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CENTRE FOR CO-OPERATION WITH NON-MEMBERS
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OECD Global Forum on Trade

THE DEVELOPMENT DIMENSIONS OF THE SINGAPORE ISSUES

DRAFT ANNOTATED AGENDA AND SUGGESTED ISSUES FOR DISCUSSION

19-20 June, 2002, Hong-Kong, China

This Global Forum on Trade workshop will focus on the Development Dimensions of the Singapore Issues. Preliminary information on this event was posted on the CTI Forum (notices of 22 January, 30 January and 20 March) and discussed in the 14 March meeting of the Working Party of the Trade Committee. The attached draft agenda reflects comments and suggestions received from delegations and is intended to provide a framework for the workshop.

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DRAFT ANNOTATED AGENDA AND SUGGESTED ISSUES FOR DISCUSSION

Global Forum on Trade:

The Development Dimensions of the Singapore Issues

(19-20 June 2002, Hong Kong, China)

1. The OECD Global Forum workshops, co-ordinated by the Centre for Co-operation with non-Members (CCNM), are the Organisation's principle vehicle for thematic policy dialogue with non-Members on issues that pose particular policy challenges.[1] This Global Forum on Trade workshop focuses on the multilateral, regional and capacity building aspects of the so-called Singapore issues.[2] This focus corresponds to certain key elements in the work programme established by delegates at the WTO's Fourth Ministerial Conference held in Doha last November. In the period leading up to the Doha Ministerial and at the conference itself, the place for these issues in the work programme was the object of much debate. The resulting Doha Ministerial Declaration specifically addressed these issues and provided that, for each one, "negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations."

2. This Global Forum workshop will be anchored in the presentation of analysis on each of these issues drawing particularly on work conducted at the OECD and other international organisations. In line with the successful outcomes in previous events in the Global Forum on Trade series, the main objective of the meeting will be to promote constructive dialogue on these issues between representatives of OECD Member and non-Member economies.

3. In addition to OECD Member country representatives and Trade Committee official observers, a range of non-Member economy representatives will be invited. Experts from key partner international organisations will feature prominently in the agenda.

Objective

4. The objective of this Global Forum workshop is to promote dialogue among representatives of Member and non-Member economies, focusing on perspectives for the Singapore issues taking into account multilateral rule-making, regional approaches, capacity building and other aspects. Experience from earlier Global Forum on Trade events indicates that these events can be helpful in promoting mutual

[1] Eight Global Forums have been established in 2001: sustainable development; knowledge economy; governance; taxation; trade; international investment; agriculture; and competition.

[2] Although a range of issues were discussed at the WTO's Ministerial Conference in Singapore, the term "Singapore issues" is used here to refer specifically to the relationship between trade and investment, the interaction between trade and competition policy, transparency in government procurement, and trade facilitation.

understanding of the concerns of the various parties and expanding the areas of agreement. As such, the event may contribute to advancing the process initiated in Doha and contribute to the preparations for the WTO's Fifth Ministerial Conference to be held next year in Mexico.

Co-operative approach

5. The Trade Directorate, in co-operation with our hosts in the Trade and Industry Department of Hong Kong, China, will plan, develop and carry out the Global Forum workshop drawing on expertise from the various divisions of the Trade Directorate, non-Member economy representatives, invited NGO experts, other OECD directorates (including the Directorate for Financial, Fiscal and Enterprise Affairs, the Development Co-operation Directorate, and the OECD Development Center), and in partnership with international organisations (including WTO, the World Bank, UNCTAD) and Member country contributors.

Evaluation

6. This Global Forum event will be evaluated based on a questionnaire submitted to participants. This will cover the substantive content of the workshop, logistical arrangements and participation, among other issues.

STRUCTURE AND DRAFT AGENDA

Conduct of the meeting

7. Each of the main substantive sessions will begin with an introduction by a chairperson and a presentation by an expert on the issue at hand, followed by two discussants. The floor will then be opened for debate, moderated by the chairperson. Every effort will be made to ensure a balance in each session between Member, non-Member and international organisation representation.

