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**From the failure of the WTO at Seattle  
... to the conditions for global  
governance**

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**ABSTRACT**

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## **FOREWORD**

### **From the failure of the WTO at Seattle...**

The 135 member countries of the WTO<sup>1</sup> – with the passive participation of about thirty candidate nations – ran aground at the end of November 1999 at Seattle, a city on the west coast of the United States and the cradle of two symbols of American commercial power, namely Boeing and Microsoft.

What failed exactly was the third ministerial meeting of the WTO which was to decide on launching a new round of multilateral trade negotiations known as the Millennium Round .

The objective announced for the round was to continue expanding the deregulation of trade in a certain number of areas:

- those decided and agreed on at Marrakech in April 1994: agriculture, services and intellectual property;

- those which could have been agreed on at Seattle and which would have been "chosen" from the numerous subjects proposed by the members: these subjects above all reflect the predominance of national and regional interests over global interests, and the "gap" between developing and industrialized countries.

The objective of Seattle was not to negotiate on substance but simply to define the "mandate" of negotiation". More clearly this meant reaching agreement on the list of subjects to be negotiated during the round, the method to be used and the objective to be reached.

Reasons of the failure :

Much has been written about this failure being the result of pressure from civil society. In reality, actions by citizens made public opinion realize the absence of will and capacity of the multilateral system to do anything about reducing the growing disparities between the rich and poor members of the WTO. Thanks to this pressure, social and environmental aspects of world development could not be avoided in the negotiation process. This is the fruit of long and patient work in a network that started 20 years ago, working on the subject of the GATT.

But there are other types of pressure, in particular:

- the stakes at play in the American presidential elections;  
- the insistence of the European Union to negotiate on a range of subjects (to balance the gains and losses between its member states);  
- the opposition expressed by developing countries about including "labor standards " and the poor treatment to which they were subjected in the negotiation process itself.

In fact, the failure of Seattle revealed the inconsistencies and weakness of the entire multilateral system.

Furthermore, the WTO was criticized for allowing its influential members to dictate the organization's law over issues that were out of its scope of competency. Undoubtedly, but isn't this the result of the

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<sup>1</sup> 138 since Albania's recent membership

ineffectiveness of the other institutions concerned which are better suited for implementing the measures required?

All said and done, beyond the ups and downs and gesticulations of Seattle, the basic problem was neither raised, nor understood: that of world **governance**.

### **... to the conditions for global governance**

Economic globalization, initially spurred by technological progress, is a more or less irreversible process. Trade will continue to expand whether a new cycle is launched under the aegis of the WTO or not.

However it can be asserted that more and more commercial practices will escape regulation without the existence of an appropriate multilateral framework .

This is the basic challenge of international trade at the dawn of the third millennium.

This is why it is necessary to get the WTO back on the right track. What makes this still more important is that it is an international organization that has an efficient jurisdictional mechanism capable of imposing effective sanctions by which even the great powers must abide.

#### **This document has three objectives:**

- taking stock of the failure of Seattle;
- studying the role of the WTO regarding global governance
- exploring the proposals aimed at both civil society and the governments of the WTO's member states, which bear the burden of relaunching the institution as well as the next round of negotiations.

#### **Formulating the proposals raises a number of difficulties:**

- Experience has shown that formulating international economic laws serves, more often than not, to officialize the existing balance of power rather than reform it. It would therefore be pointless to make proposals that did not take this inevitable reality into account.
- But we also know that debate can soften positions and instill tendencies, making it possible to overcome diverging views and interests. Regarding the proposals, they are not simply there to be taken or left, rather they should fuel what we hope will be a constructive debate.

## **PART I**

### **WTO: A CONTRIBUTION TO GLOBAL GOVERNANCE, IN ORDER TO TAKE UP THE CHALLENGE OF GLOBALISATION**

#### **Globalization: an irreversible phenomenon** **Deregulating trade: a political choice**

Globalization should be analyzed as being a practically irreversible phenomenon. Deregulating trade aids progress, through making political choices - that meet less and less opposition - based on the

observation that opening up to international trade stimulates economic growth. Thus, it can be seen that the world has become richer in overall terms over the last fifty years, during which trade has been progressively deregulated.

