

WTO_{and} Multilateral Trade

Eurochambres Position
September 2001



DOCUMENT PUBLISHED BY:

EUROCHAMBRES
Rue Archimède, 5
B – 1000 Brussels
Tel.: +32-2-282.08.50
Fax: +32-2-230.00.38/280.01.91
Email: eurochambres@eurochambres.be
www.eurochambres.be

CONTACT POINT:

EUROCHAMBRES, External Affairs & Trade Department

Marco Chirullo

Advisor on WTO issues
Tel.: +32-2-282.08.75 Fax: +32-2-280.01.91
Email: chirullo@eurochambres.be

Marie-Elisabeth Rusling

Head of department
Tel.: +32(2) 282 08 74
rusling@eurochambres.be

SHOULD YOU REQUIRE MORE COPIES, PLEASE CONTACT:**Anne Demaret**

Department Assistant
Tel.: +32(2) 282 08 70
demaret@eurochambres.be

Copyright Eurochambres, September 2001
Reproduction is authorized with mention of the source.



Index

Executive Summary	p. 3
1. Three Key Issues for Business	p. 7
1.1 Trade Facilitation	p. 7
1.2 Trade and Investment	p.10
1.3 Trade and Competition	p.12
2. Services and Agriculture in a Comprehensive Round: Further Liberalisation "Wanted"	p. 14
2.1 Trade in Services	p. 15
2.2 Agriculture	p. 16
3. Implementing, Completing and Extending the Uruguay Round	p. 18
3.1 Intellectual Property: Implementing the Uruguay Round	p. 18
3.2 Cuts in Tariffs: Completing the Uruguay Round	p. 18
3.3 Government Procurement: Extending the Uruguay Round	p. 19
4. An Emerging Issue: Electronic Commerce	p. 21
5. Labour and Environment: Protection Without Protectionism	p. 22
5.1 Labour	p. 22
5.2 Environment	p. 22
6. Defensive Tools: Improving Without Weakening	p. 24
6.1 Antidumping	p. 24
6.2 Dispute Settlement Mechanisms	p. 24
7. A New WTO	p. 26
7.1 WTO and Developing Countries	p. 26
7.2 WTO Reform	p. 27
Conclusion	p. 28



EXECUTIVE SUMMARY

The Next WTO Ministerial Conference in Doha (Qatar) represents a key opportunity to launch a new multilateral negotiation round. After the failure in Seattle, Doha will make or break for the multilateral trading system; either it will succeed in launching the new round or it will represent a move backward for the multilateral approach.

The WTO and the multilateral trade system represent a cornerstone of international rule-based trading system. Eurochambres fully acknowledges the enormous contribution that the globalised trade has made with regard to raising world living standards. Indicators of global integration show remarkable growth. By liberalising world trade and improving market access, the GATT/WTO system has fostered job creation, enhanced economic growth and increased consumers' choice. The latest data from the United Nations Conference on Trade and Development show that foreign direct investment jumped 27 percent in 1999 to reach an all-time high of US \$ 865 billion. Total cross-border flows of short and long-term investments have more than doubled between 1995 and 1999, thus in the period immediately following the 1994 Marrakech Agreement.

Eurochambres reiterates its support to the multilateral trading system and considers it as the most appropriate forum for trade negotiations

However, WTO members must reassure business that they will continue the liberalisation process and reverse the ongoing tendency to rely on bilateral or regional tools, at the expense of the multilateral forum.

A NEW ROUND MUST BE LAUNCHED

Eurochambres believes that a new multilateral round can

- ⇒ Foster recognition of international trade arrangements at the most efficient (i.e. multilateral) level, and discourage the multiplication of bilateral and regional agreements.
- ⇒ Help prevent the risk of exacerbate harmful protectionist pressures, encouraged by the economic slowdowns.
- ⇒ Determine a more effective management of the globalisation process and contribute to promote sustainable growth.
- ⇒ Allow completing the achievements of the Uruguay Round by opening markets further and, above all, by handling "new" trade issues of most relevance in international trade, investment and competition. Also, business operators who have benefited from the important reduction of tariff barriers and from the opening of markets still cannot take full advantage of such progress, due to the non-tariff obstacles they still face.



AN EFFECTIVE ROUND HAS TO BE COMPREHENSIVE

To achieve such results, it is necessary to launch a new comprehensive round covering a broad range of trade policy issues. A broader agenda would not only provide the necessary margin of flexibility to allow for trade-offs between the different chapters negotiated. It would also facilitate the participation of all WTO members and increase the chances of a positive outcome by producing balanced results that all WTO members could agree on. Moreover, **a broader agenda would reflect positively on trade negotiations if these match business issues and concerns more comprehensively.** This would send a very positive signal in terms of trade negotiations impact, WTO effectiveness and could rally business to engage in the debate most supportively.

Eurochambres strongly calls for three issues to be included in the negotiating agenda as a PRIORITY: investment, competition and trade facilitation.

Business needs

- ⇒ effective guarantees on investment,
- ⇒ protection against anti-competitive practices, such as dominant positions, cartels and price fixing.
- ⇒ disguised obstacles to the movement of goods and services across borders, such as complex and unclear rules, cumbersome procedures and excessive documentation requirements, to be eliminated.

Negotiations on the built-in agenda (services and agriculture) are already ongoing.

- ⇒ On services, Eurochambres calls for expanding and improving WTO members' commitments on market access and national treatment under the General Agreement on Trade and Services (GATS), on the broad range of traded services.
- ⇒ With regard to agriculture, Eurochambres calls for a clear EU commitment to further liberalisation. The EU should abandon its defensive stance, as adopted throughout the previous negotiations. A new approach, more consistent with the multilateral trade system "spirit" is needed. This would also help rally Developing Countries (DCs) to the multilateral system and would also facilitate negotiations with the US - all strongly asking the EU to open its market. While lower world market prices may call for some initial adjustments, such as inward processing measures to compensate cuts on refunds progressively, it is essential that the EU reforms its agriculture policy and mechanisms.