8. At the concluding session of the workshop, representatives of the OECD and Hong Kong, China, will summarise initial impressions of the key points from the debates, including points of consensus and diverging views. A general discussion would follow. After the workshop, a written report will be prepared by the OECD secretariat and circulated with a view to advancing discussions of these issues.

Day 1, 19 June 2002

08h30 - 09h30 Coffee and registration

09h30 - 10h30 Introduction and keynote remarks
Chairperson: Chairman of the OECD Trade Committee
* Welcome by Representative of Hong Kong, China
* Welcome by OECD Deputy Secretary General
* Keynote speaker: The Doha Development Agenda and The Singapore Issues
(Minister or senior official: to be determined.)

10h30 - 10h45 Coffee break

10h45 - 13h00 Session 1
The Singapore issues: current framework, multilateral and regional perspectives
Chairperson: senior non-Member country representative
Speaker: invited expert or OECD secretariat speaker
Discussants: to be determined.

13h00 - 14h30 Buffet luncheon
(Self-service coffee to be available throughout the afternoon)

14h30 - 16h30 Session 2
The relationship between trade and investment
Chairperson: senior Member country representative
Speaker: to be determined.
Discussants: to be determined.

16h30 - 18h00 Session 3
Transparency in government procurement
Chairperson: senior non-Member country representative
Speaker: to be determined.
Discussants: to be determined.

19h00 Reception (to be confirmed)

Day 2, 20 June 2002

09h00 - 09h30 Coffee
(Self-service coffee to be available throughout the morning)

09h30 - 11h30 Session 4
The interaction between trade and competition policy
Chairperson: senior Member country representative
Speaker: non-Member economy expert
Discussants: to be determined.

11h30 - 13h00 Session 5
Trade facilitation
Chairperson: senior non-Member country representative
Speaker: to be determined.
Discussants: to be determined.

13h00 - 14h30 Buffet luncheon
(Self-service coffee to be available throughout the afternoon)

14h30 - 16h30 Session 6
Capacity building and the Singapore issues: the role of technical co-operation
Chairperson: DAC representative
Speaker: bilateral donor representative
Discussants: to be determined.

16h30 - 17h30 Conclusions and general discussion
Chairperson: Representative of Hong Kong, China
* Remarks by Chairman of the OECD Trade Committee
* General discussion
* Closure

SUGGESTED ISSUES FOR DISCUSSION

9. The following annotations provide an overview for each of the segments in this Global Forum workshop. Discussion issues are suggested for each of the issue-specific sessions.

Introduction and keynote remarks

10. The goal of this introduction is to establish a framework for the Global Forum. After an opening by the Chairman of the OECD Trade Committee, there will be a welcome by a representative of Hong Kong, China. The OECD Deputy Secretary General will then make a short presentation. Following these initial remarks, a keynote speaker will provide a broad view of the Singapore issues and their place in the Doha Development Agenda.

Session 1: The Singapore issues - current framework, multilateral and regional perspectives

11. The label "Singapore issues" originated with the discussions at the WTO's First Ministerial Conference held in 1996. Each of the four issues discussed here -- trade and investment; trade and competition policy; transparency in government procurement; and trade facilitation -- has been considered to some degree in the GATT/WTO framework. Already, certain aspects of these issues have been taken up in certain WTO agreements.

12. At the Singapore Ministerial Conference, working parties were set up to study each of the four topics. In Doha, at the Fourth WTO Ministerial Conference, it was agreed that in each area, among other things, "negotiations would take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations."

13. At the same time, many regional trade agreements (RTAs) have provisions relating to the Singapore issues, in some cases going beyond the consideration given these issues under the multilateral framework. Participants in some RTAs have gained experience in negotiating concerns surrounding the Singapore issues and in implementing agreements that followed from such negotiations.