However, this has happened simultaneously with:

- widening disparities, not only between rich and poor countries, but also within countries themselves, whether rich or poor;
- uncontrolled growth generally occurring to the detriment of the environment .

Thus, the automatic and mechanical impact of deregulation on growth cannot be considered as an infallible mechanism. Deregulation in the dynamic and imperfectly competitive framework in which the increasingly globalized economy operates can occur to the detriment of the poorest economies in the system.

Consequently, and paradoxically, the WTO may appear as an international bureaucracy managing trade in an organized and orderly way rather than as the conductor of free trade.

Up to now, the process of deregulation and globalization has been used to serve strategies that do not work in the general interest or that of the world but in antagonistic national interests or merely the specific interests of private groups (financial and industrial).

The background of this process highlights the uncontrolled and irresistible development of financial markets that are gradually making international bureaucratic financial institutions such as the IMF and the World Bank and the role of national governments obsolete. This is a major problem since the role of national governments as regulators of society, either as fully sovereign states or as groups of states exercising joint sovereignty should not be bypassed or replaced.

It is here that action by civil society is necessary and promising, provided that it can channel revolt and protest sustainably toward constructive objectives.

### **Deregulation/Globalization: are they uncontrollable processes?**

Taking up the challenge of globalization entails having policies and instruments capable of regulating and controlling it.

However, regulation at international level is not enough; it must be combined with and completed by policies and actions at regional, national and local levels. They should be formulated in the framework of a global approach.

It is clear that the policies and instruments already implemented at different levels have not been sufficiently pertinent.

Pertinent responses need to be formulated by reasserting basic principles, by defining policies and instruments at levels consistent and appropriate with each other, and by identifying the place and role of civil society in their definition, formulation and implementation.

### **In the face of globalization: the importance of reasserting principles**

While reasserting our support of the fundamental principle of the freedom of circulation of goods and services, capital, persons and ideas, we nonetheless state that this support is conditional. In order for it to have a "human face" and a "soul", the process of deregulation stemming from this principle must occur with due respect for the diversity of economies and cultures, in the interest of humanity and nature and, lastly, in the framework of multilateral law.

Efforts have been made by international organizations to promote and make progress with these principles. However, at multilateral level, it is vital that the organization responsible for setting the framework and stimulating world trade be endowed with clear rules for doing so.

### **WTO, development, environment and the citizen: the need for a contractual relationship?**

#### **1. Making the WTO's rules converge with the objective of sustainable development.**

Sustainable development is referred to in the statutes of the WTO. However, it is up to the member states to demonstrate their political will and capacity to make this objective a reality. This requires taking joint and shared responsibility of the future of the 6 billion human beings now living on our planet.

Among other things, the universally acknowledged idea that trade serves the cause of peace, needs examining. In fact, trade only serves the cause of peace between the rich, without eliminating the tension and risks of conflict between them. Moreover, the expansion of trade, the cause and effect of growth, exacerbates inequalities between rich and poor countries and, what is worse, within each country.

The WTO's members are now running astray on a large number of subjects, some of which are important and even vital in terms of their specificity, but they are dealt with in piecemeal fashion with no orientation toward the basic and founding objective of sustainable development.

The fragmentation of this approach leads inevitably to failure or else to new agreements lacking viability in terms of their longevity and above all to their questionable effects on disadvantaged populations. The absence of determination to achieve the objective of sustainable development - demonstrated by real conflicts between partial and contradictory approaches - brings to light differences between member countries and the contrast between the importance of the stakes at play and the disjointed attempts at negotiations.

The WTO's members must therefore agree on a clear definition of sustainable development. They must also specify the compatibility of the WTO agreements with the clauses of the multilateral agreements on the environment, and the consistency between the WTO's principles and those of the institutions carrying out specific activities in the areas of the environment and development.

#### **2 . International Institutions and Organizations: convergence, coherence, cohesion**

Global policies and instruments are needed to meet the challenge of globalization. At world level, the instruments of this globalization are international organizations such as the IMF and the World Bank.

However, there is a considerable lack of coherence between the policies implemented by them.

