

# **Civil Society and Trade Diplomacy in the “Global Age”**

**The European Case: Trade Policy Dialogue  
between Civil Society and the European  
Commission**

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## **I. Introduction**

This document has been prepared for the Fourth Meeting of the Trade and Integration Network of the Inter-American Development Bank (IADB). Its purpose is to raise a debate among the Vice-Ministers of Trade of the hemispheric countries regarding the participation of civil society in the process of designing and implementing trade policies. The European case of consultations between civil society and the European Commission is the main topic of this document.

In the following chapter (II), we maintain the thesis that trade diplomacy, which until recently took place far from public scrutiny, now faces a crucial challenge, which can be summarized in the need to include trade policy within the democratic debate, and to incorporate non-trade considerations which, until now, have been peripheral to it.

In Chapter III and Chapter IV, we will explain the assessment of how the European Commission is channeling the consultation process with civil society, stemming from two fundamental contexts: on the one hand, the search for new forms of European governance (Chapter III), and, on the other hand, the growing interest and activism of civil society in trade and investment treaty negotiation (Chapter IV). We will also describe the path which trade policy dialogue has taken, from its origins in 1998 to the present, where it revolves around the Doha Program for Development at the WTO.

In Chapter V, we will tackle the current structure of trade policy dialogue in Brussels, where a great number of institutional, non-governmental and private sector actors participate. We will analyze the four channels of dialogue and consultation which have been created since the year 2000, after the WTO Seattle Conference.

Finally, in Chapter VI, we value the positive and negative aspects of the dialogue, its strong points and its weaknesses, and also its effectiveness in its influencing the direction and content of European trade policy. In conclusion, in the last chapter (VII), we underscore some elements which we believe to be essential in any dialogue and consultation process between public administrations and civil society. We hope that this contribution of the European case can serve, and we trust it will serve, to inspire and encourage the IADB member governments which still do not consult their civil societies on trade policy to initiate national dialogues in the near future.

## II. Trade Diplomacy and Civil Society in the “Global Age”

At the beginning of the 21<sup>st</sup> Century, there are a growing number of people who feel that their lives and destinies are being molded by forces which seem to be out of control of the political role players, whether they operate at a national, regional or international level. The growing economic interdependence, accentuated by the great mobility of capital and the liberalization of international trade, helps to strengthen the almost generalized feeling that global economy and technological changes follow their own logic, aside from individual needs, and regardless of the political actors<sup>1</sup>. Furthermore, public support for a greater liberalization of international trade is weakening in several places in the world, when it is becoming a solid opposition.

The spectacular growth of international trade over the past five decades has undoubtedly contributed to transforming our societies and lifestyles, in addition to making the planet’s natural resources more accessible. Qualitatively speaking, regional and international trade regulations have expanded, encompassing new areas such as services, intellectual property and investments. Additionally, the links with other “non-trade” issues, such as the environment, public health, and human and labor rights have been broadly debated and, in some case, partially incorporated into the rules of international trade<sup>2</sup>. There are not many economic sectors or spheres of social life which are not being affected in one way or another by trade flows and by international trade regulations. All things considered, the non-trade related aspects and dimensions of international trade are now the core issues of the debate and it can be affirmed that the success of trade diplomacy in the future will greatly depend on how they are incorporated.

As a consequence of the above, trade diplomacy, which until recently took place far from the public’s scrutiny, now faces a triple challenge: to incorporate in the decision-making process all sorts of considerations and interests which are often non-trade related; to achieve that its decisions and processes are perceived to be equal and fair; and to involve civil society and the different interest groups in the most efficient way. To tackle these challenges in a successful way undoubtedly requires a change of paradigm which allows the process of creating trade policies to surpass its current segmentation. This segmentation leads the trade positions to be defined, in general, without bearing in mind the interdependence between international trade and other areas of public interest, such as social development, the environment, public health, sustainability and so forth. The lack of openness of most governments toward civil society and other interest groups is also a characteristic of the current model of trade diplomacy, which, thus, deprives itself of the benefit of accessing a broad range of knowledge and resources, as well as having a more involved and informed civil society<sup>3</sup>.

Fortunately, there is an increasing recognition that excluding trade policies from the democratic debate is only good for covering up problems and strengthening the belief that specific interest groups, traditionally linked to the export sectors, are benefited. Thus, in recent times, initiatives are emerging from governmental and inter-governmental agencies and civil society organizations, which attempt to overcome this scenario of inertia, seeking spaces for encounters, dialogue and cooperation. Due to the fact that “democracy depends on the capability of its citizens to participate in public debate”<sup>4</sup>, it is the responsibility of the public authorities to open new transparent channels of consultation with civil society. The consultation processes contribute to a greater responsibility by the public administrations with regard to society in general and, additionally, they make it easier for political proposals to have a greater degree of acceptance by society itself.

New forms of trade governance must break old molds, both on a national as well as on an international level. Openness, transparency, participation, responsibility and concern for fair and sustainable development are principles which must become the center of gravity of the new forms of governance, and they must guide government action in the field of trade diplomacy. For this, it is indispensable to reduce the “mutual knowledge deficit” which currently exists between governments and civil society.

In the next two chapters, we will see how the European Commission is channeling the consultation processes with civil society, in the context of the search for new forms of European governance as well as in the specific case of the trade policies.