AN EFFECTIVE ROUND MUST TACKLE "NEW" ISSUES, START FROM THE URUGUAY ROUND and INCLUDE WTO ITSELF

A comprehensive negotiation round must start from the achievements as well as the shortcomings of the Uruguay Round:

- ⇒ The agreement on **Trade Related Intellectual Property rights (TRIPs)** still needs proper implementation. Before negotiating any further, effective implementation must take place, without extending the transitional periods. Technical assistance should be provided to DCs, in close co-operation with the World Intellectual Property Organisation (WIPO).
- ⇒ **Tariffs** have been significantly cut off with the last negotiation rounds. However, peak tariffs, especially in the textile sector, and "nuisance" tariffs (i.e. under 2%) still persist. Eurochambres calls for their full removal.
- ⇒ The plurilateral **Government Procurement Agreement (GPA)** needs to be broadened in coverage and participation, thus involving DCs that remain rather sceptical. The ultimate goal must be the "multilateralisation" of the GPA. GATT transparency standards should be guaranteed by a multilateral agreement on government procurement and transparency.
- ⇒ Defensive tools, such as **Antidumping and Dispute Settlement Mechanisms** are essential to act against unfair practices and abuses and a weakening of WTO defensive tools would represent a worrisome step backward. However, to avoid the abuse of Antidumping, clearer rules on how to use and impose these measures are needed.
- ⇒ Eurochambres believes that a "new" issue as important as **electronic commerce** must be addressed in the new round. By relying on soft and self-regulation, by ways of generally accepted codes of conduct, excessive, over-regulation of e-commerce can be avoided. The provisional moratoria concerning the imposition of customs duties on electronic transmission should become permanent.
- ⇒ Differing **environmental and labour standards** make it unavoidable that guidelines on these issues should be developed to avoid competition distortions. However, such guidelines must be set to prevent protectionist misuse. It is preferable to deal with labour issues in the most appropriate forum, the International Labour Organisation (ILO). As for environment, Eurochambres calls for a uniform definition of the precautionary principle, of Multilateral Environmental Agreements (MEAs) and for a uniformly agreed interpretation and application of new provisions, such as non-product-related processes and production methods (PPMs).
- ⇒ The new round must address DCs' concerns, which form three-quarters of WTO members and whose support is absolutely crucial to relaunch the trade round with its unique opportunity to improve international trade and to foster growth.
- ⇒ This further entails a general reform of the WTO, to cover decision-making processes, the dispute settlement mechanisms, and the involvement of Non-Governmental Organisations (NGOs).



PROGRESS MUST BE BOOKED NOW! TRADE TALKS START WITH MORE OF A DIALOGUE WITH TRADE...

The industry, through its representative networks and intermediaries has a key role to play. The voice of business may have been heard too little, too late but unless the system itself can evolve, reform itself and show some progress by kicking off the new round, even less interest and involvement is a likely issue.

Institutions, Member States and organisations such as the WTO must build confidence, by launching efficient consultations and communication bridges towards the civil society and with regard to trade towards the business community in particular.

As representative of more than 14 millions enterprises, Eurochambres is ready to play its part through a constructive and permanent dialogue with the EU institutions and the mobilisation of its 1.300-chamber strong network.

Eurochambres will ensure that European business' views and concerns will be clearly reflected in the negotiations and the implementation process of WTO agreements. Eurochambres will continue working closely with the European Commission to make sure that an intense and permanent dialogue takes place throughout the entire negotiation period. Periodical meetings organised by the Commission with the participation of all stakeholders will be necessary to assess the state of the art of the negotiations.

Eurochambres will provide platforms, such as seminars, workshops and local events to which EU officials and negotiators could participate and will continue issuing detailed positions on negotiating chapters.

Eurochambres will continue fostering co-operation and technical assistance programmes across the globe through the network of Chambers of Commerce and Industry. Exchanging experiences and best practices and developing sustainable economic co-operation through partnerships represents an effective and proven way of strengthening the civil society in the DCs.

Eurochambres is ready to provide its contribution to ensure the strengthening of the multilateral trade system and expects all governmental and non-governmental stakeholders to do the same.



1. THREE KEY ISSUES FOR BUSINESS:

TRADE FACILITATION, INVESTMENT AND COMPETITION

1.1 Trade Facilitation

Business operators have increasingly benefited from the important reduction of tariff barriers and the opening of markets determined by the Uruguay Round. However, enterprises cannot take full advantage of such progress, because of the obstacles they face when moving goods across borders. Complex and unclear rules and cumbersome procedures hinder international transactions. Furthermore, there are sure concerns on the lack of transparency and the extent of the co-operation between customs and other government agencies. This results in excessive documentation requirements, while the use of information technology remains too limited.

Eurochambres supports a WTO agreement on trade facilitation covering, above all, the three basic GATT/WTO principles, namely transparency, non-discrimination and least trade-restrictiveness. These principles are essential guidelines to work towards a real simplification of procedures. Furthermore, Eurochambres supports the development of a dispute resolution system applied to trade facilitation and calls for a prompt digitalisation of information to make rules and procedures easily available.

These principles are already part of the 1999 Kyoto Convention. Thus, it is highly desirable that a WTO agreement on trade facilitation should take up the body of the Kyoto Convention again, making it binding within the WTO framework rules that the business world has already welcomed.

The business community has an extremely important role to play to contribute to the most relevant, efficient and simple customs system.

Eurochambres will provide its contribution through a permanent dialogue with Community institutions and invites national authorities to pursue similar dialogues with their own business communities in their countries while reinforcing international co-operation and transnational networks as early as possible.

a) Transparency

The business community needs transparent customs rules, leaving no margin for arbitrary decisions and practices. This is an indispensable precondition for predictable investment and trade environments. From a WTO agreement on trade facilitation, Eurochambres expects the following:

- ⇒ Clear and predictable information: all rules have to be published and made publicly available. Electronic formats will facilitate access to the information. No other rules than those published should be enforceable. Any modification of any requirement should be published in due course, giving business operators time to adapt if new rules are in place and to consult customs authorities in due course if further explanations are needed.



