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Alliance for a responsible, plural and united world
Workgroup on a Solidarity Socio-economy

Proposals Paper
For the XXI^e century

**From the WTO's setback
at Seattle**

**... to the Conditions for Global
Governance**

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Domestic agriculture and Globalisation

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*Trade for a responsible and united world:
A PROJECT FOR REFORM OF THE WTO - A TEST FOR GLOBAL GOVERNANCE¹*

Seattle: crisis of consciousness, crisis of confidence

Ever since the WTO Conference in Seattle, which mobilised no less than 2000 NGOs, there has been growing awareness of globalisation issues within civil society and this awareness has now spread beyond the circle of the best-informed activists.

However, this still remains largely a phenomenon of the countries of the North. Country by country, the South is not yet strong enough to be a counterweight to the economic power of the countries of the North - far from it. Although developing countries today account for nearly 30 percent of world trade, the countries of the North remain crucial and indispensable actors of any multilateral structure.

This is why - until such time as countries of the South can rouse themselves and muster the means to make themselves heard - one major element in constructing a multilateral state of law is to mobilise a cross-border civil society that, while taking account of the concerns of the Southern countries, is also anxious to make the concerns of future generations heard.

From this point of view, the reaction of civil society at Seattle must be interpreted as the normal convulsion of a body so out of balance as to be ill. The world is suffering from international trade rules which favour the most powerful, to the detriment of the weak who are driven into ever greater poverty.

Based on this observation, many have made the leap and, categorically and perhaps a little prematurely, question the legitimacy of the WTO. Hence, a profound crisis of confidence, or rather distrust, between civil society and international organisations that, like the WTO, have been trying for years to establish a truly negotiated state of law that is neither unilateral nor imposed by the most powerful.

Will the Ministerial Conference at Doha change this state of affairs? And if nothing happens at Doha, what kind of reforms would the WTO have to embrace in order to show that, beyond the declarations of intent, it is capable of regulating trade in such a way as to pave the way for a global governance that is capable of addressing the major imbalances in the global economy?

How should civil society apply its efforts so as to influence international organisations to move in this direction?

¹ This document was produced and drafted by RONGEAD in collaboration with Agriculture Paysanne et Mondialisation.

We have seen attitudes that amount to wiping clean the slate of the past and burying history. One can imagine a more constructive approach: to try to find "alternative" solutions and propose reform of whatever is malfunctioning, while being careful to strengthen whatever is satisfactory. Such an approach is demanding: at the very least it entails taking a ruthless "inventory".

Although it is beyond the scope of this paper to make such an inventory, it is nonetheless possible to outline some basic thinking and offer proposals on trade and on how the WTO should be reformed and develop.

Trade and trade regulation

Trade has always existed, in one way or another. It is the marketplace where everybody meets, to exchange not only products but also information. The market brings one out of isolation, out of the ghetto. It is a crossroads, a means of communication.

Before the last war - already a global war - trade was governed by the rules of the colonial system set up by the great European powers, one after the other. Although, on the one hand, these rules provided security, they also helped those powers exploit raw materials (oil among them!) in the colonised territories and there to establish exclusive in terms of markets - and all of this within a state of law bestowed and imposed. The world war and its effects hastened the collapse of the colonial system.

The General Agreement on Tariffs and Trade (GATT) to reconstruct the post-war world

The multilateral - i.e., no longer bestowed or imposed - vocation of the system set up under GATT (General Agreement on Tariffs and Trade) in 1948 has progressively taken over. The coherent, multilateral structure - a genuine state of Law - conceived by statesmen of vision at the time, naturally went beyond trade. Under the San Francisco Charter which gave birth to the UN, it covered the political aspects of rebuilding a world devastated by the war. The economic aspects were addressed by the two Bretton Woods Institutions (IMF and IBRD) and the Havana Charter, which was to establish the ITO (International Trade Organisation). However, since the ITO was stillborn, the crucial principles of the Havana Charter governing trade, negotiated by 56 governments which took part in this United Nations Conference on Trade and Employment, and signed by 53 of them, survived as an agreement and contract known as GATT (while the rules on employment under the aegis of the ECOSOC of the UN had simply been ignored!).