### **III. European Governance and Public Participation**

In order to understand the current dialogue between the European Commission and civil society regarding trade policy, one must bear in mind the two processes which have influenced it: on the one hand, the process of evolution and reform of European governance; on the other hand, the civil society’s growing interest and activism in the negotiation of trade and investment treaties, which have led to the establishment of a highly-structured dialogue with the European Commission (we will see the emergence of this dialogue in the following chapter).

In the European Union, the debate on how to involve citizens and civil society in the drafting of policies is framed within a broader process of governance. The drifting apart between citizens and the European institutions, and the legitimacy crisis of the latter, are two issues which have been raising concern for quite a while in Brussels. The *en masse* resignation of the European Commission in March 1999 further worsened this concern and this converted the search for new forms of European governance, with a greater rapprochement, into one of the four strategic goals of its mandate (1999-2004).

However, the lack of consultations with foreign countries is not a problem which the European institutions face<sup>5</sup>. In fact, there are over 700 consultation fora (scientific committees, technical and expert groups, consultation processes with civil society, and so forth) currently active. Moreover, the increase in the volume of international negotiations creates new consultations (for instance, the WTO Ministerial Meeting in Doha or the recently held World Summit on Sustainable Development in Johannesburg). The problem lies rather in the lack of coherence and transparency of the consultations, and in the scarce recognition of the role which the NGOs and other civil society organizations<sup>6</sup> play.

In June 2001, the European Commission, basing itself on a series of preliminary assessments and consultations, adopted a White Book on European Governance, where it commits to “a reinforced culture of consultation and dialogue.” Later, in June 2002, the Commission approved a set of measures<sup>7</sup>, among which the “Proposal for general principles and minimum standards for interested parties by the Commission”<sup>8</sup> (see charts) stands out.

**GENERAL PRINCIPLES FOR EUROPEAN COMMISSION CONSULTATIONS ON  
MAJOR POLITICAL POLICIES:**

**PARTICIPATION**

“The quality [...] of the EU policies implies wide participation by the citizens in each and every one of the different phases of the process, from policy conception to policy implementation.”

**OPENNESS AND RESPONSIBILITY**

“The [European] Institutions should work in a more open manner [...] in order to improve the confidence in complex institutions.

**EFFECTIVENESS**

“An effective consultation requires the consultation to begin as soon as possible. Thus, the parties should participate in policy development in a phase where they are able to still affect the drafting of the main objectives, realization methods, performance indicators and, in its case, the initial policy plans.”

**COHERENCE**

“The Commission will ensure that there is coherence and transparency regarding how its services act in consultation processes.”

Sources: White Book on European Governance, European Commission (see endnote no. 3)  
Communication from the European Commission on consultation and dialogue (see endnote no. 8)

This proposal is currently in the process of discussion and, in the Fall of 2002, the Commission will definitively approve the general principles and minimum standards for consultations. Although the consultation processes in the drafting of European trade policy has evolved in a relatively autonomous manner, and prior to the debates generated within the framework of the White Book on European Governance, it is important to bear in mind this global framework because all of the European Commission’s consultation processes must adapt to it in the future. In the following chapter, we will analyze the specific content in which the dialogue between the European Commission and civil society on trade policy matters arose and was developed.

## **MINIMUM STANDARDS FOR EUROPEAN COMMISSION CONSULTATIONS**

### **CLARITY IN THE CONTENT OF THE CONSULTATION**

“All communication related with the consultation must be clear and concise, and must include all of the information needed to provide the answers.”

### **PUBLICATION**

“The Commission should guarantee an appropriate advertising focused on awakening sensitivity and should adopt its means of communication to respond to the needs of all of the foreseen audiences. Without discarding other tools of communication, the open public consultations should always be posted on the Internet and announced at the "centralized access point".”

### **PARTICIPATION PERIODS**

“The Commission should always foresee that there is enough time to allow to plan and reply to the invitations and contributions in writing. The Commission currently considers that it should make an effort in providing a period which is no shorter than six weeks to receive replies to the written public consultations and a period of 20 working days for meetings.”

### **ACKNOWLEDGEMENT OF RECEIPT AND RETURN INFORMATION**

“An acknowledgement of receipts regarding the contributions must be provided. The results of the open public consultation must be posted on websites linked with the sole access point on the Internet.”

### **SPECIFIC ELEMENTS FOR PRECISE CONSULTATIONS**

“In the cases in which the Commission conducts processes of precise consultations, it must ensure that the parties have the opportunity to express their opinions.”

Sources: White Book on European Governance, European Commission (see endnote no. 3)  
Communication from the European Commission on consultation and dialogue (see endnote no. 8)

## **IV. From the Multilateral Agreement on Investment (MAI) to the Doha Program for Development (DPD)**

Having situated the consultations within the European governance process, now, it is necessary to situate the establishment of the dialogue on trade policy between the European Commission and civil society in a second context which is fundamental in understanding the reasons of its emergence and later evolution. I am referring to civil society's growing interest and activism in the negotiation processes of trade and investment treaties. In order to situate this second context, we have to go back, at least, to 1998, although many civil society organizations, such as is the case with the WWF, had already been working on trade policy issues prior to that date.

