RONGEAD

PROPOSITION NOTEBOOK

From the WTO's setback at Seattle

… To the conditions for Global Governance

September 2001

Text produced and proposed by RONGEAD

In partnership with:

Alliance for a Responsible, Plural and United World

Domestic agriculture and Globalisation

11/10/01 11:07

Commercial exchange for a responsible and united world:
REFORM OF THE WTO WORKSHOP - A TEST FOR GLOBAL GOVERNANCE

Seattle: crisis of consciousness, crisis of trust

Ever-since since Seattle, which mobilised no less than 2000 NGOs, an awareness of globalisation issues has been reverberating throughout civil society. It has now gone beyond the circle of the best-informed militants.

However, the phenomenon largely remains a product of the Northern nations (even if poverty is spreading just as much in the North as the South). Despite everything, the nations of the North remain essential and indispensable actors of all multilateral architecture, i.e. truly negotiated, non unilateral and not imposed by the strongest.

The South is still far from having the power to balance the strength of the North. This is why, whilst waiting for all the nations of the South to wake up and find the means to make themselves heard, it would be wise to remain alert to any forms that could mobilise a borderless civil society, taking into account the concerns of Southern voices and understanding the need to help the voices of future generations be heard.

Admittedly, negotiation is something that isn't normally associated with civil society. Institutionally, this competence and responsibility belongs to those who have been given a mandate for it. However representatives will not take up their responsibilities if they don't take into due account the will and concerns manifested by those mandates…whether identified, listed, or not.
But it's important not to make a mistake. The fact of neither being given a mandate, or elected, confers even more responsibility: legitimacy can only come from the relevance of the proposals put forward and the actions carried out.
In this sense, the debate within civil society on the issues of globalisation, and in particular about the regulation of exchange is clear and unambiguous on a critical level: everything that leads to complete free-trade and systematic deregulation has been condemned and fought against. But what about constructive proposals?

Attitudes can be seen that consist of wanting to put the past behind and bury history and its achievements.
A constructive step could be envisaged, by looking for « alternative » solutions and by suggesting radical reform of that which functions badly, whilst taking care to strengthen that which gives pleasure.
Such a method is demanding: at the very least it imposes the need for a ruthless « inventory ».

Concerning exchange and its regulation

In one-way or another, exchange has always existed: in the market everyone meets, to exchange not only products but also information. Through the market it is possible to leave isolation, get out of the ghetto. It's a crossroads, a means of communication.
Before the last war, which was already global, exchange obeyed the rules of the colonial system set up by each of the great European powers; they assured security, but the other side of the coin was the way they exploited supplies of raw materials (petrol among others) in the colonised regions, which were established as their exclusive preserves in terms of commercial outlets. And all of this within a constitutional framework that was bestowed and imposed. The world war and its effects hastened the collapse of the colonial system.
The multilateral vocation – i.e. no longer bestowed and imposed but negotiated – of the system set up under GATT in 1948 has been progressively taking over. The coherent and multilateral structure – veritable multilateral constitutional state - conceived by visionary statesman of the period, naturally went beyond trade. It covered the political part of the reconstruction of a world devastated by the war through the San Francisco charter, which gave birth to the UN. The economic part was taken care of by the two Bretton Woods Institutions (FMI and IBRD) and by the Havana charter, which should have created the ITO (International Trade Organisation). But since the ITO was dead before it was born, the essential principles governing commercial exchange within the Havana Charter – negotiated by 56 governments taking part in this United Nations Conference for trade and Employment, and signed by 53 – survived as a contract-accord known under the English initials GATT (whilst those pertaining to employment under the aegis of the ECOSOC of the UN were simply forgotten!).

Thus it was that the commercial system that was set up with rules contractually negotiated under GATT 1947[1], in order to aid the development of international commercial exchange, was an essential factor of an economic growth which without doubt would have made it impossible to carry out the reconstruction,

[1] **AccORD established in 1947 and ratified in 1948**

and then development, of the devastated economies and consequently the ensuing demographic growth.

But with the rise in power of the lex Americana irresistibly propagated by the United States economy – more and more hegemonic because of their big open market – the colonial system was replaced by a lex mercatoria, where the market is seen only as a religion, where the relationships of strength and profit, above all in the short term, deliberately ignore the human and social issues – and in the long term even economic.
In fact, exchange evidently encouraged stimulation, generation and assurance of growth, but an unbalanced growth and inequitable economic development with an 80% concentration of wealth in the Northern nations. Consequently, inequality was reinforced between nations of the North and those of the South and even within nations, whether developed or under-developed.