Thus, the system of trade put in place with rules negotiated contractually under GATT in 1947² to promote international trade was a crucial factor for economic growth without which reconstruction and development of the economies in tatters, and population growth, would doubtless have been impossible.

² Agreement made in 1947 and ratified in 1948.

A system pushed off course by pressure from the strongest

But with the rise in power of **lex Americana** relentlessly spread by the United States economy – which, with its big open market, more and more hegemonic– the colonial system has been replaced by **lex mercatoria** with the market seen as nothing less than a religion where relations of strength and profit, particularly in the short term, deliberately ignore human and social issues – and in the long term, even economic ones.

In fact, trade has indeed made it possible to encourage, stimulate, generate and assure growth; but it is an unbalanced growth and an inequitable economic development with 80% of the wealth concentrated in nations in the North. Consequently, this has reinforced inequality between nations in the North and those in the South and even within nations, whether developed or under-developed.

As for currency that originally was a mere means of measurement for facilitating and encouraging trade, it has become a means of speculation: financial transactions currently represent about 60 times global trade transactions. This too has given rise to drift.

The separation of the three original pillars of global economic structure (GATT, IMF and IBRD, now the World Bank) has done nothing but accentuate the imbalances.

All these imbalances are at the root of the evil. Dealing with them is tantamount to rethinking the structure of the third millennium for our planet with new components that have emerged. Thus trade is not everything. Technological evolution has increased interdependence among countries, continents and people. What is happening today in Afghanistan, in Chechnya and in Bosnia concerns us; an extremely violent reminder of this was September 11, 2001. Thinking over and designing global governance is an urgent necessity and one that would be able to bring together coherently all policies conducted at every level in the different domains of life - trade is but one component of this - like social affairs, labour, education, the environment and human rights....

The dispute settlement system: the WTO's backbone

The original idea of the multilateral system of trade set up in 1948 under GATT 1947, was to create a mechanism designed to strengthen respect for negotiated obligations and concessions whilst settling disputes between Contracting Parties (GATT was a contract-agreement and its members were Contracting Parties). This is the mechanism that gives the system its true legitimacy: a state of law founded on negotiated rules, subject to sanctions if they are not obeyed.

However, this is one of the reasons for which the WTO – born of GATT and considerably strengthening the mechanism – is most criticised: this sanctions mechanism – which was inoperative but a deterrent under GATT – has become both jurisdictional and operational under the WTO. The method is really not equitable in

practice: it is first of all very costly, and often prohibitively so, for poor nations: and secondly its procedures are neither transparent nor democratic: and lastly it condemns and enforces "blind" without providing a means of final appeal. Nonetheless, it is in wide use.

"Jack of all..." Trade

In fact, the impact of the rules governing international trade – whose jurisdiction is continually evolving and expanding – has quite naturally adversely affected other areas: the environment, finance, currency, health, labour and even human rights. In that the WTO is the only world organisation with an operational system of sanctions at its disposal, there is a tendency to use this system to settle all manners of dispute. The question therefore is to find out whether, because of its connections with all these areas, the DSB (Dispute Settlement Body) has competence to damage the integrity of the world's other pillars of economic and social life.

The answer is definitely NO: trade may be a part of everything, but it is not everything. Although it is important simultaneously to remove the temptations of protectionism and unilateralism (a fundamental role of the WTO), it is also essential to prioritise problems and to promote convergence between trade and other policies (the environment, investment, finance, currency, labour...) in order to find an overall solution. And this must be done without underestimating the vast magnitude of the task at hand...

The role of civil society

If trade is at present under critical scrutiny, it is simply because this is an area that directly influences everyday life and one where public opinion gauges the effects tangibly.

