

Positions of French International Solidarity and Environmental Protection Organizations

**Fifth WTO Ministerial Conference
Cancún, 10 to 14 September 2003**

Table of contents



► Introduction

Page 3

► Make the WTO's organization functioning more transparent and democratic

Page 4

► Promote food sovereignty

Page 5

► Defend more equitable intellectual property rights

Page 6

► Preserve services that cater to fundamental rights

Page 7

► Refuse to subordinate the environment to trade

Page 8

► Exclude all new issues from the scope of the WTO

Page 9

Introduction

It is an understatement to say that the French international solidarity and environmental protection organizations are uneasy about the negotiation process taking place within the framework of the World Trade Organization. The predominance of market mechanisms and free-trade of goods, services and capital over all other preoccupations, which is the essence of the WTO, is carried forward by each of the agreements on which they are based . . . And in order to avoid any wavering or backsliding, the process implies both an absence of evaluation of the impact of previous stages of liberalization and an incredible principle of irreversibility ! **Doha's agenda is not a program for development, much less one for sustainable development.**

All the more readily, French organizations find reason to doubt the benefits of unfettered trade as, in the four corners of the world, they are in daily contact with families, communities and peoples being pulled down into spirals of poverty, they work in territories in the process of marginalization, and they observe the dramatic degrading of natural resources. It is difficult for us not to link these concrete situations with the evolutions of the rules of the game which are under negotiation at the international level. At the very least, it should be recognized that everyone is not a winner in the game of generalized free-trade !

We request :

- ⇒ **Recognition for the pre-eminence of universal rights and principles of sustainability over trade.**
- ⇒ **Realization of independent and participatory evaluations of the social and environmental impacts of the different agreements.** Indeed, we want to know: who wins and who loses in the liberalization process ? Where and under which conditions can these processes at the same time develop international trade and produce wealth, social progress and environmental conservation ?
- ⇒ **Recognition of economic actors' obligation to be socially and environmentally accountable,** and, in case of manifest failure, the possibility of sanctioning actors who breach their duty.
- ⇒ **Definition of the scope of trade negotiations** so that consideration of the creation of wealth, social progress and quality of the environment must also be included.

We request that the ultimate goal of WTO agreements should effectively be the sustainable development of the world's different regions and not the liberalization of trade, which can only be a means among others to attain this goal.

The French international solidarity and environmental protection organizations, drawing on the lessons learned from their engagement in the service of their partners in the most diverse local realities, formulate the following propositions concerning the issues to be dealt with at the Fifth WTO Ministerial Conference in Cancún :

1. Make the WTO's organization functioning more transparent and democratic

Despite several attempts to open up, the WTO remains an organization that is not very transparent, nor have provisions been made for democratic checks. **The WTO is still a two-speed organization where a minority of Member States dictates their laws whereas a majority of countries**, disposing of limited means and expertise, have great difficulty in participating in the negotiations and affronting the issues being negotiated and thus defending their interests.

We request :

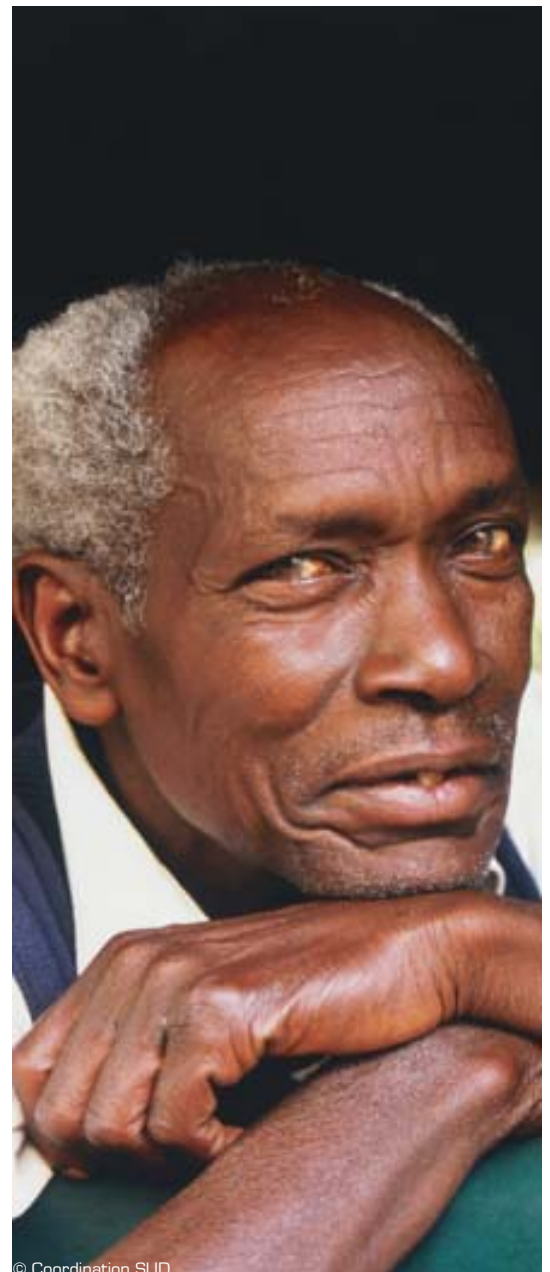
⇒ **Equality among all countries in the WTO's negotiations and decision making.**

⇒ **Adapting the functioning of the Dispute Settlement Body (DSB) to developing countries' situations.**

Developing countries' access to the WTO's DSB providing them with the judicial assistance. It is also necessary to revise the sanction mechanism by making it easier for developing countries to use, these latter encountering enormous difficulties to impose their causes and obtain reparations from those in stronger positions.