As for money, which at the beginning was a simple means of measurement to enable and stimulate exchange, it has become a means of speculation: financial exchange currently represents about 60 times the level of global commercial exchange. This too has given rise to abuse.

The collapse of the three original pillars of global economic structure (GATT, FMI, IBRD turned into World Bank) has done nothing but accentuate the imbalances.

All these imbalances are at the root of evil. The treatment forces a rethinking of the structure of the third millennium for our planet, with new components that have emerged, like social, work, education, environment and human rights dimensions… In brief, thinking about and constructing global governance that would bring together in coherence, all policies conducted at every level in the different domains of life, of which trade is but one component.

The system of regulating disputes: the backbone of the WTO

The original idea of the multilateral commercial system set up in 1948 under GATT 1947, was the creation of a mechanism designed to strengthen respect for negotiated obligations and concessions whilst regulating the disputes between Contracted Parties (GATT was a contract-accord and its members were Contracted Parties). It is this mechanism that brought legitimacy to the system: a constitutional state founded on negotiated rules, sanction-able if they were not respected.

Nevertheless, it is one of the points for which the WTO – which was born from GATT and which has considerably strengthened the mechanism – is criticised the most: this method of sanctions – in-operable but a deterrent during GATT's time – has become both judicial and operational under the WTO. Furthermore, the method is not equitable in practice: it is first of all costly, and often prohibitively so, for the poor nations: and secondly its procedures are neither open nor democratic: and lastly it blindly condemns and enforces without allowing a means of final appeal.

« Jack of all… » Trade

Finally, the consequences of the rules governing international trade – whose area of competence is continually evolving and widening – has quite naturally interfered with other domains: those of the environment, finance, money, health, work and even human rights. Underlining the WTO is the fact that it is the only global organisation that has a system of operational sanctions at its disposition. The question therefore is to know whether, because of its connections with all these domains, the DSB (Dispute Settlement Body) is likely to damage the integrity of the other pillars of the economic and social life of the world.

The answer is definitely NO: « Jack of all » Trade it may be, but it is not everything. If it is immediately important to dismiss protectionist and unilateralist temptations (fundamental role of the WTO), it is also essential to advance the convergence between trade and other policies (environment, investment, finance, money, work…) in order to find a joint solution. However, it wouldn't be wise to under estimate the size of the task we are faced with before achieving this.

The role of civil society

If trade is at present under critical scrutiny, it is simply because it acts in a domain that directly influences every-day life and whose palpable effects are measured by public opinion.

In fact, the world of post-war international institutions has progressively and irrestibly become so specialised and isolated that only government officials and specialists are capable of measuring the complexities, the costly rivalries and understand the jargon. Citizens can only suffer and worry at seeing their

governments approving, often thoughtlessly, regulations that will have an effect on their life.
Government officials have neither the faculty nor the reflex to simplify the presentation of the issues, and politics governed as they are by electoral timing, naturally incline towards demagogy. Education in the right direction without demagogy has become necessary for « re-balancing ». This enormous task has naturally fallen to civil society, which is not influenced by electoral legitimacy. It is in this way that the relevance of the discussions within civil society are crucial.

Is it enough to display « anti-globalisation » when everything, from means of communication to even youth's aspirations, is pushing in the opposite direction?
The question isn't about being for or against globalisation but to know how globalisation can serve mankind rather than enslave it and how, in particular, the regulation of commercial exchange can positively influence the phenomenon.
This demands an inventory of for, against and inadequate, a job that no one up to now has accomplished. A work that will in any case take time and which demands an in depth technical command of the issues raised. This work will bring a breath of fresh air to the barren technocratic and diplomatic approach taken to these problems.

Although these pages are not the place to carry out this inventory, it is possible to highlight, subject to subsequent developments, some proposals and lines of thinking about the development and reform within the WTO.

The representation of "Civil society"

It was possible to determine the deciding role, and influence, played by the multinational corporation Chiquita in the panel set up to deal with the Banana conflict. On this occasion, civil society could highlight the improper involvement of firms and launch a debate about the influence of private interests, in both the way the litigation system works and the working of the WTO in general. In opening the way for NGOs to participate, the WTO favoured the participation of « Industrial NGOs » (created to protect the interests of companies).
The list of « accredited » NGOs for the Ministerial Conference in Doha illustrates this: more than 50% represent the interests of private companies.

