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August 1, 2003

The Honorable Robert Zoellick
United States Trade Representative
600 17th Street N.W.
Washington, DC 20508

Dear Ambassador Zoellick:

As you know, the World Trade Organization (WTO) Ministerial meeting in Cancun this coming September will decide whether the WTO will undertake negotiations on investment liberalization as part of a package of so-called new issues. We are writing to urge you to oppose the initiation of those investment negotiations.

We believe that investment flows can facilitate sustainable development only when they are properly governed to deliver social and environmental benefits. WTO investment rules would likely strengthen the rights of corporations with respect to foreign investment, without any corresponding obligations governing their behavior. We believe, therefore, that negotiations on international investment agreements should not take place at a time when investors face no binding rules on their conduct developed by international environmental and social bodies.

Moreover, we are concerned about the impact of new investment rules on critical public interest and development objectives. As we have already witnessed in the case of NAFTA Chapter 11, investment rules can inappropriately undermine the ability of democratic governments to undertake policies in the public interest. Both Canada and Mexico have lost investment cases involving environmental and public interest protections, and the United States has been faced with substantial challenges of environmental and other measures. We believe that WTO investment rules would similarly threaten the ability of governments, including at the state and local levels, to protect the environment, public health and safety, worker rights, and other public interest objectives.

In addition, we believe that WTO investment rules would impede the development goals of developing countries. As noted in the World Bank's Global Economic Prospects 2003 report, there is no evidence that investment agreements lead to increased flows of investment to developing countries. Governments must have the leeway to implement legitimate economic

development strategies for domestically oriented growth, especially to promote decent employment, to support domestic industries and investment, and to encourage the emergence of new and infant industries. However, the investment proposals being promoted at the WTO will restrict the ability of the poorest nations to diversify and develop their economies.

We are also opposed to the position taken by USTR favoring the inclusion of portfolio investment in international investment negotiations. The inclusion of such investment could lead to limitations on the ability of countries to impose capital and other financial controls in cases of financial instability. Many leading economists and the International Monetary Fund have concluded that capital controls are a policy tool that should be available for developing countries to ensure economic stability. We believe that any effort to constrain such policies would be harmful to developing countries, to international financial stability, and ultimately to the U.S. economy as well.

Governments supporting investment negotiations have asserted that the negotiations at the WTO would be flexible and limited in scope. Yet past experience with other investment agreements, other WTO agreements, and the WTO system itself demonstrate that these assurances are far from convincing. A so-called positive list, or bottom-up, approach to the negotiating process has led to GATS negotiations in which major developed countries have placed significant pressure on developing countries to make undesired concessions. State-to-state disputes at the WTO and in other trade fora have been the venues for tribunal decisions that have directly undermined environmental and public interest policies. There is also no reason to believe that investment negotiations would not expand beyond a limited initial mandate. Given these concerns, we believe that an agreement even on procedural modalities at the Cancun ministerial would inappropriately open the door to a potentially harmful set of negotiations.

For all of these reasons, we urge the United States to oppose the launch of negotiations on investment liberalization at the WTO Ministerial in Cancun this September. We look forward to your response concerning these issues.

Sincerely,

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Center of Concern/U.S. Gender and Trade Network
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Citizens' Network on Essential Services
Citizens Trade Campaign
Defenders of Wildlife
Friends of the Earth U.S.
Global Exchange
Greenpeace USA

Institute for Agriculture & Trade Policy
International Brotherhood of Teamsters
International Jesuit Network for Development
Maryknoll Office for Global Concerns
Minnesota Fair Trade Coalition National Environmental Trust
NETWORK: A National Catholic Social Justice Lobby
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cc: Congressional Oversight Group on Trade Policy