



Business and Industry Advisory Committee to the OECD

Comité Consultatif Economique et Industriel Auprès de l' OCDE

Paris, 6 March 2001

Dear Mr. Chairman,

The members of the BIAC delegation to the Consultation of our respective Trade Committees would like to congratulate you again on your assuming the Chair and thank you for offering us the opportunity to engage with the Committee. We considered your debut in the Chair particularly thoughtful. We were especially gratified by the attendance-enhancing effect of your election and will work to provide equal impetus from our end. We look forward to increasing our individual, informal contacts.

Because of the pressures of time, we were unable to elaborate or specify to a satisfactory degree on many issues of importance. While our numerous BIAC papers and submissions contain further detail, we offer this letter to capture the dynamic of the meeting, to push the envelope and to stimulate additional dialogue with the members of the committee.

Of all the questions, the most frequently asked and extensively answered were those pertaining to the enthusiasm of the business community for the multilateral trading system itself and for the prospects of a new Round. I believe that our solid reliance on the WTO rules based system was and is clear. It is our prime and our preference. In addition, we do see great potential value in other vigorous efforts at liberalisation in goods, services and other relevant elements of the commercial algorithm, e.g. investment. The APEC meeting in Manila had direct value to the success of the ITA in Singapore. The US-Canada FTA and NAFTA negotiations have illuminated numerous issue areas currently under discussion in Geneva. We are convinced that regional efforts that are undertaken with a clear reference to the multilateral system will most likely result in a generalisation of progress.

With regard to a Round, we have no hesitancy in saying that there is broad support in the OECD business community for a jump-start to get the system moving again. After all, business was extensively present in Seattle to express that interest. Companies and their leadership have invested a great deal in encouraging closure to the accession process for China.

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Business associations have consistently called for a Round, and of course, it is within those institutions that democratic debate forges the consensus that underpins those declarations. Are there companies and sectors that are less sure of the benefits that they will see? Of course there are; that is always the case. Are there those who are still wary of a Round that may attract provisions and promises to solve all the world's ills on the back of the trading system? Of course there are; those fears need to be dispelled by a resolute crafting of an agenda that recognises the magnitude of the workload prescribed by the on-going agenda, the need for considerable liberalisation on many fronts and the clear constraints of the dispute settlement mechanism.

When we say a "shorter" Round, we do not mean abbreviated in any sense other than duration. That implies, preparation, clarity as to scope, an understanding of the inclusive balance required for fruitful participation and firm political commitment to produce results.

While some are searching for nuances, the position of the OECD business community with regard to labour and environmental issues has not changed.

The Singapore Declaration was right on the mark. Labour matters are most appropriately dealt with in the context of the ILO. There has been considerable effort to invigorate the instruments and the processes of the ILO, with considerable success. There can be no legitimate object for an effort to inject labour terms into the WTO other than access to sanctions for "teeth" or enforcement. That is totally unacceptable to the business community. We are convinced that it is unacceptable to a majority of member governments.

With regard to the environment and health, we have confidence in the SPS disciplines as they stand. Science-based risk assessment and management combined with peer review is well recognised and has proven to be effective. Protectionist winds are blowing on the door, and governments should continue to guard the effective status quo. In addition, the WTO Committee on Trade and Environment appears to provide an adequate forum for discussion and should not take on any pretensions for rule making that stretch the WTO into the purview of multilateral environmental agreements. The WTO could not carry Kyoto.

The support for the WTO is centred on a consensus about commercial issues. WTO should be cautious about moving beyond this consensus to non-commercial issues.

With regard to precaution, we see this concept as one of science-based risk management, with government exercising its assessment role as close as possible to the appropriate expertise and as far as possible from political whim. We oppose any interpretation of the "precautionary principle" that does not rely on a risk-based, science-justified approach as embodied in the SPS Agreement and, in particular, any effort to weaken or reopen Article 5.7 of that agreement. We see potential abuses of the precautionary principle as a tangible threat to open trade and innovation, and we urge the OECD Trade Committee to counteract tendencies in this direction in the on-going OECD horizontal analysis of precaution.

Our observation of the workings of the WTO dispute settlement mechanism tells us that its future success will depend on member governments availing themselves more frequently of the consultative facilities of the Organisation and that fewer differences be escalated in the form of cases that result in hardened positions and bitter conflicts. The dispute settlement process has established a good record overall. However, it is clear that there can be problems with member compliance in highly political issues.

We presented the rudiments of our case with regard to investment rules. As you know BIAC was a vigorous supporter of the OECD effort to launch a set of rules for investment and continues to believe that the goal of a “world trading and investing system”, consistently robust, is simply common sense. The source of all these commercial transactions is the private sector, companies. Within each company, the balance of trading and investing is a matter of resource allocation.

To have one side of the balance governed by a clear set of negotiated rules and the other side dependent on ad hocery does not make sense. In an era in which investment was equated with exploitation by many countries, such a failure of multilateralism could be explained. Now, the benefits of investment are better understood, and the contrast in terms of development between those countries that have welcomed investment and those that have not has never been more vivid.

We believe that it is also increasingly well understood that investment brings with it a broad range of societal benefits with few negatives. The OECD, the World Bank and various other centres of facts and analysis have poured out the categories: consumer choice, competition to bring down prices, diffusion of technologies, management know-how, employment, fiscal contribution (both direct and through employee payments), high standards in employment practices, a level of sophistication in environmental management systems, international corporate governance, etc.

There is a small investment footprint in TRIMS and a significant presence within the GATS. That we move forward is imperative.