Post Seattle … Gradually coming out of the crisis

To begin with, it would be a mistake to «throw- the baby out with the bathwater": the existing system is not « discardable », it has proved itself. Incidentally, no government is resigned to it. However, it is a young creation (even if GATT is 50 years old, the WTO was only born in 1995…), inevitably imperfect and too full of colonial reactions. It is time to modify it to the evolution of history and inject it with more balance and equity. The WTO must be reformed, radically at times. But institutionally and organically, reform can only be undertaken through negotiation and it is here that civil society must make its voice heard, even if it has neither the intention nor the power to negotiate directly. It is a rare and unique opportunity that mustn't be missed.

The interest for a new round of negotiations.

Even if the WTO provided for permanent negotiations, a round of negotiations would be necessary. They would serve to heighten awareness, both of the public and of economic operators, and widen the debate beyond negotiation for free exchange, to set trade within the wider context of economic life, to transmit some coherence into economic vagueness. Above all, it would allow the constitutional state to progress. In fact, there cannot be a global approach without rounds of negotiation.

Even more important: It is in the interest of the American Administration to begin a round of mandatory negotiations, as in this way it can avoid the constant amendments of Congress. 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 between regions. As an example it is worth noting that any viable reform of the European Common Agricultural Policy could only be conceived within the global context of a round of WTO negotiations.

On of the problems with rounds of negotiation is that each time the question of defining the mandate is raised, there is the associated risk of excessive media coverage: this puts the negotiators on the defensive, risks a hardening of positions and makes it more complicated to reach a compromise.

But in the end, it is not important to know whether or not to start a round of negotiations. The essential thing is first of all to set up the conditions necessary for fruitful and balanced negotiations, whose efforts would benefit all members of the WTO and their respective populations.

However, several weeks away from the Ministerial Meeting in Doha, we are far from this…without even mentioning the possible knock-on effects of the terrorist attacks in the United States. For this, among other things, the Director General of the WTO must have, at the least, the means necessary to leave his mark on the preparation of negotiations as animator and guardian of the system. From this point of view, the current Director General, Mike Moore, is handicapped in the role because of the shaky compromise that finished, just before Seattle, with his late nomination for a limited mandate. 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 assessment linked to the results of the Uruguay Round is necessary

An assessment of the accords passed and their subsequent implementation must be made, and it would be wise to extend this assessment to the results of future negotiations.

The implementation of the commitments made in Marrakech (which was devoted to the signing of accords negotiated within the framework of the Uruguay Round) is not finished. This is why many NGOs have called for a moratorium before starting new negotiations. In effect, this would allow the consequences of the initial measures to be assessed, and at the same time to finalise, with any corrections necessary, the complete implementation of commitments taken.

The assessments made up to now are incomplete, if not partisan, in two ways. In every case, they lack objectivity and are in no way convincing: there are still many unclear areas and a strong asymmetry manifested in the implementation of commitments. From this point of view, it has been noted that the emerging nations, which having been restricted to adjustment policies and liberalisation by the IMF and the World Bank before the Uruguay round of negotiations, still haven't received the expected benefits (textiles, shoes, agricultural products…).

In effect, a satisfactory system of assessment that is accepted by everyone[2] influences, if not the start of a new round of negotiations, then at least an equitable outcome to future negotiations. In this area, India, Malaysia, Egypt as well as Pakistan are the strongest at expressing their objections to starting a new round that would flout preliminary assessment. And even if their voices are in a minority, they will come up sooner or later because the protest is relevant and time will only increase the relevance.

The question of assessing the implementation of commitments must be set in a wider framework of the new global balance of rights and obligations as well as concessions among WT members, in the light of the agreements from the Uruguay Round and the new additions since Marrakech.

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

[2] *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 Quad (USA-EU-Canada-Japan) there is a risk that the accord will be out of reach for the start of a new round in Doha.*

The best solution would be an agreement between WTO members before or during the Ministerial Meeting in Doha, in the knowledge that the ministerial meeting that will take place will not necessarily have to 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 a specialised and independent research department, or even better to a small committee of Experts, if the need arises or negotiations become blocked
The terms of the review mandate should be the object of consultation with organisations from civil society.
The report from the review will no doubt be criticised if not contested but, at least, it will deserve to exist as an « independent » reference which, at the very least will minimise, if not diffuse, the excessive positions that certain members of the WTO have taken up and hidden behind

To prevent this assessment acting as a break on the start of a new round of negotiations (and also taking into account the point of view of partisans of a new cycle), it is possible to design a political agreement in which the clearly stated results of negotiations take into account the review assessment. This agreement would therefore act as a Sword of Damocles throughout future negotiations, especially for the developed nations.