Thus the structural adjustment policies promulgated by the IMF and the World Bank have led developing countries to deregulate their agriculture to a far greater extent than demanded by the WTO agreements.

This encroachment by the IMF and the World Bank on what should fall within the scope of the WTO is not new: these institutions have always waived the obligations of developing countries vis-à-vis GATT in the case of balance of payment deficits.

In order to lessen the negative effects of globalization, the policies required at international, regional and national levels should be implemented with the aim of:

- convergence (at least),
- coherence (imperative),
- cohesion (a hope).

### 3. Channeling and orienting the place and role of trade and the WTO

The WTO deals with subjects that imply **an exchange**: an exchange between countries and also within a country, since imported products must be treated in the same way as those produced domestically.

Furthermore, the characteristic that makes the WTO efficient is that it is the only multilateral organization that has a dispute settlement system, backed up by a sanctions mechanism applicable to every member country, whether powerful or weak.

These two facts explain why the WTO has "infiltrated" into all activities of an economic nature to the point, according to some, of jeopardizing the very foundations of our cultural identities.

True, deregulating trade is a growth factor, but growth is not development nor is the world a merchandise, to quote the slogan of those demonstrating at Seattle.

Thus the task to be undertaken is to define and negotiate rules that are good for businesses without constituting a threat to societies and individuals, i.e. rules that treat all as equal, for example, an American producer who owns over 1,000 ha and a Chinese peasant who scrapes a living from 0.5 ha.

It is here that the rule of "non-discrimination", the keystone of the WTO system, deserves examination.

### 4. The place and role of civil society

The principle has been accepted: The Marrakech treaty stipulates that the WTO must set up "appropriate" means of consulting with NGOs. However, no such structure for consultation exists as yet.

This type of consultation is inherent to democratic ethics and is all the more justifiable and legitimate, since it is individuals who are affected indirectly by the agreements and their management.

It has also become difficult to avoid participation by civil society: the number of NGOs present at Seattle has been estimated at about 2,000. They diffused information from there to 48,000 people in 46 countries. This figure has since grown and civil society remains very much on its guard.

Lastly, the participation of civil society is needed to ensure the upholding of constitutional law in international economic and trade relations. The role of this law is to set out universal rules and sanctions against the temptation of unilateral action and the belief that might is right.

## **PART II** **ANALYSIS OF THE STAKES AND PROPOSALS**

### **Should a new round of negotiations be launched?**

The WTO is a permanent negotiating forum. Nonetheless, negotiation rounds are necessary as they permit, on the one hand, making public opinion and economic operators aware that negotiations must not be restricted only to deregulation and, on the other hand, showing that the whole negotiation process must be more coherent.

Lastly, they make it possible to advance on the issue of constitutional law. No global approach can be taken without the rounds. Another even more decisive dimension is that the American administration needs to start these rounds in order to obtain a mandate for negotiating.

The disadvantage of the round is that it raises the problem of defining the mandate within which the administration can act, which may lead to excessive media exposure. This makes the negotiators become defensive, with the risk of blocking positions. The best solution would probably be to hold an annual meeting at Geneva.

### **Should past agreements be evaluated and is a "moratorium" required?**

#### The present situation

The commitments made at Marrakech have not yet been fully implemented. This is the reason why a large number of NGOs request a moratorium before new negotiations are launched. This would permit both evaluating the effects of the initial measures taken and finalizing, with the necessary corrections, the application of the commitments.

The evaluations made up to now are not convincing: there are still many dark areas and there is a major imbalance in the way commitments are complied with. From this standpoint, after having been forced to implement structural adjustment and deregulation policies by the IMF and the World Bank before the Uruguay Round negotiations, the developing countries are now "way behind" in implementing the commitments made to the WTO. The question is delicate and the source of divergences between the WTO's members.

More broadly, there is also the question of measuring the impact of the WTO agreements on sustainable development. The method of achieving this is as difficult as the question is pertinent. At present, analyses have been limited to cases dealt with by the dispute settlement system and which concern the environment: the panels for tuna, shrimps, turtles, hormones, etc.