- ⇒ Due Process: an independent judicial or administrative review of customs decisions is crucial in order to limit and reduce customs authorities' arbitrary acts. The establishment within the WTO of a "due process" system should be strengthened by precise rules concerning timing and costs of the judicial review, which should be accessible to small and medium enterprises. SMEs are, as those suffering potentially the heaviest damage, often discouraged by lengthy and costly procedures.

b) Non discrimination

Non-discrimination principle should be applied to import, export and customs procedures. Uniform and impartial treatment must be guaranteed. This principle must also be respected in the case when privileged status such as those of "authorised trader", are being granted.

c) Least trade restrictiveness

Rules and procedures must be reduced to the minimum necessary and actions should be sized taking the needs of SMEs into due account, because the SMEs are the most harmed by burdensome requirements. Eurochambres calls for the WTO Agreement on Trade facilitation to establish the following points:

- ⇒ The principle of mutual recognition should be brought to the multilateral level.
- ⇒ Information to be provided by the economic operators should be reduced to the minimum: this information should be provided according to internationally recognised standards
- ⇒ The simplification of bureaucratic, complicated, time-consuming and cost-intensive customs procedures in all WTO Member States should be the main goal of this negotiation chapter.
- ⇒ The simplification of Inward and Outward Processing as well as of Temporary Admission procedures is of particular concern to Eurochambres. Such procedures are so complicated that many enterprises simply refrain from making use of them. It is of vital importance that the agreement radically simplify this procedure. This should be done in dialogue with the international business associations and representations. In this field, we would like to mention a very promising project, STAIRWAY, aimed at facilitating relations between companies and Custom authorities. This project for a better customs system in Sweden has brought together all parties, trade and industries, chambers of commerce and Swedish authorities, to improve service, quality and efficiency¹.
- ⇒ One-Stop Shop: All official controls must be co-ordinated by one body only and should be concentrated in time and space.
- ⇒ Automation: the electronic exchange and processing of import and export declarations, as well as other messages related to the Customs.

¹ You may read more about this initiative on the web site of the Swedish Customs: <http://www.tullverket.se/en/future/stairway/default.asp>.



- ⇒ Authorised traders: status of authorised traders should be granted to operators according to objective and non-discriminatory criteria. International recognition of the status should allow reducing controls at the borders further.

Keep things simple

In decades of work with the Member States, **the European Union has already achieved some simplification of customs procedures, which we recommend should serve as a model at the WTO level.** The following list of measures, if adhered to by all WTO Members, would promote and simplify world trade.

- Possibility of periodic declarations to be made monthly;
- Possibility of customs administrations to waive the obligation to present the goods physically before duties must be paid;
- Introduction of transit procedures allowing the swift and unhindered onward transport from the point of entry (e.g. port) in the customs area to the final destination.

As already pointed out, Eurochambres supports the adoption of the contents of the Kyoto Convention within the WTO framework. This would not only make key principle and requirements binding for all WTO members, but it also accelerate negotiations by drawing from existing provisions

d) Involving Developing Countries

Eurochambres agrees on the point that special and differential treatment (S&DT) must be granted to these countries. Extra time for compliance and non-reciprocal treatment could be granted for specific periods of time. However, non resource-intensive commitments (such as reducing significantly customs procedures) should not be subject to S&DT: in this case, there is no capacity issue at stake for the country to implement. Compliance is a matter of political will.

Capacity building programmes should be developed further. In this respect, the WTO should co-ordinate its efforts with other international organisations, in order to build the necessary administrative infrastructure.

e) Technical Barriers to Trade

Linked to the issue of Trade Facilitation are the Technical Barriers to Trade, another important obstacle to the free movement of goods and services. National standards are often set to satisfy the local industry and may therefore be unfavourable to foreign exporters.

- ⇒ WTO version of the Agreement on Technical Barriers to Trade is only a modification of the code negotiated in the 1973-79 Tokyo Round and recognizes each member country's right to adopt any standard it considers appropriate. A new agreement is needed that clearly discourage the setting of national standards, which function as disguised protection of the domestic industry.
- ⇒ A new agreement should contain a strengthened call for the use of global standards where existing, and plead for the establishment of new international standards where needed.



1.2 Trade and Investment

The increasingly global economy needs multilaterally agreed principles to govern cross-border investments. Investment is already included in the context of the GATS services negotiations. Therefore, 60% of international flows of foreign direct investment (FDI) which go into the services sector are already potentially subject to WTO rulings. The remaining 40% flow into manufacturing, mining and agriculture and in these sectors no real protection of FDI is guaranteed, thus limiting business' initiatives and reducing the opportunities for development. Therefore, Eurochambres calls for negotiations on a multilateral investment agreement in the framework of the WTO: a multilateral agreement on investment (MAI) would create a more stable climate for foreign investments and provide immediate benefits in terms of investors' confidence. This would in turn foster development. Moreover, a MAI would clarify the rules of FDI by providing an effective alternative to the proliferation of bilateral and regional agreements.

Investment protection rules would contribute greatly to foster initiatives from SMEs, which are the most affected by the lack of a multilateral regulatory framework.

Eurochambres calls for a binding multilateral agreement providing a gradual opening of the global market to investments, guaranteeing high standards of investment protection and transparent, stable and predictable rules.

- ⇒ Definition of investment: Eurochambres sponsors a broad, asset-based definition of "investor" and "investment". The definition of "investment" should include not only FDI, but also portfolio investment and pre-establishment investment. Having a clear and agreed definition represents the first step towards an effective protection of investment.
- ⇒ Admission of foreign investors: Eurochambres supports the positive list approach, determining a sector-specific liberalisation, according to the areas in which individual countries decide to commit themselves. Such an approach has already been applied successfully in the GATS. It leaves Member States, DCs in particular, the necessary room for development policies and for protection of sensitive domestic sectors.
- ⇒ Treatment after admission: liberalisation should imply the investors' right to freely operate and expand their investments according to the rules contained in the agreement. This means that free movement of key personnel should also be guaranteed (as already foreseen by the GATS). Non-discrimination based on Most Favoured Nation/National Treatment principles, transparency and predictability must form the cornerstone of the agreement.
- ⇒ Indirect expropriation: traditional types of expropriation as in the 70s and 80s have decreased, thus decreasing levels of risks. However, the so-called "indirect expropriations", coming from administrative pressures or obstacles are a recurring issue. A WTO agreement should provide investors with protection on this point.