Because of this, the necessary time can be taken to ensure that the review starts on a solid basis, without its achievement being an indispensable condition to the start of a new round of negotiations

In this way, the emerging nations could, for example, bind their final signature on new accords to the conclusions of the review. And, in any case, the emerging nations should be able to benefit from the conclusions subsequently highlighted in order to adapt their conduct of negotiations. Most particularly at the crucial and difficult moments before completion of the negotiations, where the final haggling almost always generates heavy benefits or sacrifices, the consequences of which are unknown

Increasing the credibility of the litigation system in order to rebuild trust

From an inefficient system to an inequitable one

In the initial spirit of GATT, the objective of the litigation procedure was not to impose sanctions, but to maintain « the spirit of cooperation » and conciliation.

It is true that this flexibility was not able to resolve conflicts that often took the form of « trade wars ».
At the time of GATT, the procedure for regulating conflict was on the whole a deterrent, rather than efficient, as it required consensus (and among other things, the agreement of the guilty Contracted Party) for all interaction and especially for any sanctions. The new DBS/WTO method has become legal. The Uruguay Round remodelled the GATT method of regulating disputes, by introducing the Dispute Settlement Body (DBS).
It is the DBS, comprising all the members of the WTO, which is responsible for managing the conflicts of commercial policy between its members.
These « wars » have often made the « FrontPage » of newspapers, especially those that have set the United States and Europe against each other. They have contributed to the deterioration in the image of GATT/WTO.
Civil society, more and more aware of the negative effects of globalisation and the dysfunction of the systems of regulation, has become mobilised. The reform of the method for settling differences was, because of this, 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 preliminary complaint. However, many emerging nations have hesitated to « lodge a complaint » against the major nations whose markets are vital to them and from whom they sometimes also receive aid.
In the second place, if there has been an expansion of panels[3], it is partly due to unclear and badly negotiated rules that have been interpreted differently and therefore contested. The multiplication of panels has strengthened the DBS and sometimes has led to panels incorrectly assuming interpretations that would have better been negotiated by full members; there is a risk of slipping towards a situation where rights are established in case law instead of negotiation.

Who has the means to demand their rights?

Maintaining the balance between the rights and obligations of member nations is a difficult task, especially with regards to the differences of economic weight among member nations and because of the inability of many among them to assess their rights and their impact on their obligations. The cost of the litigation procedure is exceptional: a panel costs at least $500,000. Which

[3] 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.

emerging nation can afford such a budget? In effect, $500,000 assures the survival of 500,000 people instead of being swallowed up in a process without any guarantee of success!
As way of example, the emerging nations, which carry out a proportionally weak part of world trade, have been at the origin of only a third of the appeals to the DBS whilst they account for three-quarters of the member nations within the WTO.

Article 5 of the Memorandum accord reaffirms the principle according to which the WTO should encourage a non-contentious approach, notably by using « demands of conciliation », arbitration and good offices. In this way, if external arbitration (UNCTAD, Chamber of commerce, specialised NGOs etc…) is not anticipated in the texts, it should be possible. The stilted conservatism of the WTO is chilling whilst, in cases that affect the environment, the arbitration of NGOs that have knowledge and experience, could provide common sense and prevent costly conflicts.

In nearly 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 periods of congestion have been succeeded by periods of calm, the mechanism remains, none the less, capable of « collapsing » under the number of disputes. What is the solution? To increase the budget and employ more people to handle the increased work? Or make the rules clearer, the « sanctions » fairer and more efficient to encourage greater respect for the rules? The debate is open.

The results of the panels: inexistent channels of final appeal.

In the GATT texts of 1947, the conclusions of the panels had to be approved and adopted by all Contracted Parties[4], through 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 panels' conclusions only had the status of suggestion and deterrent and their application left up to good will, and the power of pressure and counter pressure from the Contracted Parties concerned. It became necessary to improve the mechanism.

[4] GATT being an accord, it speaks about contracted parties not members..

On the other hand, the EU and less advanced nations tried at any price 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"[4] authorising measures of retorsion against « offending » nations or companies, i.e. whose practices were considered by the American government to be discriminatory, unjustifiable, hindering or restricting their commercial exchange. These measure were unilateral in that they were founded solely on American assessment.