In fact, the world of post-war international institutions has progressively and inexorably become so specialised and compartmentalised that only government officials and specialists are capable of gauging the complexities, costly rivalries and understanding the jargon. Citizens can only feel dismay to see their governments, often thoughtlessly, approve rules that will have an adverse effect on their lives.

Government officials, ruled as they are by electoral timing, have neither the option nor the presence of mind to simplify how issues and policies are presented, and tend naturally towards demagogy. Restoring the balance requires an educational endeavour with good sense and without demagogy. This task quite naturally falls to civil society, which is not dependant on electoral legitimacy.

The representation of "Civil society"

The decisive role and influence of the multinational corporation Chiquita could be seen in the panel set up to deal with the Banana conflict. On that occasion, civil society was able to highlight the firms' improper involvement and start up a debate on the influence of private interests in the way both the dispute settlement system and the WTO in

general work. In opening up to participation by NGOs, the WTO favoured still further and more official participation by "Industrial NGOs" (created to protect business interests).

The list of NGOs "accredited" for the Ministerial Conference in Doha illustrates this: more than 50% represent the interests of private companies.

But do not be fooled here. The fact that you have no mandate and are not elected confers just that much more responsibility: legitimacy can only be derived from the relevance of the proposals put forth and the actions taken.

On this score, we have been witnessing the discussion mature for a while now: even if the media, in order to simplify, still call the "challengers" "anti-globalists", globalisation, as an inevitable phenomenon originating in technological advances, is less and less being called into question. What is being contested is its orchestration by the most powerful, mired in a fascination with liberal ideology and with profit on the almighty market.

In this sense everything conducive to total free trade and systematic deregulation is condemned and combated.

It is not a matter of being for or against globalisation, but knowing how globalisation can serve humankind rather than enslaving it and how, specifically, regulating trade transactions may have a positive influence on the phenomenon.

It is to this end that here we outline some basic thinking and proposals for reform and development of the WTO.

Post Seattle ... Gradually coming out of the crisis

To begin with, it would be a mistake to "throw the baby out with the bath water". The existing system has proved itself; it is not a "disposable" one. Besides, no government would ever accept such a thing. Still, it is a young creation (while GATT may be 50 years old, the WTO only originated in 1995) and thus necessarily imperfect, too much a product of colonial-era reflexes. The time has come to adapt it to the march of history, by instilling it with more balance and equity. The WTO must be reformed, even radically at times. Institutionally and organically, however, reform can only come about through negotiation. Here is where civil society must make itself heard, even though it is neither called nor empowered to negotiate directly; it is a rare and unique opportunity that must not be missed.

At present, we have those who would like a moratorium before a new round of negotiations is even mentioned, and we have those who would like to go forward without taking stock of the past. The arguments from one side that "we cannot afford *not to* take stock of the imbalances created by agreements negotiated in the past", and from the other side that "we're making it up as we go along, but a moratorium would stall

what has become an essential process" can be understood in terms of a device linking a new round to the evaluation of the previous one.

The advantage of a new round of negotiations

Even with the WTO providing a forum for permanent negotiations, rounds of negotiations are necessary. They help to heighten awareness, both within the public and among economic operators, to widen the scope of negotiation beyond the debate over free trade, to put trade into the much larger context of economic life, and to give some coherence to the economic haze. Above all, they help the rule of law to evolve. Indeed, there can be no global approach without rounds of negotiation.

More significantly, the American Administration needs rounds of negotiation in order to have negotiating mandates without being constantly subjected to Congressional amendments. As for the European Union, it needs them as a way of balancing the member states' contributions by re-assigning the relative sacrifices and advantages among its regions. By way of example, note that no viable reform of the European Common Agricultural Policy could be conceivable outside of the global context of a round of WTO negotiations.

One of the disadvantages of rounds of negotiations is that the question of defining the mandate is inevitably raised, bringing with it the risk of excessive media coverage, which puts negotiators on the defensive, can lead to a hardening of positions and thus makes striving towards compromise a more difficult task.