- ⇒ Guarantee clauses: a “standstill” clause, to avoid the introduction of new protectionist measures, and a “rollback” clause, to prevent any steps backward by withdrawing from previous commitments, must be foreseen.
- ⇒ Dispute settlement: an efficient dispute settlement mechanism must be established to address disputes related to the implementation of the multilateral agreement. The normal WTO dispute settlement mechanism (State to State) cannot guarantee the protection of private enterprises. In particular, special measures allowing SMEs’ access to dispute settlement mechanisms should be established. This is a fundamental issue for SMEs.
- ⇒ Developing Countries: one of the main benefits of a multilateral investment agreement can be the economic development of Developing Countries. Investments have a positive impact on development, by enhancing the transfer and use of technology and creating new market opportunities and greater integration in the international trade arena. Developing Countries need to retain a certain margin of freedom necessary to pursue national policies; thus Eurochambres agrees that transitional periods should be established for Developing Countries.



1.3 Trade and Competition

The trend towards liberalisation as determined by the lowering of the barriers to trade increases competitive pressure on economic actors, who can be tempted to reproduce trade barriers through business practices (from price-fixing arrangements to the misuse of market-controlling positions). Tougher competition at a more global level calls for a response at the WTO level, not to thwart the achievements so far.

For this purpose, a uniform, systematic approach should be given preference over competition provisions defined in sectoral agreements. However, for the time being it is utopian to call for an agreement establishing uniform international rules on competition, similarly an international competition authority controlling mergers, cartels, and the abuse of dominant market positions is unrealistic. But we recommend to work step by step towards a truly multilateral approach.

- ⇒ **Eurochambres calls for a WTO agreement establishing core principles on trade and competition.**
- ⇒ **The agreement should also provide panoply of instruments that would foster co-operation among Member States and support the establishment and the reinforcement of institutions and competition laws world-wide.**
- ⇒ **The agreement should help address anti-competitive practices of an international dimension. It should also reduce the burden of administrative requirements for companies (e.g. for registering the purchase of a company and mergers) and help prevent conflicts between Member States.**

The agreement should be based on non-discrimination, transparency and legal certainty (e.g. the joint definition of anti-competitive practices).

The WTO Dispute Settlement Mechanism (DSM) should then enforce such principles, to which national competition rules should have to conform.

An agreement must be reached on the following issues:

- ⇒ National frameworks: obligation of all WTO Members to create national competition rules and authorities in accordance to the key GATT/WTO principle of transparency;
- ⇒ Non-discrimination: national competition laws must conform to the principle of non-discrimination, by applying the Most Favoured Nations (MFN) clause and National Treatment (NT) to foreign firms;
- ⇒ **Flexibility: sectorial exclusions for public policy objectives should not leave room for misuses such as protectionism.**
- ⇒ "Hard-core" cartels: the agreement should address hard-core cartels, such as those set up for price-fixing and market-sharing, and treat them as in serious breach of competition rules;



- ⇒ Co-operation: international rules of procedure for the exchange of information and for co-operation between national competition authorities must be introduced; the rights of the industry, especially the confidentiality of business information, must be respected.
- ⇒ Developing Countries: it was the developing countries that suggested multilateral negotiations on competition rules during the preparation of the Punta del Este Declaration that launched the Uruguay Round. The industrialised countries, including the European Community, initially opposed this initiative. DCs are particularly vulnerable to anti-competitive practices such as the abuse of dominant position by foreign-based multinationals. A WTO agreement would address these concerns and entail clear development benefits. The agreement should take the development dimension into account. Special and Differential Treatment should be granted, in connection with effective and enhanced technical assistance, reinforcing domestic regulations and institutions. In particular, longer transitional periods or opt-out possibilities could be offered to DCs.



2. SERVICES AND AGRICULTURE IN A COMPREHENSIVE ROUND:

FURTHER LIBERALISATION "WANTED"

Negotiations on the built-in agenda, namely on services and agriculture are already going on. Negotiations on both sectors are broad in scope and affect major trade interests of most countries, either exporters or importers. They are by general consent seen as the core subjects for negotiations in the WTO. They represent the "traditional" multilateral issues, on which the agenda for negotiations has already been set.

Further liberalisation is needed both in the services and agricultural sectors.

While the EU endorses liberalisation in the services sector, it still has a protectionist stance with regard to agriculture. The EU must eventually open up its markets and truly adhere to the "spirit" of the global trade system. Such a shift calls for a radical internal reform of the Common Agricultural Policy (CAP). EU farmers must compete on the global market, where prices are by far lower than the EU ones. Furthermore, a reform of the CAP would positively contribute to progress on Europe's own enlargement.

Eurochambres believes that negotiation on services and agriculture should be part of a more comprehensive agenda. Trade-offs, allowed by such an agenda, would help find consensus on issues so broad and controversial such as agriculture. Moreover, it would facilitate negotiation on emerging, sensitive but crucial issues –competition, investment, electronic commerce-, which represent the real challenge of the new century for the multilateral trade system.

For services:

Eurochambres calls for expanding and improving WTO members' commitments on market access and national treatment under the General Agreement on Trade and Services (GATS), on the broad range of traded services.

With regard to agriculture:

- ⇒ **Eurochambres calls for a EU commitment to further liberalisation. This would help rally DCs to the multilateral system and would facilitate negotiations with the US.**
- ⇒ **Competitive pressures deriving from lower world market prices may call for some adjustments. However, it is time for the EU to start progressive cuts of refunds.**



2.1 Trade in Services

The business community welcomed the setting up of the General Agreement on Trade in Services (GATS) and the extension of multilateral rules to the services sector. However, further progress must be achieved in the new round, in particular expanding the number of services included and improving countries' commitments on market access under the GATS.