France's withdrawal from the OECD Multilateral Agreement on Investment –better known as MAI– and its subsequent collapse, represented an unexpected shock for the trade negotiators. The tremendous opposition to the MAI by most of organized civil society was the main cause of the collapse of the negotiations, as even newspapers such as the Financial Times in London or the Globe and Mail in Canada –daily newspapers which are not suspect of colluding with NGOs– acknowledged. The collapse of the negotiations in October 1998 were preceded by six months of “consultations and assessments” in the capitals, during which time negotiations which were taking



place were suspended. It was during this consultation period in the capitals, which had begun in April 1998, and after which there were consultations at the OECD with labor unions, the private sector and NGOs in October and December 1998, where the representatives of European civil society and trade negotiators saw each other, face to face, in public consultations<sup>9</sup>.”

In Brussels, as in other capitals, NGOs had never been consulted regarding aspects on trade and investment policy, so the meetings organized within the context of the MAI were the catalyst of the dialogue and consultation process which would take place later. Those first encounters were organized with a certain degree of improvisation because no one in the European Commission knew for sure what steps to take or who should be consulted. Despite this, the fact that a large number of NGOs attended the investment meetings organized in the Fall of 1998 and in January 1999 is proof of the great interest they caused.

However, concerning the private sector, the European Commission had established, a while back, several consultation and partnership processes with different business networks, such as the Financial Leaders Group –during the negotiations on the Agreement on Financial Services–, the Investment Network –comprised of over 50 large corporations in order to identify priorities for a future investment agreement at the WTO<sup>10</sup>– and the more recent European Service Network– also created by the large multinationals of the sector to “advise the EU negotiators on the main barriers and countries on which it should focus in regard to the negotiations concerning services”<sup>11</sup>. These privileged consultations with the private sector have been highly criticized by other sectors of civil society, which see themselves as being excluded from these consultations<sup>12</sup>. The fact that the Commission frequently and secretly holds them has given rise to malaise and distrust and has perhaps detracted the credibility of the public consultation (which we describe below)<sup>13</sup>.

With the precedent of the meetings on the MAI, and the NGOs position of force after the collapse of the negotiations at the OECD, the then-European Foreign Trade Commissioner, Sir Leon Brittan, decided to organize the first consultation meeting with European civil society in November 1998. The background to that meeting was the preparation for the Third Ministerial Conference of the World Trade Organization (WTO) in Seattle, where the European Union hoped to launch a broad round of trade negotiations –called the Millennium Round. This consultation meeting opened a first phase of *ad hoc* meetings on trade policy between the European Commission and civil society, which stretched out until a little before the Seattle Conference. In these meetings, general issues (transparency, development, the environment) as well as sectorial issues (investments, intellectual property, and so forth) were covered. Also, for the first time, the European Commission delegation in Seattle included representatives pertaining to European civil society –labor unions; consumers associations, farmers associations, business and services associations; NGOs from different sectors (development, public health, social, and the environment); and the Economic and Social Committee.

The shadow of Seattle, where the WTO was not able to launch the famous Millennium Round, totally disorganized the pieces of trade diplomacy, and opened a long debate in the capitals to understand and, at the same time, draft the keys to the new scenario that was unveiling. It is in this phase of perplexity and uncertainty when the new European Trade Commissioner, Pascal Lamy of France, decides to continue and to structure the dialogue with European civil society. This Civil Society Contact Group, once it is created, will be in charge of conveying the voice of its members to the Commission, in order to define a dialogue process which fits the needs and interests of both parties, the European Commission and civil society.

On April 19, 2000, after an initial “constituent” meeting of the Contact Group, Commissioner Pascal Lamy and General Director for Foreign Trade Peter Carl called upon the representatives of European civil society. Lamy presented the objectives and the structure of the dialogue on trade policy, previously debated on within the Contact Group, on April 6. Regarding the objectives, the Commission seeks to “establish working relations based on trust between the different actors interested in the sphere of trade policy”<sup>14</sup>. Regarding the structure, this second phase of dialogue revolved around eight trade policy issues, which were debated throughout 2000 and 2001, in the heart of other Thematic Groups. The eight Thematic Groups began their journey in June 2000, and cover the following issues:

<b>Thematic Groups (June 2000 – November 2001)</b>	
Trade and Public Health	Investments
Trade in Services	Competition
Trade in Agriculture	Trade-related Intellectual Property (TRIPs)
The Environment and Sustainable Development	WTO Reform and Transparency
Source: Note by the DG Trade (Foreign Trade), European Commission, “Commission Trade Policy Dialogue with EU Civil Society”, December 2000	

Four Thematic Groups (left-hand column on the table above) met from June 2000 to January 2001, and another four (right-hand column) from February to November 2001. Each Thematic Group met at least five times during each of the two previous periods, for an entire day, and covered the relevant aspects of each issue. In order to rationalize the dialogue, every two months, an entire week is assigned where the Thematic Groups meet back-to-back, in such a way that anyone interested is able to participate in all of the meetings. At the end of each five-meeting cycle, “the Commission will write a report on each Thematic Group, summarizing the conclusions it has extracted from each one of them, and describing how it has used such information in the drafting or modification of its trade policy”<sup>15</sup>.

Two additional channels of dialogue are added to the Contact Group and the Thematic Groups. The first one consists of General Meetings, presided by the European Trade Commissioner. In these meetings, thematic issues and those at a same level of importance regarding trade policy are dealt with, in addition to the organization of the dialogue itself. In fact, on many occasions, NGOs have taken advantage of these general meetings to present their view of the dialogue, frequently defined in “NGO Joint Communiqués”, signed by dozens of NGOs belonging to different sectors (development, the environment, labor unions, human rights, and so forth) or by the NGO representatives in the Contact Group<sup>16</sup>. These communiqués have generally led to intense debates with the Commissioner and Commissioner’s officials, and have influenced throughout the years, on a lesser or greater scale, the nature and the organization of the dialogue. The second additional channel is Internet chatting, which the Commissioner regularly maintains, and in which he replies to the questions the public raises.