But in the end, the important thing is not to figure out whether or not a round of negotiations needs to be started, but rather to ensure beforehand the conditions necessary for successful, balanced negotiations, the efforts of which benefit all WTO members and their respective populations.

But, as the process gets under way for the Ministerial Meeting in Doha, we are far from doing this... to say nothing of the possible fallout of the terrorist attacks in the United States. As animator and guardian of the system, the Director General of the WTO should have had at least the resources necessary to leave his mark on preparation of the negotiations. From this point of view, the current Director General, Mike Moore, is handicapped in his role due to the shaky compromise that resulted in his last-minute nomination for a limited term, just before Seattle. On the other hand, Mike Moore could clearly help his successor, Dr. Supacai Panitchpakdi, to take on this role before leaving his post at the end of 2002.

An evaluation linked to the results of the Uruguay Round is needed

An evaluation of past accords and their subsequent implementation must be completed, and it would be wise to extend this evaluation to the results of future negotiations.

Implementation of the commitments made in Marrakech (which were sealed by signing of the accords negotiated as part of the Uruguay Round) is not complete, which is why many NGOs have called for a moratorium before the start of any new negotiations. This would allow the consequences of the initial measures to be assessed, and at the same

time to finalise, with the necessary corrections, the complete implementation of commitments taken.

The evaluations that have been made up to now are partial, if not partisan, on both sides. In all instances, they lack objectivity and are in no way convincing: there are still many unclear areas and a marked asymmetry is evident in the implementation of commitments. From this point of view, the developing nations, after being restricted to adjustment policies and liberalisation by the IMF and the World Bank prior the Uruguay round of negotiations, have yet to receive the expected benefits (textiles, shoes, agricultural products, etc.).

Indeed, a satisfactory evaluation accepted by all³ parties is a prior condition for, if not the start of new rounds of negotiations, then at least the equitable outcome of future negotiations. In this area, India, Malaysia, Egypt and Pakistan are the most active in expressing their objections to starting any new round that would defy a preliminary evaluation. Theirs may be a minority voice, but it will be heard again sooner or later, for their protest is a relevant one, which will only grow in relevance as time goes on.

The question of assessing the implementation of commitments must, then, be cast in the wider framework of the new global balance of rights and obligations as well as concessions among WTO members, in light of the agreements of the Uruguay Round and the new accessions since Marrakech.

This very controversial and highly political question of evaluation is too delicate a matter to be left to the WTO Secretariat.

The best solution would be an agreement among WTO members, either prior to or during the Ministerial Meeting in Doha, in the knowledge that the ministerial meeting scheduled will not necessarily result in the start of a new round of negotiations. Such a negotiated agreement implies a will to implement without further delays so as to take into account the lessons learnt since Marrakech.

Failing that, a review of the new global balance could be assigned to an independent specialised research department, or even better to a small expert committee, should the need arise or negotiations become blocked.

There should be consultation with civil society organisations on the terms of the review mandate.

The review report will no doubt be criticised or even contested but, at least will have the merit of being an "independent" reference which, at the very least, will minimise if not relativise the extreme positions that certain members of the WTO have taken and hidden behind.

To prevent this evaluation acting as a brake on the start of a new round of negotiations (and also taking into account the point of view of supporters of a new cycle), it is possible to envisage a political agreement in which the outcome of the negotiations

³ Efforts have begun under the Moore-Harbinson project (Stuart Harbinson is currently President of the Board of Directors within the WTO) which has set out three branches of solution to be agreed Pre Doha-During Doha-Post Doha. Time is pressing and despite the efforts of the Quad (USA-EU-Canada-Japan) there is a risk that agreement may not be within reach before the start of a new round in Doha.

proper takes account of the review evaluation. Such a agreement would therefore act as a Sword of Damocles throughout future negotiations, especially for the developed nations.

