

THIRD WORLD *Economics*

TRENDS & ANALYSIS

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UN members at odds over development agenda

UN negotiations to produce a blueprint for global development over the next 15 years remain hamstrung by differences among member states which run largely along North-South lines. The most recent round of talks in June revealed divisions over such key issues as the underlying principles and means of implementation of the so-called post-2015 development agenda.

- North-South differences persist over “political declaration” of post-2015 agenda – p2
- Members divided over means of implementation – p5

Also in this issue:

Nairobi meet can't end Doha Round without “credible” developmental outcomes

p8

Despite scepticism, UN hails its anti-poverty programme

p14

UN body to elaborate treaty on TNCs/human rights holds first session

p12

Financial transaction tax could boost development goals

p15

Contents

CURRENT REPORTS

- 2 North-South differences persist over “political declaration” of post-2015 agenda
- 5 Members divided over means of implementation
- 8 Nairobi meet can't end Doha Round without “credible” developmental outcomes
- 9 Canadian move for “new landing zones” spurned
- 11 US, EU block permanent solution on food security public stockholding
- 12 UN body to elaborate treaty on TNCs/human rights holds first session
- 14 Despite scepticism, UN hails its anti-poverty programme
- 15 Financial transaction tax could boost development goals

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North-South differences persist over “political declaration” of post-2015 agenda

The UN member states are split, mainly between developed and developing countries, as they seek to craft a document setting a global post-2015 development agenda due to be adopted in September. These divisions were in evidence during the latest round of talks in June, as *Mirza Alas* reports in the following two articles.

NEW YORK: Intergovernmental negotiations on the post-2015 development agenda continue to be fraught with North-South differences even as there remains just one more official session for the talks.

The sixth session of the United Nations negotiations on the outcome document of the post-2015 development agenda took place on 22-25 June at the UN headquarters in New York. Member states started deliberations on the “zero draft” of the document that will be presented at the Development Summit in September for adoption by the UN General Assembly.

The final scheduled session of the negotiations will be on 20-31 July.

The zero draft document is currently called “Transforming our world by 2030” (the title is still being negotiated) and contains a preamble, an introduction (declaration), and the Sustainable Development Goals (SDGs) and Targets (agreed by the UN Open Working Group on SDGs in July 2014). There is also a proposal for a follow-up and review framework as well as three annexes: a proposed revision for 21 targets out of the 169, a possible Technology Facilitation Mechanism and the “chapeau” that was part of the report by the Open Working Group on SDGs.

At the June session, member states were encouraged to provide comments on the current draft regarding the different parts.

The developing countries, led by the Group of 77 and China, highlighted their agreement with the centrality of poverty eradication in the draft document and the strong emphasis on ensuring that “nobody will be left behind.” The G77 also praised the mention of the Rio Principle 7 on “common but differentiated responsibilities” (CBDR), policy space, condemnation of foreign occupation and the right to development. This was further supported by many other develop-

ing countries and their respective groupings such as the Arab States, the Caribbean Community, the Least Developed Countries, the African Group and the Alliance of Small Island States.

While all the member states agree on the centrality of poverty eradication in the post-2015 agenda, there are still many disagreements regarding the role of the preamble as well as the current draft of the declaration. The main disagreements concern such areas as the outlining of the principles in the declaration, particularly CBDR, and the explicit mention of the “right to development”. The European Union stressed that the Universal Declaration of Human Rights should come before the mention of the Rio agreements and that all the Rio principles are of equal importance and therefore there is no need for the singling out of the CBDR principle. A strong statement was made by India on the centrality of CBDR, in which India debunked what it called six “myths” that underpin developed countries’ rejection of this principle.

Below are the highlights of a selection of interventions by member states on the declaration at the June talks.

Multidimensional poverty

South Africa, speaking on behalf of the Group of 77 and China, welcomed the draft declaration and noted that it takes into account a number of issues of global development importance that need attention in the context of the post-2015 development agenda, in particular, the important reference to poverty eradication that is an overarching priority and a central imperative of the agenda. The G77 emphasized the need to address poverty as a multidimensional phenomenon, and therefore in accordance with SDG 1, the declaration should state that poverty should be eradicated “in all its forms and dimensions.”

The Group stressed that the mention

of CBDR, policy space, condemnation of foreign occupation and the right to development should be lauded and that the principles of territorial integrity, national unity and political independence of countries should be reaffirmed in the text.

The G77 also pointed out some areas of concern in the declaration such as the distortion of CBDR in the context of climate change (paragraph 27) that calls for “historic responsibilities for all states.” It stressed that developed countries must assume their historic responsibilities and address issues of climate change mitigation and adaptation as it is the developed countries that have been disproportionately contributing to climate change and attendant challenges largely precipitated by the phenomenon. The responsibility cannot be for “all states” as developing countries are responsible for a relatively inconsiderable margin of greenhouse gas emissions. Similarly, the mention of “shared responsibility” in paragraph 29 contradicts the essence of the principle of CBDR.