- ⇒ Financial services and insurance: agreement on international standards promoting extensive liberalisation would facilitate trade in these sectors, which are regulated nationally. Measures to increase transparency should be agreed.
- ⇒ Telecommunications sector: concessions made by Member States within the framework of the WTO Basic Telecommunications Agreement (BTA) should be fully implemented and complemented with further steps towards the full liberalisation of telecommunication markets world-wide.
- ⇒ Personnel: an agreement on the move of technical and managerial persons across boundaries is essential to enhance investment in the services sector.
- ⇒ Maritime transport services: maritime transport services should be liberalised, allowing the free establishment of maritime and related services. Coverage as well as a clear commitment from Developing Countries are key factors for a meaningful result.
- ⇒ Defensive tools: Business actors need defensive tools that might allow reacting promptly to unfair practices, such as dumping and subsidies. According to Article X of GATS, negotiations on a general safeguard clause may be launched. It would guarantee a minimum standard of protection to EU business.
- ⇒ Positive list approach: the positive list approach has proved useful and transparent during the Uruguay Round. Thus, it is highly desirable to retain such an approach as the basis of further negotiations.
- ⇒ Accession to the WTO: future members should open their markets in all important service sectors to commercial presence and key persons.
- ⇒ Developing Countries: DCs continue to impose numerous restrictions on market access in respect of Mode 1 (supply of a service from the territory of one Member into the territory of any other Member, such as consulting services, electronic trade, cross-border supply of software) and Mode 2 (supply of a service in the territory of one Member to the service consumer of any other member: tourism, transfer of the permanent residence of pensioners to a foreign country, etc.). In the EU no significant restrictions exist with respect to Mode 1 and 2. DCs should progressively eliminate these barriers and thus open their markets further.



2.2 Agriculture

Eurochambres calls for a strong EU commitment to further liberalisation.

The EU must abandon the defensive stance adopted throughout the previous negotiations.

This would also help rally DCs to the multilateral system and would also facilitate negotiations with the US, which strongly ask the EU to open its market. **A new approach, more consistent with the multilateral trade system "spirit" is needed.**

In the last GATT Round a binding timetable was determined for reducing the internal support price levels and export refunds up to the year 2001. Volumes and budgets for exports eligible for refunds are therefore limited. If the EU intends to assure its exporters access to world markets it must implement agricultural policies in good time because, given today's price levels for agricultural produce within the EU and on the world market, its food industry is not competitive in the world market without refunds.

At EU level, the following steps must be taken in order to undertake fruitful and non-damaging negotiations within the WTO context. We call for:

- ⇒ **Export Refunds:** Export refunds can be justified and seen as indispensable as long as EU prices remain higher than world prices. However, in the mid-long run new incentive schemes must accompany the EU opening progressively to world competition. Such schemes must be defined now and coupled with the progressive reduction of export refunds. A permanent 100% compensation option would be inconsistent with the "spirit" of the WTO and simply indefensible vis-à-vis EU negotiating partners. EU agriculture needs incentives to reform itself and enhance its competitiveness.
- ⇒ **Inward Processing:** Inward processing constitutes an alternative to compensatory aid where there are higher prices for primary agricultural products within the EU. As export refunds will be reduced, this customs procedure will gain greater importance in the future. The changes regarding inward processing proposed by the former Directorate-General XXI of the European Commission in its Green Book on Customs Procedures of Economic Impact should be implemented rapidly. A reform providing an incentive to the business community to engage in inward processing would be a prerequisite to:
 - assuring the necessary flexibility with regard to future exports of Non-Annex-I Goods
 - safeguarding competitiveness and hence value creation and jobs within the EU
 - relieving the burden on the export refund budget, which will be reduced in the future, and safeguarding business with third countries.



- ⇒ **Bureaucracy:** more than 50% of current European legislation concerns the agricultural sector. The complicated regulations and the related administrative burden are hardly tolerable for medium and small exporters. With the simplification and the reduction of the legislative and administrative efforts dedicated to the agricultural sector, more attention and resources could be devoted to the development of other policies, including those to increase the competitiveness of European enterprises.

In the frame of the WTO negotiations, the following issues must be addressed:

- ⇒ **Trade Barriers:** both tariff and non-tariff barriers, built up in recent years by the WTO members, must be removed in the course of the new Round and no new ones must be introduced. Such measures impede export of processed agricultural products. The removal of these trade barriers must be one of the main goals of the forthcoming WTO Round.
- ⇒ **Precautionary Principle:** Eurochambres supports the application of the precautionary principle on the basis of uniform risk assessment in the WTO in accordance with the EU "Guidelines for the Application of the Precautionary Principle" of 1998.
- ⇒ **Customs Quotas:** the granting of concessions to facilitate access to the EU market is achieved in certain areas by the introduction of customs quotas. These, however, are often tailored to specific markets and regions, and run for too short a period to provide for objective assignment of quotas. **The increasing bureaucracy associated with these quotas further complicate their application. WTO negotiations on agriculture must lead to a mitigation of this problem. Further liberalisation measures are necessary, but they cannot be achieved by establishing complicated customs quotas, which require increasing administrative efforts and costs.**



3. IMPLEMENTING, COMPLETING AND EXTENDING

THE URUGUAY ROUND

3.1 Intellectual Property: Implementing the Uruguay Round

For the time being, not each rule is fully implemented under the TRIPs Agreement (Trade Related aspects of Intellectual Property), although the Agreement is binding for all members and foresees sanctions. Therefore, if TRIPs were to be included in the new negotiation round,

- ⇒ A full and effective implementation of the Uruguay Round would represent the absolute priority and necessary prerequisite to any further negotiations (i.e. patents are still difficult to obtain on pharmaceuticals, sanctions are often not sufficiently dissuasive).
- ⇒ Transitional periods should not be extended.
- ⇒ Any negotiations should be aimed at strengthening and completing the achievements of the Uruguay Round, which should not be subject to re-negotiation.
- ⇒ Geographical indications should be better defined and protected. The registering system of "Appellations d'Origine Contrôlée" could be extended to other products than wine and spirits, providing a legal concept to create an international multilateral register.
- ⇒ The exclusion of patenting possibilities in the vegetal field should be revised.
- ⇒ The "first to file", rather than the "first to invent", principle should be applied for patenting.
- ⇒ Eurochambres supports the WTO initiative to provide technical assistance to DCs, in close co-operation with World Intellectual Property Organisation (WIPO).

3.2 Cuts in Tariffs: Completing the Uruguay Round

Reduction of peak tariffs in the new round is the most important objectives as far as trade in goods is concerned. Peak tariffs represent a harmful obstacle to trade for SMEs. Some extremely high customs tariffs remain, distorting competition and preventing market access.