Thus, there are four channels of dialogue which have been created since 2000: the Civil Society Contact Group; the Thematic Groups which revolve around eight trade policy issues; the General Meetings of the Foreign Trade Commissioner; and Internet chatting. As we will see in the following chapter, this dialogue structure has been currently maintained, with a few changes.

## V. EUROPEAN DIALOGUE ON TRADE POLICY TODAY

The current phase of consultations between the European Commission and civil society (the third phase since 1998) commenced in early 2002, and is characterized by the launching of multilateral trade negotiations at the WTO's Fourth Ministerial Conference, held in Doha, in November 2001. The guidelines for the European Commission's consultation process, in March 2002, states that "the main goal [of this new phase] is to maintain a regular framework of meetings [with civil society] in addition to information and debate sessions which are to take place as soon as possible in time regarding WTO events and the negotiation process"<sup>17</sup>.

The Contact Group, extended to other groups and sectors of civil society (chambers of commerce and animal protection NGOs), maintain their task to facilitate dialogue, contribute to disseminating information, provide advice to the Commission regarding organizational aspects and the selection of issues for dialogue, and help towards the good coordination of the Thematic Groups. In this new phase of dialogue, the General Meetings with Commissioner Pascal Lamy will also be maintained every six months.

The selection of consultation is determined by two criteria: the Doha Program for Development (DPD), on the one hand, and, on the other hand, those trade policy issues which, by not fitting into the DPD, give rise to interest in civil society, which demands that they should be debated in a structured manner. The first criterion leads to eight new Thematic Groups (described in the table below, left-hand column), which will meet for one week in two-month intervals, until January 2003. The second criterion leads to a series of issues proposed by European civil society, which will be debated, at least on one occasion, during the 2002/2003 period (right-hand column in the table below).

<b>Planning of Trade Policy Dialogue (March 2002 – January 2003)</b>	
<b>Thematic Groups ("Core Groups")</b>	<b>Other Issues of Discussion</b>
✍✍TRIPs (registry of wines and liqueurs, TRIPs/biodiversity, TRPIS/food safety, TRIPs/access to medicine)	✍✍Negotiations of UE Bilateral Trade Agreements (Mercosur/Chile, Africa-The Caribbean-The Pacific, the Mediterranean)
✍✍Services (including environmental services)	✍✍Fair Trade
✍✍Agriculture (including aspects of sustainability)	✍✍Trade and Forests
✍✍Access to Markets (including environmental items)	✍✍PPMs (Production Processes and Methods)
✍✍Trade Regulations (including Regional Agreements) and Fishing Subsidies	✍✍Trade and Social Issues
✍✍The Environment and Sustainable Development (negotiations on MEAS, CTE work program, SIA – Sustainability Impact Assessments)	✍✍Dispute Resolutions / WTO Reform
✍✍Development (implementation, technical assistance DPD development aspects)	✍✍Export Loans

<p>Other issues (general evolution of the negotiations, Singapore issues, and so forth)</p>	<p>Trade and Gender aspects</p>
<p>Source: DG Trade (European Commission), "Civil Society Dialogue: Process Guidelines", March 2002</p>	

For each Thematic Group, the Commission and the Contact Group have attempted to identify groups of individuals and experts who regularly participate in the meetings, although the consultations are open to anyone wanting to participate. The meetings on issues regarding the WTO's DPD, as well as on other issues, are held consecutively over a same week in the months of May, July, September and November 2002 and January 2003. Moreover, the Commission plans to call informative meetings concerning the WTO negotiations.

In order to ensure transparency in the participation of consultations, since 2000, people who are interested have to register with them beforehand. For each Thematic Group and other issues for discussion, the European Commission has appointed a person who is usually a senior trade negotiator of the area in question. In 2002, the Commission has also introduced a database of the organizations participating in the dialogue. All of the participating organizations must now register on the Commission's website, stating their affiliation, the interests that they represent, their annual budget, the financing obtained from the European Commission and other details.

It must be pointed out that, in 2001, on the request of the NGOs<sup>18</sup>, and through a pilot program, the European Commission began to initially finance the participation of NGOs and other civil society groups in the consultation meetings, as long as they were not from Brussels<sup>19</sup>. The fact that all of the consultation meetings were held in Brussels prevented many people interested, from other state members of the European Union, from attending the meetings, due to a lack of resources. The NGOs demanded financing to put an end to this problem; and the European Commission launched a pilot program in response to this request. Thus, the Commission earmarked resources so 150 representatives of civil society groups could travel to Brussels during the meetings held in 2001. Currently, the process of request for aid to travel to Brussels has been simplified, and it is performed over the Internet on the DG Trade (Foreign Trade Directorate General, European Commission)<sup>20</sup> website. Previously, the Contact Group representatives were in charge of nominating the candidates to receive reimbursement for their travel expenses<sup>21</sup>.

