD takes might be more successful in the long run. The advantage of the OECD method is that it shifts the debate away from what governments in developing countries feel most afraid of: negotiating binding rules and enforcing rights through WTO dispute settlement. Instead, the OECD focuses on spreading its know-how on good governance and market liberalisation by using peer pressure. The fact that the OECD represents the potential investors from the

industrialised world gives its recommendations real credibility in the eyes of developing country governments.

BIAC thinks it is time for the OECD to step up to the plate and seize this opportunity to play a new role on the world scene. OECD business can only benefit from that as many of BIAC's members are already engaged in the work the OECD is doing in China, Russia, South-East Europe and even Africa.

OECD reform - dialogue with business important

After the Nicholson II Report from June 2003 and the "OECD Challenges and Strategic Objectives 2004/2005 - A Note by the Secretary General" the reform agenda of the OECD seems to be clearer.

We would like to make the following final points:

- BIAC would like to make sure that our priorities are adequately reflected in the debate. In order to do this, we would like to remain actively included in the discussion process.
- If we understand the Secretary General's statement correctly, improving the dissemination and promotion of key OECD achievements and outputs is a key concern. We would like to underline the role BIAC plays in this effort. Our very raison d'etre is the communication of OECD activities to our members in capitals, who play a major role in "spreading the news".
- We also would like to underline the increasing importance of engaging non-OECD countries in almost all issues that BIAC covers. We again would like to stress the importance we give to increased OECD outreach activities and promoting the spirit of OECD work to non-members. At BIAC, we are also exploring ways to get business organisations from non-member countries better engaged in our work.
- At BIAC we are also engaged in our own priority setting exercise. We would like to use the opportunity of the consultation with the Liaison Committee to discuss the priorities to business and how they relate to Ambassadors' priorities for the OECD within the broader OECD reform discussion.

We thank OECD Ambassadors for the opportunity given to BIAC to share our views on all of these important subjects.