In that way, it would be possible to take the time needed to ensure that the review begins on solid foundations, without the start of a new round of negotiations depending *sine qua non* on its completion.

In this way, the developing nations could, for example, tie their final signature on new agreements to the conclusions of the review. And, at any rate, the developing nations should be able to benefit from the light shed by the conclusions in order to adjust the way they negotiate. Most particularly at the crucial and difficult moments before conclusion of the negotiations, where the final haggling almost always entails major benefits or sacrifices with unforeseeable long-term consequences.

Making the litigation system more credible in order to rebuild trust

From an inefficient system to an inequitable one

True to the spirit of GATT, the aim of the litigation procedure was not to impose sanctions, but to maintain "a spirit of cooperation" and conciliation. True, this flexibility was not able to resolve conflicts that often took the form of "trade wars".

At the time of GATT, the procedure for settling conflict was on the whole more of a deterrent than an effective procedure, since it required consensus (which, among other things, requires the agreement of the defaulting Contracting Party) for all interaction and in particular for any sanctions. The new DBS/WTO method has become legal. The Uruguay Round has remodelled the GATT mechanism for settling disputes, by introducing the #Dispute Settlement Body (DSB).

The DSB, which comprises all the members of the WTO, is responsible for managing trade policy conflicts among members.

These "battles", especially those setting the United States and Europe against each other, have often made the headlines and have contributed to a deteriorating public image of GATT/WTO.

Civil society, now more and more aware of the adverse effects of globalisation and how dysfunctional the regulatory bodies are, has become mobilised. As a result, reform of the method for settling differences has been one of civil society's essential demands at Seattle.

The lack of credibility also stems from the fact that sanctions are neither effective nor systematic against ALL unfulfilled commitments. In effect, there can only be sanction... if there is a prior complaint. However, many developing nations have been hesitant to "lodge a complaint" against major nations, whose markets are vital to them and from whom they sometimes also receive aid.

Secondly, if the panels⁴ do expand, it is partly due to unclear and badly negotiated rules that have given rise to different interpretations and therefore been contested. The increasing number of panels has strengthened the DBS and has sometimes led to panels incorrectly assuming interpretations that would have been better negotiated by full members. There is a risk of slipping ever closer towards a situation where rights are established as a result of case law rather than by negotiation.

To claim rights should not be a privilege of the rich

Maintaining the balance between member nations' rights and obligations is a difficult task, especially in view of the differences in their economic influence and the inability of many of them to assess their rights and their impact on their obligations. The litigation procedure is exceptionally costly: a panel costs at least \$500,000 and what developing nation can afford that? Indeed, \$500,000 can mean survival for 500,000 people instead of being swallowed up in a process without any guarantee of success!

By way of example, developing nations responsible for a proportionally smaller part of world trade are responsible for only a third of all appeals to the DBS even though they account for three-quarters of WTO member nations.

Article 5 of the Memorandum of agreement reaffirms the principle according to which the WTO should encourage a non-contentious approach, notably by using "requests for conciliation", arbitration and good offices. In this connection, even if outside arbitration (UNCTAD, Chambers of commerce, specialist NGOs, etc...) is not provided for in the texts, it should be possible. The stilted conservatism of the WTO is chilling while, in cases affecting the environment, arbitration by knowledgeable, experienced NGOs could inject common sense and prevent costly conflicts.

In around six years, 204 appeals have been lodged with the DBS. Although it is true that a large number of them were settled amicably and that busy periods have been succeeded by periods of calm, nonetheless, the mechanism could collapse under the number of disputes. So, what is the solution? Increase the budget and employ more people to handle the surfeit of work? Or make the rules clearer and the "sanctions" fairer and more effective to encourage greater respect for the rules? The debate is open.

The results of the panels: non-existent channels of final appeal.