Finally, it is noteworthy to state that the consultations on the European Union's bilateral trade negotiations with Latin American and Caribbean countries are part of the aforementioned process (see table above). However, something that makes these consultations different from the others, is that the political procedure of the Bilateral Agreements on Association or Cooperation –of which the bilateral trade negotiations are a part– are the responsibility of European Foreign Relations Commissioner Chris Patten. For this reason, the responsibility of organizing consultations with civil society is shared by Chris Patten and Pascal Lamy, and, perhaps, this is the reason why we have not yet seen a clear initiative of consultations with regard to the bilateral trade negotiations with Latin American and Caribbean countries, although more general consultations on agreements which are in the negotiation process have been organized.

For instance, consultations have been made concerning the agreements which the European Commission is negotiating with Mercosur, Chile and the ACP (African, Caribbean and Pacific) countries –the latter of these within the Cotonú agreement. However, there was no consultation on the agreement signed between the EU and Mexico. In general, the consultations on bilateral agreements with Latin America have arrived late and have been performed, almost always, due to

the insistence of the NGOs which viewed how the consultations revolving around the WTO were occupying almost all of the dialogue space with the Commission.

In the next chapter, we will evaluate the positive and negative aspects, the strengths and weaknesses, of the current consultation process, and its effectiveness on influencing the orientation and content of the European trade policy.

## **VI. POSTIVE ASPECTS AND WEAKNESSES OF THE CONSULTATION PROCESS**

The trade policy dialogue between the European Commission and civil society is lowering the “mutual knowledge deficit” which usually exists between the government branches and organized civil society. Undoubtedly, initiating this dialogue in Brussels means, for both parties, to begin to overcome a mutual learning curve. However, the different ways of working, the different sources of legitimacy and the unfamiliarity between trade negotiators and representatives from civil society organizations, make it difficult for the creation of consultation spaces where the actors feel comfortable and, sometimes, frustrations, misunderstandings and distrusts arise. Only continuous dialogue and the good disposition of adaptation allow obstacles, which inevitably rise up along the way, to be overcome and mutual trust to be constructed.

Regarding the current consultation process, some positive elements stand out which can be used as an example of “good practices” for other national or regional dialogues within Europe or outside of it. There are also well-founded doubts within many civil society groups concerning the advisability of participating in consultation processes as a strategy to influence trade policies and negotiations. The belief that such consultations are no more than cover-up exercises –in which the European Commission attempts to legitimize its positions regarding society but without the slightest intention of changing its positions to accommodate social demands– exists, and it can be well-founded in some cases.

Among the positive elements of dialogue on trade policy, three stand out:

1. Dialogue is global concerning its coverage of issues –which reflects the negotiation program in addition to other issues proposed by civil society– as well as in the participants, where no sector is initially excluded. Perhaps the only absence which is noteworthy to point out is that the European Union’s Member States, which despite the fact that they play an important role in the drafting of European trade policy, do not participate in the dialogue which takes place in Brussels and, what is even more serious, many of them organize consultations at a national level;
2. Despite its ups and downs, dialogue has greatly evolved with both parties participating, which has increased the commitment to dialogue by the different actors and has allowed some problems, which had been arising over some time, to be solved. The rate of the consultations (every two months), their prior announcement (minimum 30 days beforehand), and the corresponding discussion agendas (which are to be made public at least 20 days beforehand) are aspects which have been adapting to the needs of civil society and the European Commission, although, sometimes, improvisation still occurs; and

3. There is a political commitment to dialogue by Commissioner Pascal Lamy, and by a number of European Commission Directors and trade negotiators. Without this commitment “from above”, it would be very difficult to imagine a consultation process, such as the current one, which requires the always limited time of a number of trade negotiators. One must underscore that many trade negotiators, some of them Senior negotiators, consider the consultation process to be a waste of time which, at the same time, supports the belief by many NGOs that dialogue is a public relations exercise through which the Commission pretends to “wash its face” and provide legitimacy to its policies.

Some of the weaknesses of the consultation process concern purely practical or organizational elements, while others are more fundamental since they influence the value which the different actors provide to the dialogue. These are, in our opinion, some of the weaknesses to highlight:

1. In general, the Commission does not offer a global vision of the creation process of its trade policy, and it does not systematically report on the documents or positions which are being prepared at each moment –whether they are for discussion with the European Union’s Member States or for inter-governmental fora, such as the WTO. Most of the documents are only made public once they are finalized, and almost always after having given to the WTO or having been approved by the Member States. Without appropriate information being offered beforehand, the value of the consultations is enormously reduced because civil society’s input arrives too late to have any influence on crucial issues in which it feels marginalized.
2. Civil society groups create and draft a great amount of written positions, discussion documents, communiqués, letters and comment on trade policy and related issues – development, market access, the environment, public health and so forth– which are taken to the European Commission within the consultations or at the bilateral meetings. The problem lies in the fact that there is no formal mechanism by which the European Commission remits information on how these contributions have been used, and if they have borne in mind when trade policy is drafted. The Commission’s new consultation regulations, if they are approved as they appear in the June 2002 proposal, would compel the Commission to “carefully assess the contributions in order to consider if, and to what point, the opinions expressed may be accepted within the policy proposals [...] The Commission will foster the remittance of information to the parties responding to the consultations and to the public in general”<sup>22</sup>. This new requirement will constitute true progress.
3. After almost four years of trade policy consultations, a certain “consultation fatigue” is detected within civil society, with current participation levels below that of previous years. This trend can be explained two-fold: the strategic value that civil society groups confer to the dialogue with the European Commission has diminished because the expected results were not attained; and, secondly, human and financial resources, and the time needed to be invested in the consultations (and their preparation) is so large that few NGOs are capable of regularly participating and providing substantial contributions<sup>23</sup>. Two conclusions can be drawn from the above: the consultations must lead to specific results, and these must become more visible (as we indicated in the preceding paragraph); and the Commission must ponder financially supporting civil society groups working in the field of trade policy (as it already does with NGOs

working in the fields of society, the environment and consumers, among others, which it finances a part of their operating expenses).