- ⇒ Textiles: The most striking example comes from the textile sector (e.g. US tariffs are of over 30%). The implementation of the Agreement on Textiles and Clothing (ATC) - which will run out at the end of 2004 - is so far unsatisfactory. The textile importing countries have to make every effort to get to substantial progress in textile liberalisation. This will bring important benefits to the DCs, particularly harmed by peak tariff in this sector, and would help create a constructive ground for negotiations in a comprehensive round.



- ⇒ Nuisance tariffs: Today the so-called “nuisance tariffs” (below 2%) have hardly any impact on economic or industrial policies. Their abolishment could be offered in exchange of equivalent concessions from the WTO partners.
- ⇒ Technological products: with the International Technology Agreement (ITA) adopted in Singapore in 1996, an agreement on reducing customs tariffs in the area of information and telecommunications technology was reached, with provisions for the complete elimination of customs barriers by 1 January 2000. It is now time to move on: in the course of the WTO negotiations, endeavours should be made to cover further countries and to adjust product lists to reflect technological progress.

The WTO rules should therefore seek to ensure that all the industrialised nations eliminating all tariff barriers on industrial products, thus truly opening their markets—particularly to the least developed countries. Emerging economies should also be encouraged to lower and extend their bound tariffs. The approximation of bound customs tariffs to the actually applied rates would represent considerable progress.

3.3 Government Procurement: Extending the Uruguay Round

Eurochambres fully supports the “multilateralisation” of the plurilateral Government Procurement Agreement (GPA). In the short term it might be difficult to achieve such an important result, while key improvements to the current GPA must be obtained. For the time being, the Agreement is weak both in terms of coverage and participation. Improvements in terms of transparency are also necessary, by redefining rules and looking for a correct implementation of the agreement. The following measures are necessary in order to make the agreement really beneficial to business, in particular, SMEs:

- ⇒ In terms of coverage, especially Annex 2, listing sub-central government entities, needs to be extended.
- ⇒ Electronic means can facilitate SMEs’ participation to tenders. Thus Eurochambres is strongly in favour of measures enhancing the use of electronic means by procuring entities.
- ⇒ A multilateral agreement on government procurement and transparency, thus involving all WTO members, should be signed in order to guarantee the GATT transparency standards and the principle of non-discrimination at all stages of procurement (from invitation to tender, to evaluation and awarding of bids). Such an agreement, that would complete the efforts of the WTO working group established in Singapore in 1996, should limit itself to transparency provisions, without including measures on market access and further liberalisation of procurement.
- ⇒ Periodical reports should evaluate the effective compliance with the agreement on transparency.



- ⇒ DCs perceive the GPA as being a rich-driven agreement. DCs' participation must be a key objective both for the GPA functioning and DCs benefits. As a matter of fact, the GPA has proven to be helpful in fighting widespread corruption and public administrations' inefficiencies. In order to involve DCs, emphasis should be given to transparency and non-discrimination requirements during the negotiations, while more flexibility could be granted when dealing with procedures and awarding criteria. In this respect, transitional arrangements could be agreed.



4. AN EMERGING ISSUE:

ELECTRONIC COMMERCE

Electronic commerce should not be defined as a separate class of services. The four categories defined by the GATS should apply.

With regard to electronic commerce, Eurochambres calls for the following items to be addressed within the WTO multilateral framework:

- ⇒ Current WTO rules (GATT, GATS and TRIPs agreements) apply to e-commerce. The classification of digital products should not induce a less favourable treatment for products delivered electronically than those guaranteed to products already covered by existing WTO agreements.
- ⇒ **Permanent moratoria:** provisional moratoria concerning the imposition of custom duties on electronic transmission should become permanent.
- ⇒ Soft and self-regulation: over-regulation of electronic commerce should be avoided. Specific **regulations should be limited to the minimum** necessary in order to safeguard the legitimate interests of business, citizens and society. In many areas self-regulation by way of a generally accepted codes of conduct represents an efficient way of tackling the rapid evolutions specific to this field. In this respect, Eurochambres, jointly with BBB-on line (Council of Better Business Bureaus) and FEDMA (Federation of European Direct Marketing) is developing a new international seal or "trustmark". This programme signifies that an online business upholds specific business standards, including dispute resolution, regardless of its location. The venture's mission is to help businesses implement consistently high online standards around the globe, using a single, internationally recognizable trustmark. This will encourage the development of e-commerce by reducing consumer confusion over the proliferation of trustmarks and conflicting standards from country to country².
- ⇒ International standards: international legal standards are essential since traditional protection measures cannot but have a limited effect when electronic business is conducted across the borders of national legal systems.
- ⇒ Commitments: on e-commerce, the objective of further GATS negotiations should be that the largest possible number of countries would make equal commitments to ensure easier market access in sectors like Communication Services, Distribution Services, Financial Services, Tourism and Travel Related Services as well as Other Services not included. A further opening of markets would facilitate trade in electronic services and software. It would, at the same time, provide unrestricted access to development opportunities generated by new technologies to the less developed economies.

² You may read more about this initiative on the web site of Eurochambres:
http://www.eurochambres.be/press2001/23_04_BBB_FEDMA.pdf



5. LABOUR AND ENVIRONMENT:

PROTECTION WITHOUT PROTECTIONISM

Differing environmental and labour standards may have an impact on competition. However possible multilateral guidelines cannot be misused for protectionist reasons.

5.1 Labour

Eurochambres believes that labour issues should be kept outside the new negotiation round. International Labour Organisation (ILO) remains the competent forum where to discuss labour issues and also endorses the Singapore Declaration of Ministers of December 1996. The Declaration expressed WTO members' commitment to respect guidelines on core labour standards, to reject protectionist distortions of such a principle and to enhance co-operation between ILO and WTO. In this respect, Eurochambres supports the common working paper presented by the EC, Hungary, Japan, Korea, Switzerland and Turkey, calling for a joint ILO/WTO working forum on trade and labour standards operating outside the WTO.