⇒ **Establishing greater transparency of the WTO.**

At national and European levels, parliamentary representatives must be involved in defining trade negotiation positions. It is equally necessary to improve the dialog with NGO's. These should be able to transmit written and oral propositions and have the possibility of participating in WTO meetings.



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2. Promote food sovereignty

Food concerns everyone, particularly the 800 Million people who suffer from hunger. Half the world's population is engaged in agricultural activities. Moreover, the competition between the North's agricultures and those of the South is biased because of a considerable gap in competitiveness, a gap further aggravated by the massive subsidies given by most Northern countries to some of their farmers. Furthermore, liberalization favors the adoption of productivist models and polluting practices which threaten the environment and, in the end, food security.



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We request :

⇒ Application of the Right to Food as a Fundamental Right

This right, already incorporated in the United Nations International Pact relative to the economic, social and cultural rights, confers on the States concerned and on the international community as a whole shared responsibility towards food security of the population. Systematic analysis that take the necessary respect of this right into consideration must be made of measures adopted in the framework of the WTO.

⇒ Recognition of the Food Sovereignty Principle

We support governments' right to act in the name of "food sovereignty", synonym of the right to keep and develop their national agricultures or, if they are engaged in regional unions, their regional agricultures. We request that "special and differentiated treatment" be fully applied to developing countries, and more particularly to the least advanced countries which must be able to put national and/or regional policies into practice that will allow them to protect the poor among their producers and consumers who.

⇒ Put an end to dumping ; Right to protection

It is urgent to end the practice of dumping in all its forms, whether it be the sale of products below production costs, export supports or using food aid outside of emergency situations, and to respect the right to protection of the South's agricultures. On the other hand, the developed countries must favor access to their markets of the South's commodities as a measure of international solidarity, i.e. on the basis of profitable prices for all parties and in the respect of the real interests of small farmers in developing countries. Furthermore, opening the developed countries' markets must be approached in the light of developing countries' right to food sovereignty as concerns temperate climate products exchanged in international markets (sugar, oils, cereals, meats, milk products, etc.). Developed countries must stop overtaxing imported transformed products, so that the countries of the South can keep a greater part of the value added, via developing local processing industries.

⇒ Set up instruments to counteract the instability of international farm commodity markets

For several decades, commodity prices have been characterized by their instability and a prolonged tendency to fall. Today, agricultural prices practiced on the world market no longer have economic significance. They precipitate peasant populations into severe pauperization and lead them to adopt environmentally predatory practices. Beyond a return to loyal practices, the negotiators should conceive and negotiate market regulation mechanisms that allow maintaining agricultural prices at sufficiently remunerative levels.

For example, French organizations will carefully follow the debates underway around the cotton sector, whose production is widely subsidized by producer countries in the North, and those concerning coffee, which has been the object of important experiments in fair trade. They intend to promote these experiments and extrapolate the lessons learned from them to render world trade more equitable.

3. Defend more equitable intellectual property rights

The WTO's Agreement on trade-related aspects of intellectual property rights (TRIPS) offers multinational firms a system of protection that has largely been constructed, where it touches on essential goods, at the expense of the rights and well-being of the vast majority of the international community. **With its threats that weigh on access to medicines and to genetic resources, it is the health and food of a great part of humanity that are jeopardized.** It also represents confiscation of biodiversity, spoliation of farmers, and the seizure of seeds and agricultural inputs by a few international groups. Finally, it represents the unprecautious diffusion of genetically-modified organisms (GMO).



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We request :

⇒ **Effective application of the Doha Declaration on access to medicine (TRIPS Agreement)**

The Doha Declaration recognizes WTO members' rights to protect the public health of their citizens and in particular, to promote access to medicine by all. In order to do this, each member has the right to issue "compulsory licenses" when necessitated by the national sanitary situation. However, this decisive advance remains without a practical object for the immense majority of countries which have no pharmaceutical production capacity. It is necessary then, for these countries, to establish a formula allowing them to import medicines at affordable prices.

To this end, we specifically propose :

- to interpret Article 30 of the TRIPS Agreement (about exceptions to the exclusive rights conferred by a patent) to allow Southern countries that produce generic medicines to export their products and non-producing countries to import them.
- to apply the principle of non-discrimination among countries: the import/export modalities touching on generic medicines, which principally concern little-industrialized countries, must not be more restrictive than the manufacturing modalities for generic medicines, which concern industrialized countries.