The previous discussion leads us to ask ourselves about the effectiveness of dialogue, civil society itself as its main protagonist, in regard to influencing the Commission's and the European Union's trade policy positions. Our assessment is that, in general, civil society has obtained some positive and specific results, but these are clearly insufficient. The European Commission's speech and that by Commissioner Pascal Lamy indeed have been changed and "sustainable trade" –which, according to Pascal Lamy, encompasses economic, social development and environmental goals<sup>24</sup>– now appears to be a European trade policy goal. In several documents on discussion, political positions and strategies, the European Commission and the European Union have included references and have defined "non-economic" goals for its trade policy<sup>25</sup>. However, in practice, the Commission has still not sufficiently drafted a specific and believable program to foster sustainable trade in the WTO or through its bilateral agreements.

Among the results and specific steps that have indeed been attained over the past few years, and which the Commission has taken in an apparent response to requests by civil society, it is noteworthy to underscore the following: The Impact Assessments on the Sustainability of trade agreements and negotiations which the Commission has been performing since 1999<sup>26</sup>; the "Everything Except Arms" Initiative, by which lesser-developed countries achieved almost total access to the European market; the inclusion of non-commercial concerns in the DPD, such as development, the environment, public health and sustainability; and the inclusion of articles on human rights in the bilateral agreements signed by the EU, among others. Taken individually, and within the context of a trade policy which has remained closed off to public scrutiny over the course of decades, these achievements may seem significant. However, compared to the scale of social, environmental or development challenges on which civil society attempts to have a bearing, the attained results are clearly insufficient. The social inequalities within each country and among countries continues to grow, often due to trade patterns which increasingly marginalize more social sectors<sup>27</sup>; and the environmental degradation of the planet is reaching alarming rates, with losses of biological diversity reaching 1% annually<sup>28</sup>. In view of the marginality of these problems, international trade and the regulations ruling it require a profound transformation. But the rhythm of change, which civil society is attempting to speed up, is so slow that the achievements attained are like drops of water in a sea whose currents depend not on the search of a more balanced and sustainable world but on economic and political forces seeking to benefit a few by undermining the well being, dignity and even the survival of many, including the planet.

Despite the aforementioned limitations, the belief that consultations are an important element within the reform process of European trade policy is shared by most of civil society's groups participating in them. Thus, it can be affirmed that civil society's commitment to dialogue is solid, although without specific results to prove progress, this commitment could weaken in the future.

## **VII. FINAL CONCLUSIONS**

In conclusion, we would like to highlight some elements which we believe are essential in any dialogue and consultation process on trade policy between public administrations and civil society. The six recommendations are as follows:

1. To draft the consultation process (issues to cover, frequency of the consultations, representativity of the representatives, level of governmental participation, meeting agendas, resources earmarked for the process, and so forth), bearing in mind the needs, concerns and interests of civil society groups. The most effective and least expensive way to do so is to consult, from the beginning, on how to organize the dialogue.
2. To adopt a policy of transparency, information and consultation on the aspects related with the drafting of trade policy, and formalize certain basic rights such as the right to information, to be consulted and to expression (with its corresponding obligations, such as making documents public and providing a response to the contributions and aid received by the parties).
3. To seek a broad-ranging participation within the consultations and make NGOs, the private sector, labor unions and other civil society groups co-participants in the dialogue. To make a pro-active effort to involve the parties which, due to a lack of material and cognitive resources, or because they are not adequately organized, are not able to participate in the consultations, despite having legitimate interests which should be heard.
4. To inform, appropriately and with due sufficient notice, about the important aspects of trade policy and call for consultations with due time. It is advisable to make public trade policy documents which describe general directions or specific positions on issues of interest and to promptly inform on the progress concerning trade negotiations. The best consultations undoubtedly occur when there is a good information flow in both directions.
5. To deal with, in a serious manner, the contributions of civil society groups, properly and in writing, replying to them (when appropriate), and to distribute them internally within the administration, taking them into consideration when trade policy is drafted. It is essential to state, in each case, how the contributions received in the drafting of trade policy have borne influence (among other reasons because civil society groups need to justify their investment in time and resources in the consultations).
6. To perform Sustainability Assessments on trade treaties and negotiations at a national level, because they improve the quality of trade policies and their social acceptance, allowing non-economic aspects and those of public interest to be identified. Moreover, these assessments help to structure the consultation process with civil society, making them more factual –by counting on well-founded economic, social and environmental data and trends<sup>29</sup>.

We hope that these recommendations serve to inspire the IADB member governments to commence, if they have not already done so, national consultations in the near future.