- ⇒ However, the demands for the establishment of a working group on Trade and Labour should not undermine the possibility of launching a new negotiation round (DCs are particularly opposing the inclusion of a labour chapter in the new round).
- ⇒ Independently of the possible establishment of the working group, incentive should be agreed in order to persuade Members States, in particular DCs, to adopt labour standards (e.g. within the framework of the General System of Preference –GSP-). We oppose any “punitive approach” towards DCs. We believe that trade sanctions do not help improve labour standards.
- ⇒ A joint ILO/WTO working forum on trade and labour operating outside the WTO should be established.
- ⇒ However, experience from the last three decades indicate that as a developing country attains a high growth rate and a more complex economy evolves, there is also growing pressure for democratic reforms and improved social conditions. Free trade is a more powerful vehicle for social change in developing countries than arbitrarily imposed demands.

5.2 Environment

Any negotiation on trade and environment should be based on a clear scientific basis. It should in no way weaken the multilateral system. It should not distort free trade.

- ⇒ Precautionary principle: should such an issue be included in the negotiations, the EU must stick to the approach defined by its “Guidelines for the Application of the Precautionary Principle” in 1998. According to these guidelines, environmental concerns must be taken into account while not losing sight of the objective of the WTO, namely free trade.



- ⇒ Multilateral Environmental Agreements (MEAs): Conflicts between the about 180 MEAs in force and WTO rules must be addressed in the new round with the view to prevent protectionist abuses of environmental measures.
- ⇒ Non-Product-Related Processes and Production Methods (PPMs): while products heavily damaging the environment should be banned, PPMs should not represent a general exception to free trade.



6. DEFENSIVE TOOLS:

IMPROVING WITHOUT WEAKENING

6.1 Antidumping

Antidumping, as well as countervailing measures, is a key instrument against unfair practices. However, it must be acknowledged that excessive and often-unjustified use of antidumping measures has taken place, often against competition from low cost countries. To avoid the abuse of anti-dumping, Eurochambres believes that improvements to the WTO antidumping measures can be introduced and that a new WTO Antidumping Agreement might therefore include:

- ⇒ An evaluation of the interests of all parties, including importers and consumers, who risk to be damaged by the introduction of unexpected levies.
- ⇒ Shorter duration of the final measures.
- ⇒ A prohibition against repeated unjustified complaints.
- ⇒ A shorter time limit for the duration of the investigations.

A harmonised transposition of WTO antidumping rules into national legislations, if coupled with such specific measures aimed at preventing abuses, would be an ideal outcome in a multilateral negotiations. Objective criteria driving antidumping procedures and their initiation must be clearly set out

Antidumping measures must be substantially improved, but a weakening of such an instrument would represent a worrisome step backward.

6.2 Dispute Settlement Mechanisms

We consider the integration of the Dispute Settlement Mechanism (DSM) into the WTO as one of the most important contributions of the last round of negotiations. This has both enhanced the credibility and the smooth functioning of the world trade system.

However, four years of experience with DSM have also highlighted a growing need for further development and improvements of the procedures. Especially in view of the need for increased transparency, improved participation of civil society and higher levels of legal certainty.

- ⇒ Transparency: "third parties" should be given the possibility to participate to the proceedings without restrictions. For the time being, only a Member State that can prove its "vital interest" in the given case can become a third party. It is essential to improve the definition of such a vital interest and to link it with the procedural rights of the third parties. The body settling the dispute should in each specific case decide whether such a vital interest exists. Eurochambres welcomes the EU Commission's position, according to which third parties should be admitted whenever a "general interest of basic importance" can be envisaged (although definition here will necessary as well).



- ⇒ Participation: Interest groups and NGOs participation to the proceedings should be defined. Enterprises must be associated to the process and, despite the nature of the DSM (State to State), there should be room for enterprises to defend their views. A mechanism of accreditation of civil society organisations, based on objectives criteria such as legitimacy, representativity and interests at stake, should be set up. Such a mechanism could lead to the establishment of a permanent consultative body (like ECOSOC in the European Community).
- ⇒ Nominations: experts on the "new issues", such as investment, competition, environment, health of human beings, animals and plants must be nominated according to objective transparency and strict criteria. NGOs and business could provide the necessary expertise.
- ⇒ Retaliation measures: the lists of products that are to be subject to penal tariffs should be published in good time. Retaliation measures should first of all be taken within the sector concerned and use of cross-retaliation should be limited. However, it must be taken into account that retaliation measures deteriorate the trade environment dramatically, often leading to dangerous escalation measures. Thus, they should be applied only in the very last resort.
- ⇒ Objective criteria: clearer procedures relying on jurisprudence should be put in place in order to provide a clear set of rules by which disputes can be settled. Environmental or consumer issues, for example, are too often invoked to avoid having to respect international commitments. Final decisions are often taken on the basis of "one-sided scientific evidences", while other experts have come up with opposite conclusions. This is highly detrimental to the credibility of the multilateral system.



7. A NEW WTO

7.1 WTO and Developing Countries

A new round represents a great opportunity for Developing Countries to share the benefits derived from globalisation and economic growth.

Eurochambres calls for the full integration of Developing Countries in the international trading system. A new round must take their concerns, to get them on board while ensuring a more level-playing field.

- ⇒ Communication policy: an effort should be made in order to **make DCs aware of the benefits** that liberalisation can bring to them, in terms of economic growth, transparency and efficiency. In this respect, Eurochambres, with its network of Chambers of Commerce and Industry, is ready to provide its contribution.
- ⇒ Transitional periods: extra time for compliance and non-reciprocal treatment could be granted for specific periods of time. However, non resource-intensive commitments should not be subject to Special and Differential Treatment (S&DT), as there is no capacity issue at stake for the country. Compliance is a matter of political will and should be required from DCs.
- ⇒ Technical and financial assistance: the argument most commonly advanced by DCs against new negotiations is that they still face the heavy task of respecting the commitments undertaken under the Uruguay Round. The WTO should strengthen and rationalise **capacity building and technical and financial assistance programmes**³. In this respect, the WTO should co-ordinate its efforts with other international organisations, in order to improve the efficiency of actions to the benefit of DCs.
- ⇒ The Uruguay Round: **the effective implementation of all the agreements of the Uruguay Round**, TRIPs in particular, should thus represent a priority objective and be made a precondition to of any further negotiations under a new round.

For details on specific trade issues, please refer to the related chapters in this document.