Issues for discussion:

- *What has been the experience to-date within the GATT/WTO framework with respect to the Singapore issues? Are there positive lessons to be drawn from the mechanisms already in place?*

- *Did the discussion of the Singapore issues at the Doha Ministerial Conference provide lessons concerning effective ways to approach these issues at the next WTO Ministerial Conference?*

- *What is the impact on the multilateral trading system of RTA provisions dealing with the Singapore issues? Do regional trade agreements provide general lessons for the potential multilateral negotiations on these issues?*

Session 2: The relationship between trade and investment

14. The rapid international expansion of multinational enterprises (MNEs) through foreign direct investment has come to be recognised as one of the defining features of globalisation. The stylised facts are well known; FDI flows grew faster than either trade or global GDP since the mid-1980s, the sales of

foreign affiliates exceeded the value of world trade in goods and services around the early 1990s, approximately one third of world trade is now intra-firm and two-thirds of world trade is accounted for by MNEs, etc.

15. The growing importance of FDI in international economic activity has been accompanied by significant changes to the international policy framework in which foreign investors operate. By the end of 2000, the number of bilateral investment treaties had reached 1 941 (UNCTAD, 2001) and regional trade agreements (RTAs), such as the NAFTA, have increasingly included comprehensive investment rules (OECD, 2001*c*). However, concerns over the regional patchwork approach to the negotiation of investment rules constituted an important motive behind efforts, beginning around the mid-1990s, to negotiate investment rules at the multilateral level.

16. These efforts began with the conclusion of the Uruguay Round of GATT negotiations in 1994, which brought investment-related disciplines within the GATT/WTO framework for the first time. Furthermore, the first WTO Ministerial Meeting in 1996 saw the establishment of the WTO Working Group on the Relationship between Trade and Investment, whose mandate was to "examine the relationship between trade and investment" with a view to informing any possible future negotiations. The first attempt to actually negotiate a quasi-multilateral investment agreement, the Multilateral Agreement on Investment (MAI), was initiated at the OECD in 1995.

17. Despite the eventual failure of the MAI negotiations[3] and strong resistance by some countries against broadening the scope of investment disciplines at the WTO, continued interest in multilateral investment rules was reflected in the decision taken during the Fourth WTO Ministerial Conference to start negotiations on investment after the Fifth Ministerial Conference in 2003, pending an eventual consensus "on modalities of negotiations". In the period until the Fifth WTO Ministerial Conference, further work in the Working Group on the Relationship Between Trade and Investment will focus on the clarification of: scope and definition; transparency; non-discrimination; modalities for pre-establishment commitments based on a GATS-type, positive list approach; development provisions; exceptions and balance-of-payments safeguards; consultation and the settlement of disputes between Members.

Issues for discussion:

- *How might a dedicated investment agreement at the WTO interact with the current patchwork policy framework for trade and FDI?*
- *Can a multilateral framework for investment contribute to better integration of developing countries in the global economy?*
- *Are there helpful lessons from regional accords in terms of how they have dealt with the substance of investment disciplines?*
- *What are the important substantive elements that should be included in a multilateral investment framework?*

Session 3: Transparency in government procurement

18. In the Tokyo Round, a growing awareness of the trade-restrictive effects of discriminatory procurement practices resulted in a first effort to bring government procurement under internationally-agreed trade rules. This led to the first Agreement on Government Procurement (GPA), which was

[3] Commentaries and other documents issued during the 1995-1998 MAI negotiations have been released and are available at http://www.oecd.org/daf/investment.

subsequently revised during the Uruguay Round. The GPA, a *plurilateral* agreement, covers market access as well as transparency and various aspects of procurement procedures. Recently, the WTO Committee on Government Procurement has been pursuing a review of the provisions of this agreement.