In the GATT texts of 1947, panels' conclusions had to be approved and adopted by all Contracting Parties⁵, by consensus, in order to be ratified and implemented. Since most of the time this consensus failed (the nations that lost were nearly always against), the

⁴ The panel, or special group, is composed of three experts designated in agreement with the two parties in contention. It examines the litigation and edits a report that establishes the damage caused and the measures to be taken by the guilty country in order to redress the situation. It is submitted to members for approval.

⁵ Being an accord, GATT speaks about contracted parties not members.

panels' conclusions were only indicative and dissuasive, their application being left to the goodwill and power of pressure and counter-pressure of the Contracted Parties concerned. The mechanism had to be improved.

Meanwhile, the EU and the least-developed nations tried at all cost to prohibit recourse to these measures and unilateral sanctions that had become quasi-systematic. In effect, the United States frequently invoked "Trade Act Section 301"⁶ authorising retaliatory measures against "offending" nations or companies, i.e. whose practices were considered by the American government to be discriminatory, unjustifiable, hindering or restricting their trade. These measures were unilateral in that they were based solely on a US appraisal.

Thus, contrary to the consensus at the time of GATT, panels and relationships of the WTO Appellate Body⁷ were adopted according to a totally new system in terms of international law and that might be called "inverted" consensus. According to this system, in order for a decision to be rejected, all members must formally oppose it. Understandably, in practice, the panel's reports are adopted automatically and the only recourse left is to the Appellate Body.

To put it more simply, during the GATT era consensus was necessary for a decision to get the green light. Today, in the era of the WTO, consensus is required only for a red light.

This process has been widely criticised by NGOs and the developing-nation members of the WTO who fear, with justification, that the process only serves to validate the panels' decisions, without offering the possibility of opposing them.

In the present system, a nation that "loses" a panel is faced with two options:

- Either the losing nation adjusts its trade policy to conform to WTO regulations within a "reasonable" period of time; or
- The nation proposes voluntary and temporary compensation (which is not discriminatory, i.e. it uses the Most Favoured Nation clause as a basis for calculations) or it submits to sanctions while waiting for the full implementation of the panel's recommendations.

Developing the "sanctions" system

With the WTO, the range of available countermeasures has increased. For example, if a remedy is granted that affects a particular product, previously-granted concessions

⁶ In 1998, the Omnibus Trade and Competitiveness Act introduced the so-called section Super 301, a special, unilateral procedure, allowing investigations to be carried out on the so-called unfair commercial practices of the third world nations. The United States has used this process to harry their partners to the limit of WTO legality.

⁷Appellate Body: when a panel has been adopted, the countries sanctioned can contest the decision. In this case, it demands the intervention of the Appellate Body composed of seven personalities designated by the ORD and recognised for at least four years in the domain of international law.

can be withdrawn and customs duties on other imported products can be increased in equal proportion to the damage identified.

Thus Europe's refusal to import American meat containing hormones was translated into sanctions against Roquefort and other European products. This is what triggered the actions of José Bové and his friends from Larzac, who considered themselves hostages in a controversy that did not involve them. Note that in the case of American sanctions against the European Union, the products sanctioned were "selected" with the objective of breaking down the common European front.

When "the circumstances are sufficiently serious" the winning party can be authorised to suspend concessions pertaining to another WTO accord in a different domain. In this case, it is a matter of "cross retaliation". Thus a dispute over the agreements on intellectual property rights could easily lead to the imposition of an embargo on agricultural imports. Thus the connection between the subject of a complaint and that of the countermeasure has been completely severed. The WTO has therefore increased the reprisals available, which has strengthened their deterrent nature. One should note that the developing-nation members of the WTO, including the least-developed nations, have taken advantage of this change. Thus Ecuador has been authorised to implement cross retaliation against the EU (although it has yet to do so in practice).

The fact remains that as a result of the disparities between economies, when a developing nation applies a sanction against a developed nation, it is often the sanctioning nation which, in fact, finds itself sanctioned because, for example, it is not in a position to restrict imports of products or services that meet fundamental needs. This was the case with Nicaragua, which won a panel against the American embargo on sugar imports and exports under GATT, but was unable to apply any sanction against the United States, the losing Contracted Party. Under the WTO, this disparity is even more marked.