³ Chambers of Commerce and Industry play an important role in fostering cooperation and technical assistance programmes across the globe. At Eurochambres, this year we have launched a new programme building on this expertise: ATLAS, an EU-Latin American Chamber Co-operation Programme offers to the 15 EU countries and 18 Latin American countries (*) a range of instruments for strengthening chambers' position in civil society, exchanging experiences and best practices and developing sustainable economic co-operation through partnerships. Similar EU-supported actions have already been developed in Eastern Europe and in the Mediterranean countries.

(*) *Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Equator, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay and Venezuela.*



7.2 WTO Reform

The WTO has deeply changed since its establishment in 1995. It has virtually become a universal organisation and, as a consequence, its detractors hold it universally responsible for all types of problems. The WTO has competence in trade issues only. However, in globalising economies, these are related to so many other issues that it is sometimes difficult to draw the line and to define strict competencies, responsibilities and basic core objectives. Moreover, the evolution of the WTO, that has grown both in members and competencies, calls for specific efforts to be made to adapt the whole organisation, to ensure effectiveness, transparency and the full participation of the 142 members.

In particular, attention should be given to the following issues:

⇒ Decision-making

- Informal consultations: Eurochambres believes that **informal consultations** among WTO members, as proposed by the European Commission, could facilitate the process of consensus building. We see a key role for the institution itself to stimulate this dialogue, foster contacts and generate constructive input on an on-going basis.
- Director-General: the **Director-General**, who has no right of initiative at the moment, should be given the power to foster WTO Members' discussions by providing personal contributions and advices.
- Negotiations: negotiations should be structured around specific points, have an effective planning and timing in order to avoid "Seattle-like" events.
- Ministerial meetings: **meetings at the ministerial level** should take place on a yearly basis, as it is the case for most international organisations.

⇒ Transparency

- Availability of documents: WTO documents should be immediately available on the web. In this respect, Eurochambres welcomes the efforts undertaken over the last year and calls for further improvements particularly in terms of user-friendliness.
- Exchange of information: **a continuous interaction between WTO and NGOs** should take place, through symposia and periodical meetings. In particular, specific initiatives should be undertaken in order to hear the voice of European business, often neglected in Geneva.
- **Internet forum**: Eurochambres calls for the establishment of a virtual forum, for the WTO Secretariat to set up a permanent dialogue with business actors and NGOs. This would facilitate preparation of more effective meetings and therefore represent a better way to exploit the tool of the symposia, which should be part of a WTO broader and more active communication strategy.
- Dispute Settlement Mechanisms (DSM): panel reports should be published as soon as possible. Moreover, appeal proceedings should be public, since issues of law have already been decided at the first stage of the proceeding. These DSM improvements would largely benefit the WTO in terms of transparency.



CONCLUSION

Eurochambres calls for a comprehensive round to handle key trade issues for business. Emerging sensitive subjects such as investment and competition and the uncontroversial issue of trade facilitation require the setting of multilateral rules. Effective guarantees on investment, protection against anti-competitive practices and the removal of disguised obstacles to the movement of goods and services across borders are crucial to foster international trade, to enhance business' confidence and to create a truly open and global market.

In anticipation of a new Ministerial Conference in Qatar, Eurochambres calls for a clear and unequivocal reaffirmation of a free and transparent multilateral trade system.

The Services and agricultural sectors need further liberalisation; industrial tariffs further reductions. A new issue such as electronic commerce must be regulated by way of soft and self-regulation. Sensitive and controversial chapters such as labour and environment need general guidelines that will resist misuse for protectionist purposes.

The strengthening of the multilateral system will also depend on the capacity to reform the WTO, its decision-making and its dispute settlement mechanisms. Since its establishment in 1995, the WTO has grown both in members and competencies and must adapt itself, to preserve its efficiency but also to respond to developing countries' concerns and needs.

Eurochambres fully appreciates the European Commission's efforts of the last two years to forge a consensus and relaunch trade negotiations in Qatar. In particular, Eurochambres welcomes its work to bring convergence with the US and all initiatives to rally DCs to support the multilateral system. However, much remains to be done to bridge the gap with our trade partners. We expect the Commission to send new important signals to them. First and foremost signals must come from a more flexible European approach towards agriculture, where the EU traditional protectionist stance is not only indefensible but also detrimental to the launching of a new round. Internal reforms must be initiated as a first step towards the opening of the EU agricultural market.

The Commission must also send the right signals to the business community, strengthening the permanent and constructive dialogue established after the failure of the Seattle Ministerial Conference in 1999. In this respect, the Commission can rely on Eurochambres' firm commitment to the multilateral trade system to mobilise on these issues. Eurochambres will contribute to the discussion and promote solutions and initiatives to facilitate the launching of a round that would benefit all in terms of economic development. By mobilising its 1.300-chamber network, Eurochambres will ensure that European business' views and concerns will be clearly reflected in the negotiations and the implementation process of WTO agreements. The following actions could be envisaged:

- ⇒ Working closely with the European Commission to make sure that an intense and permanent dialogue takes place throughout the negotiation period. Eurochambres calls for periodical meetings to assess the state of the art, organised by the Commission with the participation of all stakeholders.



- ⇒ Providing platforms, such as seminars, workshops and local events to which EU officials and negotiators could participate. This would allow raising awareness throughout Europe and receiving inputs from all those European businesses with no direct access to Brussels institutions.
- ⇒ Providing negotiators with detailed positions on negotiating chapters.
- ⇒ Fostering co-operation and technical assistance programmes across the globe through the network of Chambers of Commerce and Industry. Exchanging experiences and best practices and developing sustainable economic co-operation through partnerships represents an effective and proven way of strengthening the civil society in the DCs. It also allows an equitable sharing of the unquestionable benefits brought by further liberalisation of international trade.

Eurochambres is ready to play its role and to provide valuable contributions to ensure that a new and fruitful era for the multilateral trade system opens. Eurochambres expects all governmental and non-governmental stakeholders to do the same. The future of the multilateral trade system is at stake as well as a more open and equitable international trade environment. It is time to act for the new round to be launched now!



The Single Largest
European Business
Representation:

34 National Chamber
Organisations

1,300 Chambers of
Commerce and Industry

14,000,000 Enterprises

www.eurochambres.be



WTO_{and} Multilateral Trade

Eurochambres Position
September 2001