#### The stakes at play

The moratorium is beneficial for poor countries that are indebted to rich ones. In this case, it is the creditor who pays the cost of late reimbursement. However, in the case of the WTO, a moratorium is equivalent to a group of passengers stuck on a platform watching their train go by. Lastly, the postponement of negotiations will only encourage the proliferation of regional agreements.

#### Proposals



The issue of evaluating the application of commitments should be set within a larger framework of a new global balance of rights, duties and concessions between the members of the WTO viewed in the light of the Uruguay Round agreements and new memberships since Marrakech.

The task of carrying out an audit of the new global balance of power should be given to an independent body. This amounts to a very controversial and highly political issue too sensitive to be entrusted to the WTO secretariat or even to the WTO's different offices.

Whatever the case, an audit risks criticism and protest, but at least it deserves to exist as an "objective" reference capable of putting in perspective (if not defusing) the excessive positions behind which certain WTO members shelter.

The audit's terms of reference and the report should be subject to consultation with civil society.

### **What strategy should be used for relaunching negotiations after the failure of Seattle?**

#### The present situation

The document that was to be used at Seattle as the basis for drawing up the agenda of negotiations was inappropriate and poorly prepared. It included a compilation of subjects proposed by at least one member of the WTO as well as the recommendations and proposals of members or groups of members referring to them, i.e. 260 pages! There were only three survivors from the wreck of Seattle: agriculture, services and intellectual property (subjects termed as the "built-in agenda" already agreed on at Marrakech).

But here again, the perspectives are not very encouraging: the Marrakech text does not give any indication as to an obligation to perform or the milestones by which things should be done. This amounts to saying that recalcitrant members can drag things out as long as they like.

#### The positions of the players

The most disadvantaged are those obliged, for internal reasons, to carry out reforms before the negotiations start again. In a negotiation, a good strategy is to get the others to "pay" for your own reform in exchange for trade concessions. According to a former high functionary of the European Commission, the agreement is the "outlet" of the reform. Subject to structural adjustment policies during the eighties, the developing countries were the first victims of this "mechanism".

Europe risks being the second. Indeed, it is faced with an urgent need to reform its agricultural policy which is expensive to taxpayers, but does not satisfy the expectations of consumers or, more generally, those of citizens.

#### Proposal

The failure of Seattle has dealt a hard blow against the WTO's credibility. It will have to be reconstructed anew before relaunching negotiations, demanding work in three directions: Initially, transparency of the organization's operations must be encouraged and ensured, as must be its relations with civil society. Dialogue must be set up between the different participants. This should create favorable conditions for reaching agreement on the agenda. Before defining the agenda itself, the parties must agree on the principle that no subject should be forbidden.

However, this will only be possible if the members undertake not to take any unilateral protectionist or aggressive measures (e.g., trade measures related to labor or environmental clauses). Under these conditions, it would be possible to include subjects such as sea products and even energy (highly sensitive for petroleum producing countries, but also for Europe because of nuclear energy) on the list of negotiations.

Lastly, it is vital to develop cooperation between the WTO and the other treaties and institutions belonging to the multilateral system. Certain subjects need close consultation with other international organizations or conventions to ensure, among other things:

- compatibility between the WTO's rules and the trade conditions of certain conventions (MEA agreements);
- coherence between the undertakings made at the WTO and the actions of other international institutions;
- the conditions under which the competency of a given organization is recognized (e.g., intellectual property).

From this standpoint, seeking coherence between the rules and policies affecting specific issues would be good training for setting up a system of global governance.

### **The question of transparency**

The question of transparency leads to that of genuine participation in the negotiating process as such. The lack of transparency and/or participation at Seattle was obvious: negotiations on the most sensitive questions took place in the "green room" (a system that was first abandoned then revived) between the key countries.

There is no doubt that civil society has something to say about this lack of internal transparency; however, in-depth consideration can only be productive if it is done within the different departments of the WTO, with the aim of setting out a formal *modus operandi*. Considerable progress has been made in terms of external transparency thanks to the Internet, notwithstanding the "leaks" stemming from both within the Secretariat and the member countries.

However, taken to its extreme, transparency bridles traditional style negotiations. It will be improved when the mandate given to the WTO to find appropriate forms of consultation with NGO's leads to satisfactory solutions.

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