The mechanism of cross sanctions that we have described via the case of French Roquefort, penalises exports by private economic agents, which are caught in the web of retaliation in a conflict resulting from negotiations between States. Producers are endangered, all the more so since they are involved in exportation. A way could be explored to apply the chosen sanction at the national level in the form of a fine, proportional to the nation's GDP. This solution would limit the damaging effects on producers and involve States more.

Other paths towards reform of the WTO

Transparency

Transparency opens up the question of effective participation in the negotiation process.

At Seattle a lack of internal transparency and/or participation was one of the causes of failure: negotiations on the most delicate questions took place between key countries in a "restricted group" in the "green room" (a practice which was initially abandoned and then revived). Civil society is obviously in a position to suggest remedies for this lack of internal openness. However, the work of in-depth thinking will only be productive if it is carried out among members in WTO bodies and in such a way as to arrive at a formal *modus operandi*.

Considerable progress has been made in external transparency thanks to the Internet... not to mention the "fruits" harvested at the same time from inside the Secretariat and member nations. But if pushed to the extreme, transparency handicaps so-called classic negotiations.

- Appropriate, satisfactory external transparency will be possible when the mandate given to the WTO to find appropriate forms of consultation with NGOs leads to acceptable solutions.

Accession to the WTO by new countries

What can the definition of economic democracy shared by 142 member nations be when they leave more than 30 candidate nations knocking at the door?

The conditions of access are far too complicated: nations wishing to become part of the WTO must answer on average more than a thousand questions, some of them reminiscent of the Inquisition and bordering on an indecent striptease - and they must answer satisfactorily, since every mistake is evaluated and the consequences are severe.

The already discriminatory process of joining the WTO has become arbitrary: large member nations demand far more openness from candidate nations, especially small ones, than the founding members of the WTO have committed themselves to, without any reciprocity (which is contrary to the basic rules of the WTO). Thus after its accession, Mongolia has become practically an export market for the trade powers, particularly the US.

- The universal, democratic mission of the multilateral trade system can only come about by defining objective criteria and equitable conditions for entry into the WTO.

The precautionary principle

When a member adopts an exceptional trade measure dictated by its citizens, such as the EU's banning of hormone-enhanced beef, by citing the public health risk, it must produce "scientific proof" that the risk is truly proven and recognised. This demand is intended to discourage any recourse to disguised protectionist measures.

In the conflict over hormones, the United States demanded that the EU produce scientific evidence of the harmful effect of the product banned from import. The

European nations are unanimous in defending their sovereign right to preserve public health and the environment, even in the absence of scientific proof, on the grounds of protecting the public and consumers' interest. The debates and thinking on the principle of precaution originate from these recent conflicts and the absence of timely preventive action, as for example in the case of livestock ailments with delayed effects on public health.

Civil society has rightly demanded that the precautionary principle can be evoked in the absence of scientific proof.

- The relevance of the precautionary principle for social, environmental and economic reasons should be recognised and integrated into WTO agreements and other international conventions with a view to sustainable development.

SUMMARY OF PROPOSALS

Every day the proof is there; globalisation is a fact. Fighting it means barking up the wrong tree; ignoring it means running the risk of suffering the ill effects and finding ourselves at the mercy of terrorism, Mafia systems and the law of the jungle.

With the WTO, trade can be the spearhead of this endeavour to conceive of a **global governance** that includes other aspects: the environment, work, the struggle against poverty, schooling, conflict prevention, justice... The apocalyptic events of the 11th of September drove it home for us: together we must build a planet of solidarity that is interdependent, interactive and above all balanced if we want a peaceful future of global prosperity for future generations.