## Endnotes

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- <sup>1</sup> Notis Lebessis and John Paterson, Forward Studies Unit, European Commission, Working Paper “Developing New Modes of Governance, Brussels, 2000.
- <sup>2</sup> For a detailed discussion on the qualitative expansion of international trade and the links between trade and other areas, consult Konrad von Moltke, “Trade and...: The Agenda of Trade Linkages”, International Institute for Sustainable Development (IISD), 2001 ([www.iisd.org](http://www.iisd.org)).
- <sup>3</sup> “Civil society, in particular, groups labor and management organizations (the “social interlocutors”), in addition to non-governmental associations, charity organizations, grass-roots organizations, and organizations fostering citizen participation in local and municipal life, with a special contribution by churches and religious communities.” (White Book on “European Governance” by the European Commission [COM (2001) 428 final, Brussels, 25.7.2001], Footnote Page 9, Page 16 ([http://europa.eu.int/comm/governance/index\\_en.htm](http://europa.eu.int/comm/governance/index_en.htm)).
- <sup>4</sup> Ibid, Page 11.
- <sup>5</sup> The European Union’s Treaty requires that the European Commission broadly consult prior to proposing legislation, and that it publishes beforehand, when deemed to be appropriate, consultation documents (Protocol No. 7 on the application of the principles of subsidiarity and proportionality, annexed to the Amsterdam Treaty).
- <sup>6</sup> This is the main conclusion of the Working Group « Consultation and Participation of Civil Society », which performed an assessment of civil society’s participation in order to use it as input in the preparation of the White Book on European Governance. Report of Working Group «Consultation and Participation of Civil Society», Pilot : L. Pavan-Woolfe; Rapporteur : M. Kröger. June 2001. The report elaborated by the “Governance Team” points in that same direction, in its June 2001 report to the European Commission, which summarizes the comments made by the NGOs in regard to the participation of civil society (SG/8533/01-EN, Report to the Commission, Governance Team June 2001). This report states the following concerning the “Relations between the European Commission and civil society organizations”:

“The comments and suggestions voiced at the various hearings, which the working group carried out, can be divided into three main clusters:

Firstly, all representatives of the different civil society organizations involved stressed the need for the Commission to adopt a more systematic and coherent approach to its consultation processes, for instance through the adoption of a Code of Conduct on consultation, or a checklist or guidelines for consultation processes in order to make these more transparent and to enable the Commission departments to follow a harmonized approach.

Secondly, it was unanimously argued that the functioning of the existing formalized or structured consultation arrangements (i.e. advisory committees, expert groups or other consultation forums consisting of civil society representatives) should be made more transparent as well as properly evaluated.

Finally, some NGOs called upon the Commission to propose a legal base for a structured dialogue with the NGO community (in the form of an Article in the Treaties or a Council Regulation). It was made clear that such a legal base should be aimed at recognizing the role of NGOs in consultation with the Commission. In other words, the objective was not to establish procedural rights, the respect of which would be subject to judicial control and review”.
- <sup>7</sup> COMMUNICATION FROM THE COMMISSION, “European Governance: Better Lawmaking”. Brussels, 5.6.2002, COM(2002) 275 final (<http://europa.eu.int/comm/governance/whatsnew.htm>).
- <sup>8</sup> COMMUNICATION FROM THE COMMISSION, “Consultation document: Towards a reinforced culture of consultation and dialogue - Proposal for general principles and minimum standards for consultation of interested parties by the Commission”, Brussels, 5.6.2002, COM(2002) 277 final (<http://europa.eu.int/comm/governance/whatsnew.htm>).