19. At the 1996 WTO Ministerial Conference in Singapore, a Working Group was established to explore a possible *multilateral* agreement on transparency in government procurement. Its mandate excluded market access and preferential treatment for local suppliers. In this light, the Working Group on Transparency in Government Procurement has been charged with developing specific rules to promote more transparent procurement methods and to enhance the transparency of procurement methods in use. By the time of the Third WTO Ministerial in Seattle, the Working Group had explored most of the substantial issues with respect to transparency in government procurement and considered the parameters of a draft agreement.

20. During the Ministerial Conference in Doha, WTO Members agreed "that negotiations will take place after the Fifth Ministerial on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations." These will be limited to the transparency aspects and therefore will not restrict the scope for countries to give preferences to domestic supplies and suppliers. This highlights the benefits to national economies expected to accrue from transparent public procurement procedures, irrespective of other factors that may impinge on market access in this area. WTO Members also stressed the importance of enhanced technical assistance and capacity building in this area and the need to take into account participants' development priorities.

Issues for discussion:

- *What are the costs and benefits of improved transparency in government procurement?*
- *Is it beneficial to increase transparency in procurement practices even when foreign bidders are excluded from the market?*
- *Can strengthened transparency disciplines contribute to development?*
- *To what extent may new multilateral disciplines in this area pose institutional constraints for developing countries?*
- *What concrete steps might be taken to help developing countries live up to their obligations?*
- *What approaches have been adopted by regional initiatives in this field and have they been useful?*

Session 4: The interaction between trade and competition policy

21. By mid-2001, according to the WTO, about 80 WTO Member countries, including some 50 developing and transition countries, had adopted domestic competition laws. Typically, these laws provide remedies to deal with a range of practices, such as price fixing and other cartel arrangements, abuses of a dominant position or monopolisation, mergers that limit competition, and agreements between suppliers and distributors ("vertical agreements") that foreclose markets to new competitors.

22. The multilateral trading system already incorporates provisions concerning trade and competition issues in certain areas. For example, GATT 1994 Article II:4 deals to some degree with import monopolies, Article XVII deals with certain conditions for state trading enterprises and the GATS contains rules on monopolies and exclusive service suppliers (OECD, 2001*d*). The agreements on intellectual property rights and services also both recognise government rights to act against anti-competitive practices, while encouraging co-operation among states to limit such practices.

23. The declaration from the Fourth WTO Ministerial Conference recognises the case for a multilateral framework to enhance the contribution of competition policy to international trade and development and the need for enhanced technical assistance and capacity-building in this area. Participants agreed that "negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations."

24. As in the case of investment, they recognised "the needs of developing and least-developed countries for enhanced support for technical assistance and capacity building in this area, including policy analysis and development." In the period prior to the Fifth Ministerial Conference, the Working Group on the Interaction between Trade and Competition Policy will seek to clarify: "core principles, including transparency, non-discrimination and procedural fairness, and provisions on hardcore cartels; modalities for voluntary co-operation; and support for progressive reinforcement of competition institutions in developing countries through capacity building."

Issues for discussion:

- *Which core principles -- e.g. beyond transparency, non-discrimination and procedural fairness -- should be considered for inclusion in a multilateral framework for competition?*
- *How might a multilateral approach to competition issues be designed to incorporate flexibility and progressivity and be "development friendly"?*
- *How might a multilateral agreement serve to promote domestic reforms in this area?*
- *How much of the existing diversity in approaches, including that taken at the regional level, should a multilateral agreement seek to accommodate?*
- *What other sorts of mechanisms, besides mandatory dispute settlement, might promote enforcement of a multilateral framework for competition?*

Session 5: Trade facilitation

25. The WTO notes that trade facilitation is "often defined as 'the simplification and harmonisation of international trade procedures' with trade procedures being the 'activities, practices and formalities involved in collecting, presenting, communicating and processing data required for the movement of goods in international trade'." Although this definition relates to a wide range of activities such as import and export procedures (*e.g.* customs or licensing procedures); transport formalities; payments, insurance, and other financial requirements, work in the WTO has focused to date mainly on customs and border-crossing procedures.