We were asked how those countries that genuinely remain dubious as to the benefits of investment might be persuaded. We believe that those are relatively few, and it is more than curious that they are unconvinced by the facts and analysis. There may also be a number of countries that see the negotiating process as an opportunity for high stakes leverage to win concession in other areas. While the very nature of the WTO process may make this unavoidable, those countries need to understand that resistance to investment is a poor choice. Trade transfers wealth relatively slowly. Investment spurs the pace.

For the “high stakes” group, we believe that there is an essential step that is necessary, and that is an “up-front” package of liberalisation on the part of the more developed countries directed at the product classes most important to the less developed world. Call it catch-up, if one insists, but we submit that without such a move, much other negotiated progress will be in jeopardy. This will take political backbone. Some would call it leadership.

Also, BIAC was asked to define what is meant by developing countries. Business does not have such definitions. This is the domain of governments and international agencies such as the United Nations. We seek a WTO system that will set common and predictable trade disciplines for the broadest number of countries, and we believe this approach is the best way to bring the benefits of open trade to all countries that have the capacity to participate. We recognise that capacity building and extended phase-in may be necessary for some disciplines and in some countries.

We were asked what we were doing to convince society as a whole of the value of a new Round. Without repeating the terms of our commitment recounted above, it might be added that business demonstrates its support for the world trading system and its process of Rounds by dramatically increasing its use of the system every day through company strategies to address global markets. That which is called globalisation is quite simply the advance of the market economy around the globe. It has long been accepted by business that Rounds are the main vehicles for increasing liberalisation and adapting rules to new market developments.

Thus, we would argue that, just as the “management” or conducting of the Rounds is essentially a responsibility of government, so is that of preparing them. That includes the preparation of the polity. Governments have the facts produced and arrayed by their various analytical bodies. They have the surging reality of global commercial transactions and a plethora of estimates of global economic potential. What they need is the political will to address the anti-growth critics and move forward more confident of their political choices with regard to national and international stewardship.

We were asked about further liberalisation in goods. This subject was understated because our presentations were on selected topics because of time constraints. We elaborated on some points in our paper of last October. There are enormous opportunities for further liberalisation. Indeed, many of the product categories of interest to the “developing” world would be important to a significant number of developed trading partners. Further, there is an opportunity to extend the ITA in significant ways. There are peaks that need reduction and tariffs that should be eliminated. New efforts, however important, never dim our enthusiasm for lower tariffs and thus lower costs and less market distortion.

As noted, BIAC did table a paper on the subject of agriculture which asserted the enormous scope of that sector and the importance of societal interest in raising the level of movement through the total food distribution system.

The notion of certain sectors producing positive societal externalities sufficiently profound that they should be accorded special protection was mentioned in passing. It was asserted that there are many sectors that might legitimately lay such a claim, including those that are universally accorded recognition as enabling for the fundamental advance of the economy as a whole, such as information and communications technology. It is ironic that the ICT is a sector that has been pushing for and largely received a zero protection status.

Our abbreviated presentations did not fully address our priority on services. For some time, BIAC has pressed for higher priority for services and movement within the context of GATS. Further, we urge the OECD member governments to support, at the March meeting of the Council on Trade in Services in Special Session, movement to the next level, that of going beyond the technical phase to set the modalities and begin actual negotiation of requests and offers.

While the focus of our Consultation turned out to be the Round, we were mindful of the Committee’s work programme on services. Understanding the constraints of budget on what is all helpful work, we would underscore our support for the focus on domestic regulation and Mode 4 movements of natural persons. Finding ways to liberalise services trade while maintaining legitimate regulatory missions is the fundamental issue that permeates all services sectors and the OECD has unique resources in this area in its work on trade and regulatory reform. Among BIAC member companies there is an acute need for rules to permit

short-term, cross-border movement of skilled personnel in a great many sectors. If OECD countries can find a path forward to respond to developing country interest in this element of the GATS negotiation, it may assist the advancement of other OECD objectives.

In the presentation by Mr. Sorlie of the Norwegian Federation of Industry, we addressed the fundamental role of the spread of innovation via the trading and investing of businesses. This role is extensively treated in Chapter 2 of the BIAC paper, Innovation and Global Growth.

However, we believe that it merits special mention, in the context of specificity for the agenda, that business recommends that the commitment to the substance and particulars of the TRIPs agreement be rock solid. As with any provision, there is room for country requests for extensions of time. The linchpin of success is assistance to laggard countries for effective implementation, not erosion of property protection. Nothing could be more crippling for the massive investments in research, experimentation and innovation.

Ideally, WTO members would see liberalisation to be per se in their interest, conduct on-going discussions on the range of issues before the body, add new issues as appropriate and meet every three years or so to harvest what was ready. Seemingly, governments are still committed to the notion of broad trade-off based Rounds. So be it, we need new round launched as soon as possible, hopefully at Qatar, recognising that it would be a serious blow to the WTO if there were another failed launch attempt as at Seattle.

One last thought might be helpful. We spoke extensively of sustainable development and sustainable growth. Our point is that all efforts with regard to sustainability begin with growth. Business is as interested in sustainability as any part of society. We are not businesses that are operated for tomorrow's horizon. Many confuse an attention to the rapidity of change as an obsession with the short term. For, if a company dreams only of twenty years from now, the competition will devour it while it is dreaming.

But, sustainability of the financial health of the firm is no more important than that of the employees, shareholders, creditors, suppliers or the environment and communities in which we operate. We do not see sustainability through the prism of any one of those constituencies. The CEO of a company, in a manner not dissimilar to that of a Prime Minister, strikes a balance every day for the long term.

Thank you for your warm welcome on February 13th and we look forward to a productive relationship.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank J. Farfone". The signature is fluid and cursive, written in a professional style.

Frank J. Farfone
Chairman, BIAC Trade Committee
Vice President, Dow Chemical
Company