Thus it was, contrary to the consensus at the time of GATT, that the panels and relationships of the Appellate Body[5] within the WTO were adopted according to a totally new system in matters of international right,s and that it was possible to call it « inverted » consensus. According to this system, for the decision to be rejected all the members must formally oppose it. Understandably the reports of the panels are in practice adopted automatically and there is nothing left for recourse other than the Appellate Body.
To express it more simply, at the time of GATT consensus was required to give the green light. Today, in the time of the WTO, consensus is only required for the red light.

This process has been widely criticised by NGOs and the emerging-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 current system, a nation that « looses » a panel is faced with two possible options:

- Either it readjusts its commercial policy in conformity with WTO regulations, within a « reasonable » delay,
- Or it proposes a voluntary and temporary compensation (which isn't discriminatory i.e. calculated on a basis of the Most Favoured Nation clause) or submits to sanctions whilst waiting the full implementation of the panel's recommendations.

[4] In 1998, the Omnibus Trade and Competitiveness 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 hassle their partners to the limit of WTO legality.

[5] Appellate Body: when a panel has been adopted, the coun tries 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.

Evolution of the "sanction" system.

With the WTO, the area of retortion is wider. For example, a recourse won affecting a particular product can allow concessions - previously consolidated – to be withdrawn and an increase in customs duty on other products for a volume of imports equivalent to the damage identified.

It is thus that the European refusal to import American meat with hormones is 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 as hostages in a controversy that didn't concern them. It is noticeable that in the case of American sanctions against the European Union, the « selection » of sanctioned products is decided with the objective of breaking the common European front.

When « the circumstances are particularly 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 « crossed retortion ». It is thus that a disagreement concerning the accords surrounding the rights of intellectual property could easily lead to the imposition of an embargo on the import of agricultural products. The link between the object of the complaint and the object of the retortion is thus completely erased. The WTO has therefore widened the field of reprisal, which has strengthened their deterrent nature. It has been noted that the emerging-nation members of the WTO, including those less advanced, have taken advantage of this change. Thus it is that Ecuador has been authorised to implement crossed retortion against the EU (although it still hasn't put them into practice).

However, in the case of a sanction applied by an emerging nation against a developed nation, because of the inequality of the opposing economies, it is often the nation that sanctions which, in fact, finds itself sanctioned because, for example, it is not in a position to stop the import of products or services that answer fundamental needs. This was the case of Nicaragua that had won, in the time of GATT, a panel against the American embargo on the importation and exportation of its sugar yet was incapable of applying any sanction against the United States, the loosing Contracted Party. This disparity is even more marked in the WTO.

The mechanism of crossed sanctions that we have described with the case of French Roquefort, penalises the exportation of private economic actors, caught in the net of retortion relating to a conflict emanating from negotiations

between States. Producers are threatened, all the more so since they are dynamic in exportation. A way could be explored in which the sanction chosen is applied 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 the States more.

The other paths of WTO reform

Openness

Openness leads onto the question of effective participation in the negotiation process.
At Seattle the lack of internal openness and/or participation was one of the causes of the setback: negotiations on the most delicate questions took place in « restricted group » in the « green room », (a practice initially abandoned then revived), between key countries. Civil society is obviously in a position to make suggested remedies for this lack of internal openness. However, the work entailed in further reflection will only be productive if it is conducted between members within the organs of the WTO, with the intention of arriving at a formal working method.
External openness has enjoyed considerable progress thanks to the Internet… without counting the « fruits » coming from inside the Secretariat and member nations. But pushed to the extreme, openness handicaps so-called classic negotiation.

Ø Appropriate and satisfactory external openness will be possible when the WTO's mandate to find appropriate forms of consultation with NGOs leads to acceptable solutions.

New countries accession to the WTO

What could be the definition of economic democracy that 142 member nations share when they leave more than 30 candidate nations knocking at the door?
The conditions of access are far too complicated: on average the nations wishing to become part of the WTO must answer, in a satisfactory manner (since every mistake is accountable and the consequences are heavy), more than a thousand questions, some of which verge on the inquisition.

The process of membership, already discriminatory, has become arbitrary: large member nations demand from candidate nations, and especially smaller ones, conditions of opening that go well beyond the commitments of the founding members of the WTO and without any reciprocation (contrary to the basic rules of the WTO). Thus it is that after its accession, Mongolia has become a market for exportation for commercial powers, notably American.