26. Specific elements connected with the simplification and harmonisation of trade procedures are already contained in the WTO legal framework, *e.g.*, in Articles V, VII, VIII, X of the GATT 1994 as well as the in Agreements on Customs Valuation, Import Licensing, Pre-shipment Inspection, Rules of Origin, Technical Barriers to Trade, and the Agreement on the Application of Sanitary and Phytosanitary Measures. The Singapore Ministerial Conference gave the WTO a mandate to take a more comprehensive look at trade facilitation, instructing the WTO Goods Council to start exploratory and analytical work "on the simplification of trade procedures in order to assess the scope for WTO rules in this area".

27. At the WTO's Fourth Ministerial Conference, participants recognised "the case for further expediting the movement, release and clearance of goods, including goods in transit, and the need for enhanced technical assistance and capacity building in this area." They agreed that negotiations would take place after the Fifth Ministerial Conference "on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations." In the period until the Fifth Session, the Council

for Trade in Goods was instructed to review and clarify and improve relevant aspects of the GATT (1994) and to identify the trade facilitation needs and priorities of Members, in particular developing and least-developed countries. WTO Members committed to ensuring adequate technical assistance and support for capacity building in this area.

Issues for discussion:

- *What are the costs and benefits from strengthened disciplines in this area, in particular for developing countries?*
- *What is the impact of trade facilitation measures on investors' choices among countries with similar resource endowments?*
- *How can such measures help enhance revenue collection without an increase in human and logistical resources?*
- *What types of capacity building in the area of infrastructure are needed in order to allow facilitation to take place?*
- *What approaches have been adopted by regional initiatives in this field and have they been useful?*

Session 6: Capacity building and the Singapore issues - the role of technical co-operation

28. The Doha Declaration presents the international community with a very challenging mandate for trade capacity building. It contains clear commitments that go well beyond the "best endeavour" clauses of the Uruguay Round. And these commitments to provide technical assistance and capacity building include the "Singapore issues" which are being considered here. This will imply significant improvements in market access conditions, greater emphasis on national policy reform and sustainably financed technical assistance and capacity building activities.

29. Capacity building measures will have to address the short term needs associated with developing negotiating positions as well to assess the possible implications for countries of future agreements. It is also important to address longer-term capacity needs to support reforms in national policy making and infrastructure development. This will help to ensure future capacity to implement and benefit from any agreements emerging from the negotiations. Finally, success in trade-related capacity building depends on developing countries having their own trade strategy as an integral part of a broader development and poverty reduction strategy. That strategy must be driven by a domestic process bringing in key players from the public and private sectors, as well as civil society and research institutes. Such a participatory and locally owned trade policy process itself creates the capacity to define strategies and concrete action programmes for both WTO-related challenges and supply-side agendas to which donors can respond effectively. This will be essential to ensure sustainability of the trade policy process.

30. Donors agencies will have to work harder and more closely with both the trade community in capitals and with the multilateral agencies to respond to developing country agendas and needs. Bilateral donors will have to enhance their knowledge of trade policy issues and their capacities for undertaking trade related capacity building activities. Greater dialogue with the trade community can help in this regard, and field level agencies must be committed to the implementation of trade capacity building activities.

Issues for discussion:

- *What mechanisms exist in the region for fostering stakeholder dialogue for the trade policymaking process?*
- *What are the short and long term capacity constraints specifically linked to the Singapore Issues?*
- *What is the donor community doing to help these countries overcome these constraints? What more could be done?*
- *Are there lessons to be drawn for donors in the approaches taken to capacity building?*

Conclusions and general discussion

31. This session is intended to provide an initial summing up of the two days of discussion. It will be introduced by the Chairperson for the session, a representative of Hong Kong, China. The Chairman of the OECD Trade Committee will provide remarks drawing together highlights from the workshop. Participants will be invited to contribute additional comments. There will then be closing remarks by the representative of Hong Kong, China.

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