⇒ **Support in favor of legislation that refuses the patentability of the elements of life**

Our living heritage must be excluded from all forms of appropriation, and free access to resources must be maintained. The TRIPS dispositions concerning sui generis systems give some margin of manoeuvre to developing countries, via the formulation of alternative propositions, but support and financial means are needed to provide for the definition and implementation of such systems. This approach implies a substantial re-examination of Article 27.3 b) of the TRIPS Agreement in order to :

- ban patenting of life's elements (human and plant genomes)
- render mandatory, as concerns innovations, mentioning genetic resources used and traditional knowledge solicited
- recognize farmers' rights to keep, produce, exchange and sell freely their seeds and the varieties they cultivate.

4. Preserve services that cater to fundamental rights

The General Agreement on Trade and Services (GATS) defines a framework inciting countries to negotiate opening their markets to all services, including services such as health, education, water or culture, which must primarily correspond to the public good and not serve mercantile interests. **The GATS contains dispositions which limit governments' possibilities to establish national regulations and to chose their own development policy,** and this in a quasi-irreversible way. Southern countries will find few benefits to them in this Agreement, indeed they will suffer from it in so much as they will be subjected to heavy pressure to open up to competition sectors that are vital to their populations and strategic for multinational firms.



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We request :

⇒ **A moratorium on implementing the Agreement until an independent, pluralistic evaluation of the impact of previous stages in the liberalization of services has been realized**

Negotiations must be interrupted as long as a true evaluation respecting the principles we set out above has not been carried out. Only the results of this evaluation will allow deciding on the pertinence, in favor of sustainable development, of the GATS' application modalities, conditions and scope of the liberalization of services and whether or not to pursue offers and requests to open up to commerce.

⇒ **Exclusion from negotiations of services responding to fundamental rights**

Beyond the GATS' exclusion of services furnished free of charge and outside competition "in the exercise of governmental power", as provided in Article 13 c), services that play a primordial role in society such as, for example, education, health and culture must not become the object of commercial negotiations, and must be excluded from the scope of the Agreement.

⇒ **Transparent negotiations concerning services**

The initial requests and offers to liberalize must be published and readily available, contrary to current practice.

5. Refuse to subordinate the environment to trade

Doha's mandate confirmed that few States were ready to commit themselves to conciliating the objectives of the liberalization of trade and those of the protection of the environment :

► **No arbitration mechanism has been foreseen in case of conflict between the different logics underlying Multilateral Environment Agreements (MEAs) and Multilateral Trade Agreements.** A legal blur persists about the manner in which conflicts implicating WTO members who are parties to an MEA and those who are not parties to it could be settled. The entry into force of the "Biodiversity" Protocol, which has not been ratified by the main GMO-exporting countries, will constitute a test of how the WTO intends to clarify this judicial void.

► Furthermore, the authorities of these two families of international agreements are meant to keep each other mutually informed, however no truly operational mechanism conducive to such an exchange exists at the present time.

► The Principle of Precaution was evinced from the debate, whereas it is at the heart of MEAs

► The liberalization of environmental goods and services has been conducted in continuity with that of other services, whose principle objective is protecting the interests of industrialized countries' firms, without taking into account either the environment or the needs of the more vulnerable populations of the South.



We request :

⇒ **Affirmation of the principle of non-domination of commercial law over environmental law**, the translation of this principle into concrete arbitration modalities, and if need be, the ability to bring commercial conflicts relating to any of their provisions before the competent MEA authorities.

⇒ **Accordance of permanent observer status in the WTO's various committees for the UN Environment Programme (UNPE) and the secretariats of MEAs**, and the integration of experts competent in the appropriate environmental techniques within their panels.

⇒ **Launching a program of technical and financial support targeting the countries of the South** so that they can fully participate in the elaboration and implementation of environmental and sanitary standards as well as the development of procedures for eco-labels.

6. Exclude all new issues from the scope of the WTO

A certain number of Northern country governments are pressing for the launch into negotiations of four new issues, known as the "Singapore issues", concerning investment, competition policy, public contract transparency, and facilitation of business. These issues, set aside at the WTO Ministerial Conference in Singapore in 1996 due to the categorical opposition of numerous governments, reappeared in the Doha Ministerial declaration. Today, though the WTO's implementation program of its agreements is overloaded, and its members are having difficulty in finding favorable issues to numerous projects supported by Southern countries, opening negotiations on these subjects gives rise to anxiety.

Rather than give a free hand to investors and restrain governments' capacity to enact policy measures in favor of development, we think it preferable to pursue reflection on multinational firms' duties vis-à-vis their social and environmental responsibilities. In parallel, we think it necessary to support countries which are trying to define policies to accompany, indeed enframe, direct foreign investments in such a way that they become real levers to development in terms of employment, social progress, remuneration, education and technology transfer or local reinvestment.



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We request :

⇒ Exclusion of the issues known as the "Singapore issues" from the negotiations .



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