Ø Only the definition of objective criteria and equitable conditions for entry to the WTO will bring about the universal and democratic calling of the multilateral commercial system

The principle of precaution

When a member adopts an exceptional commercial measure dictated by its citizens, by citing a risk to public health, such as the banning of hormone enhanced beef in the case of the EU, « scientific proof » that the risk is truly proven and recognised must be shown. This demand is intended to discourage any recourse to disguised protectionist measures.
In the relative conflict around hormones, the United States demanded that the EU supplied scientific evidence of the harmful effect of the product banned from importation. The European nations are unanimous in defending their sovereign right to preserve public health and environment, even in the absence of scientific proof, in the name of protecting the consumers' general interest. The debates and reflection around the principle of precaution have had their origin in these recent conflicts and the absence of preventative action in appropriate time, as for example, in the case of livestock maladies and the delayed effects on public health.
Civil society has justifiably demanded that the principle of precaution can be evoked in the absence of scientific proof.

Ø The relevance of the principle of precaution for social, environmental and economic reasons should be recognised and integrated into the WTO's accords and other international conventions within an objective of sustainable development.

SUMMARY OF PROPOSALS

Everyday the proof is there; globalisation is a fact. Fighting it means making the wrong debate, ignoring it means running the risk of suffering the evil effects, finding ourselves at the mercy of terrorism, mafia systems and the law of the jungle.
Trade, with the WTO, is the spearhead of this workshop for the conception of global governance that includes other aspects: the environment, work, and the struggle against poverty, schooling, and the prevention of conflicts, justice… The apocalyptic events of the 11th of September drove it home for us: we have to build together a planetary space of solidarity that is interdependent, interactive and above all equitable if we want a peaceful future of global prosperity for future generations.

1 To reform the WTO, a breakthrough for global governance.

2 An assessment of the Marrakech accords and their implementation.

3 The launching of a new trade round the results of which will be bound to the results of the assessment.

4 An urgent and negotiated reform of the DBS with or without the start of a new trade round.

5 The clarification of ambiguous regulations in the different accords in order to avoid litigation.

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

7 The right to legal aid

An office of legal aid for the emerging nations has recently been set up at the WTO, thanks to the finance of certain developed[6] and emerging nations. This initiative should initiate the negotiation of a right to legal aid for the emerging nations within the framework of the DBS as a contribution to the re-balancing of their obligations.

8 Two paths of reform for the sanction system: «collective» sanctions and « proportional » sanctions.

The current method rests essentially on the possibility, granted to the member that wins the case, of suspending commercial concessions in order to induce the loosing member to conform to the approved and ratified conclusions of the panel. For the developed nations, the removal of concessions against them doesn't represent a sufficient enough economic cost to induce them to implement the conclusions of the panel.

In this case, it would be advisable to promote a collective withdrawal of concessions, i.e. retortion implemented by all members. Technically it is complicated but politically it is necessary.

Proportional sanctions would allow the country to be sanctioned at the budgetary level in the form of a fine proportional to GDP, and consequently a limited harmful effect for the poorest nations and effecting private producers in a less direct and less random way.

9 Encourage openness as far as possible during deliberations.

Appropriate forms of consultation for NGOs must be found so that openness can exist at the levels where it is both necessary and demanded.

10 The involvement of third parties, including NGOs

Article 10 must be amended to allow the involvement of organisations from civil society (those that expressly defend the common good and not sectional interests) in the framework of DBS procedure, especially when they consider that a measure prescribed within the DBS framework is prejudiced in respect of the commitments taken, at international level, in matters of development and environment.

11 For an organ of arbitration separate from the WTO under the aegis of the UN

The other components of global governance (environment, finance, money, work, health, human rights etc) and their inter-connexions cannot be ignored at global level. How should these inter-connexions be handled? Especially when all the other components do not have a proper tool for the regulation of disputes?

[6] Eight European nations and Canada each of whom has contributed more than 2.5 million dollars.

An international organ of arbitration, placed under the aegis of the UN, should be set up to regulate conflicts between different international accords. This was envisaged elsewhere, in the Havana Charter…in 1947.

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The explosions of the 11th of September have cast a harsh light over the unacceptable scale of the little-known aspects of globalisation. They have been the revelation of a new era, of a planetary dimension of the problems of society such as environment, of little-known issues of globalisation, and above all new actors like borderless civil society. This has been born from an open society, from global market to global democracy passing by all the viruses of global evil that have acted as detonators for its global awareness.

Borderless Civil society is called upon to take up the challenge for a multilateral commercial system in the service of mankind!