- 1 Reform of the WTO: a breakthrough for global governance.**
- 2 There is a need to evaluate the Marrakech agreements and their implementation.**
- 3 A new trade round should be launched; its results will be tied to the outcome of the evaluation.**
- 4 Ambiguous regulations in the various agreements must be clarified in order to avoid litigation.**
- 5 Negotiated reform of the DBS is a priority, with or without the start of a new trade round. Among other things, this entails:**

- professionalizing members of panels and those of the Appellate Body:

The members of panels and of the Appellate Body are not answerable to governments and must be full-time professionals: impartial, independent, experienced and with good judgement.

- the right to legal aid:

An office of legal aid for developing nations has recently been set up at the WTO, thanks to the financing of certain developed⁸ and developing nations. This initiative should set in motion negotiation of entitlement to legal aid for the developing nations within the framework of the DBS as a contribution to re-balancing their obligations.

- reform of the sanctions system: towards "collective" sanctions and/or "proportional" sanctions:

The current mechanism rests essentially on the possibility, granted to the member that wins the case, of suspending trade concessions to bring the losing member to conform to the conclusions approved and ratified by the panel. For developed nations, the withdrawal of concessions against them does not represent an economic cost sufficient to encourage them to implement the panel's findings. In this case, it would be appropriate to promote a collective withdrawal of concessions, i.e. retaliation by all members. This is technically complicated, but politically necessary.

Proportional sanctions would allow a country to be sanctioned at the budget level in the form of a fine proportional to the GDP, causing a limited harmful effect for the poorest nations and affecting private producers less directly and randomly.

- Third parties, including NGOs, should be heard:

Article 10 should be amended to allow intervention by civil society organisations (those that expressly defend the common good and not sectoral interests) within the context of DBS procedure, especially when they consider that a measure prescribed within the DBS framework is detrimental to respect for existing commitments, at the international level, in matters of development and environment.

6 Deliberations should be encouraged to be as transparent as possible.

Appropriate forms of consultation for NGOs must be found so that the level of transparency necessary and demanded can exist.

7 An arbitration body should be set up separate from the WTO under the aegis of the UN

The other components of global governance (environment, finance, currency, work, health, human rights, etc.) and their interconnections cannot be ignored at the global level. How should these interconnections be handled, especially when there are no specific dispute settlement instruments for any of the other components?

An international arbitration body, under the aegis of the UN, should be set up to settle conflicts between different international agreements. This was envisaged elsewhere, in the Havana Charter... in 1947.

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⁸ Eight European nations and Canada each of whom has contributed more than \$2.5 million.

The explosions of September 11th have cast a harsh light on the unacceptable scale of the little-known facets of globalisation. They have laid bare a new era, the planetary dimensions of the problems of society and the environment, the little-known issues of globalisation, and above all new players such as global civil society.

Global civil society is called upon to take up the challenge of a multilateral commercial system at the service of mankind!

Questionnaire

We would be very happy to have your opinion on the proposals contained in this notebook. In order to facilitate this task, you will find below some questions to which we hope you will take the time to answer. Your assessments and comments will be very important for the continuation of the collective work. We hope that the reading of this notebook will inspire you and will bring you to read other Proposal Papers of the Workgroup on Solidarity Socio-Economy and of the Alliance (see <http://www.alliance21.org/en/proposals>.)

We also invite you to indicate what are, for you, the proposals most crucial and important to build alternatives to the present model of globalization, and to suggest projects that would represent the practical application of these proposals.

The Proposal papers:

- What is your opinion on the notebook in general?

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- On the diagnosis?

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- On the proposals?

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The proposals

- What are the proposals you agree with?

Numbers:.....

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- Any comments?

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- What are the most useful proposals for your everyday action? In what way (inspiration for the action, for lobbying, for experience sharing...)?

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➤ What are the proposals you don't agree with? Why?

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The future

➤ What suggestions would you do for the follow-up of this workshop?

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This questionnaire is to be sent back to Françoise Wautiez, email: <<mailto:psés-sp@alliance21.org>>