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- <sup>9</sup> OECD Press Release, “Informal Consultations on International Investment”, Paris, 3 December 1998; WWF International Press Release, “Collapsing MAI negotiations - reorientation needed”, Paris, 20 October 1998; Marthin Khor, Third World Network, “The need to oppose the emergence of an MAI in the WTO”, Malaysia, 1998.
- <sup>10</sup> Annotated Agenda, Investment Correspondent Network, Brussels, March 5, 1999. In the annotated agenda for the March 5th meeting of the Investment Network, the EC explains the purpose of the process: “The current discussions between WTO partners show us that it will be difficult to move forward on all fronts in Geneva as regards our interests in investment issues. It is therefore crucial for EU negotiators to know where the priorities of European businesses really lie, with a view to building up a negotiation strategy in the longer term”. European Commission Document: “Minutes of the first meeting of the Investment Network”, Brussels, November 27, 1998.
- <sup>11</sup> European Services Network (ESN) pamphlet, “GATS 2000 - Opening Markets for Services”.
- <sup>12</sup> Corporate Europe Observer - Issue 4, July 1999 ([www.xs4all.nl/~ceo/wto/wtobug.html#demogap](http://www.xs4all.nl/~ceo/wto/wtobug.html#demogap)).
- <sup>13</sup> Corporate Europe Observer, an NGO dedicated to monitoring the influence of large multinationals in the European Commission, stated in July 1999 that “a blow to the Commission’s credibility came in March 1999 when it was revealed that it had been pursuing a parallel, and qualitatively different, process of consultation and partnership with European business interests over investment issues with the so-called Investment Network (IN). The IN, representing Fiat, ICI, Daimler-Benz, Carlsberg, British Petroleum, Rhone-Poulenc and some 50 other corporations, was set up to identify the priorities of large European corporations for a WTO investment agreement. The Commission also surveyed more than 2000 European businessmen in order “to give a clear picture of the way international liberalization and international rulemaking on investment are perceived by the business community.” (Sources: Corporate Europe Observer - Issue 4, July 1999, and the “annotated agenda” stated above in endnote no. 10).
- <sup>14</sup> DG Trade (Foreign Trade) note, European Commission, “Commission Trade Policy Dialogue with EU Civil Society”, December 2000 ([http://trade-info.cec.eu.int/civil\\_soc/intro1.php](http://trade-info.cec.eu.int/civil_soc/intro1.php)).
- <sup>15</sup> Ibid, Page 2.
- <sup>16</sup> For instance, the NGOs conveyed to the European Commission and, afterwards presented to the European Trade Commissioner, the following Joint Statements and letters: “Joint NGO Statement: Enhancing the value of the dialogue between the European Commission and civil society on WTO and other trade & investment policy matters”, November 2000; Letter dated December 13, 2001 to Commissioner Pascal Lamy, signed by the representatives of the NGOs dealing with society, the environment, development and animal protection; Memorandum from the NGO members of the Contact Group to all of the group members, February 6, 2002; Joint statement sent to the European Commission by members of the European Trade Network (of NGOs), suggesting discussion issues and agendas for the new phase of post-Doha meetings, April 2002.
- <sup>17</sup> DG Trade (European Commission), “Civil Society Dialogue: Process Guidelines”, March 2002.
- <sup>18</sup> Joint NGO Statement: Enhancing the value of the dialogue between the European Commission and civil society on WTO and other trade & investment policy matters, November 2000.
- <sup>19</sup> In a letter addressed to the members of the Contact Group, on December 15, 2000, the European Commission informed about a pilot project to finance the attendance of people from civil society organization to the meetings which would take place in Brussels in 2001. The pilot project would finance up to 30 train or plane tickets to Brussels for each meeting session in 2001 (five sessions), from European Union countries. The total project budget came to 100,000 euros, or approximately 150 roundtrip tickets. Only the participants of the consultation meetings could benefit from this aid. The financed expenses would only include transportation, not lodging or meals.
- <sup>20</sup> The European Commission DG Trade website address is: <http://europa.eu.int/comm/trade/>
- <sup>21</sup> Memorandum to the European NGOs working on the “Civil Society Dialogue with the European Commission on the World Trade Organization (WTO): New opportunities for NGO participation” international trade reform, signed by the NGO representatives in the Contact Group: Bob Van Dillen, CIDSE (development); Mikel Insausti, WWF (environment); Simon Wilson, European Social Platform (social issues); Genon Jensen, EPHA (public

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- health); Dominique Forest, BEUC (consumers); Chris Fischer, Eurogroup for Animal Welfare (animal protection). January 2001.
- 22 COMMUNICATION FROM THE COMMISSION, "Consultation document: Towards a reinforced culture of consultation and dialogue - Proposal for general principles and minimum standards for consultation of interested parties by the Commission", Brussels, 5.6.2002, COM(2002) 277 final, Page 13 (<http://europa.eu.int/comm/governance/whatsnew.htm>).
- 23 Letter, dated December 13, 2001, to Commissioner Pascal Lamy, signed by the NGO representatives regarding society, the environment, development and animal protection in the Contact Group.
- 24 The definition of sustainable development, according to Commissioner Pascal Lamy, is that each activity must pass a triple test: help to develop, encourage world growth and reduce pollution and contribute to a more careful handling of natural resources (Consultation with Civil Society, November 23, 2000).
- 25 *DG Trade, Informal Discussion Paper, "The non-trade impacts of trade policy – asking questions, seeking sustainable development", 8 January 2001* (<http://europa.eu.int/comm/trade/csc/intro.htm>). Also see the WWF reply to the DG Trade discussion document, divided into three parts: "Sparking the debate on Sustainable Trade in the European Union", Part I: Theory and reality of the linkages between trade and sustainability; Part II: How can Multilateral Trade deliver Sustainable Development outcomes?; Part III: Environment & Trade in the European Union's Inter-regional Agreements, Putting environment at the heart of the Euro-Mediterranean Partnership and the EU-Mercosur Association Agreement. These documents can be obtained at the following Internet address: <http://www.panda.org/epo>. *Strategy "On Environmental Integration in the external policies of the General Affairs Council", March 2002*, and *"Draft report to the European Council on environmental integration in the external policies within the remit of the General Affairs Council", March 2002. Conclusions by the Presidency, Goteborg European Council, June 15-16, 2001*, especially Chapter II (Page 3): A Strategy for Sustainable Development. *Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions "Towards a global partnership for sustainable development" Brussels, 13.2.2002, COM(2002) 82 final* ([http://europa.eu.int/comm/environment/wssd/eu\\_documents\\_en.html](http://europa.eu.int/comm/environment/wssd/eu_documents_en.html))
- 26 For further information on the Impact Assessments on Sustainability of trade agreements performed by the European Commission, see the DG Trade website on this issue, at: [http://europa.eu.int/comm/trade/sia/index\\_en.htm](http://europa.eu.int/comm/trade/sia/index_en.htm)
- 27 Report by the UNRISD (United Nations Research Institute for Social Development) "The visible hand: Assuming the responsibility for social development", June 2000, Geneva ([www.unrisd.org](http://www.unrisd.org)).
- 28 WWF International, "Living Planet Report 2002", July 2002 ([www.panda.org](http://www.panda.org)).
- 29 To obtain further information on the Impact Assessments on Sustainability of trade agreements and policies, see the WWF website, "Balanced Trade", at [www.balancedtrade.org](http://www.balancedtrade.org)