The Group also noted that the issue of migration requires recalibration as it is reflected in the text as a negative phenomenon when there are mutual benefits for both sending and receiving states.

Rwanda, on behalf of the African Group, stressed the importance of the principle of CBDR in the declaration and said that currently there is a disproportionate emphasis on human rights and this should not overload the agenda. The African Group also noted that the declaration needs to reflect peace and security and requested that all SDGs and targets, as well as the chapeau and the reservations contained in the Open Working Group report, be included in the zero draft.

Algeria, on behalf of the Arab States, welcomed the declaration’s provisions on poverty eradication and global principles, primarily those enshrined in international law and human rights. It also noted that occupation is a big obstacle to sustainable development and wanted to stress the importance of sovereignty as well as the right to development and the CBDR principle. The Arab Group also wanted to include a reference to the adverse impact of violence, extremism and terrorism and the causes of migration.

Algeria proposed some improvements for the text that included a paragraph about the positive impact of migration in both the sending and receiving

countries. It also pointed out that the declaration should make a reference to ending unilateral sanctions against states as these violate the UN Charter.

Belize, on behalf of the Caribbean Community (CARICOM), noted that the declaration should capture political will, but it requires refinement including a balanced description of the SDGs. It also asked for language clarity in paragraph 16 and clarity about the terminology used in paragraphs 8 and 39.

The Maldives, on behalf of the Alliance of Small Island States (AOSIS), said that important concerns were not addressed in the text, such as water, climate and oceans, and so it wanted added language from Rio documents in the text. The Maldives also pointed out that the concept of resilience should be included in the declaration. Furthermore, national disasters should be recognized as contributing to vulnerable situations.

It said the declaration should speak to all goals (SDGs) in their full context; it should not summarize or paraphrase because this leaves out agreed language. According to AOSIS, the declaration does not need to include the UN Secretary-General’s synthesis report. However, the declaration needs to recognize the special needs of countries such as the small island developing states and should contain the whole SDG Open Working Group report including the chapeau and reservations.

Preferential treatment for LDCs

Benin, on behalf of the Least Developed Countries (LDCs), proposed reaffirming global partnerships for development which recognize that LDCs need enhanced global support and appropriate mechanism for achievement of SDGs. It called for recognition of LDCs’ need for preferential treatment because of lack of resources and technology.

In emphasizing the importance of differential and preferential treatment for LDCs, Benin proposed reaffirming the need for achieving sustained economic growth in LDCs at a minimum 7% per annum by structural transformation and integration into the global economy/regional economy. It also stressed that structural transformation is a means of increasing development and building resilience, and that agriculture and food security should be made stronger, with the recognition that this is vital for LDCs. It also pointed to the im-

portance of linking LDCs to global value chains.

Benin proposed language in paragraph 36 of the declaration on recommitting to partnership with the understanding of LDCs as the most vulnerable group of countries. It also proposed language on resilience building, operationalizing crisis response and mitigation to build capacity to respond to various kinds of crisis without compromising development processes.

India made a statement that centred on debunking what it called six myths on the CBDR principle gleaned from comments made by developed countries. The “myths” that India highlighted are the following:

- The principle of differentiation is in contradiction to a universal agenda
- This principle is a historical relic and has no contemporary relevance
- This principle is only applicable to environmental action
- This is merely a political principle and has little or no professional relevance
- The North-South divide in international cooperation has already vanished and those who invoke this principle are flogging a dead horse
- The principle of common but differentiated responsibilities means inaction by some on a global agenda.

India stressed that the principle of CBDR “is a call for action, it is a call for ambition, but above all it is a call for equity, a fundamental principle that underpins the UN Charter and the Millennium Declaration and a fundamental article of faith that cannot be left behind in the post-2015 development agenda”.

In addition, India also made two other key points. Firstly, it said it would be “a grave remission” not to refer to the World Summit outcome document of 2005 in the political declaration. It said that the document “was adopted at the level of our heads of state and government exactly a decade ago and is a landmark document”. It requested that the document be referenced along with other important documents and declarations. (The 2005 outcome document was adopted at the follow-up summit meeting to the UN Millennium Summit of 2000.)

Secondly, India said, it would be “remiss if through this declaration world leaders do not pronounce themselves on the urgent imperative of reform of global governance, in particular the institutions responsible for maintenance of

peace and security". It added that "especially since Peace is one of the five main themes now for this document, it is important that the important ideal of enhancing the legitimacy and representativeness of institutions of global governance, including that of the UN Security Council, be unequivocally affirmed in the declaration."

Uganda welcomed the zero draft as a good basis to prepare for negotiations and stressed the importance of policy coherence for sustainable development as an enabler. It said that this remains as a target under SDG 17. The pledge for "leaving no one behind" should come forward by giving attention to the poorest countries which are already left behind, said Uganda.

Looking at the UN climate change conference that will take place in December in Paris, the historical responsibility of reducing greenhouse gas emissions lies with industrialized countries. The responsibility of each state should be reflected like in Rio (referring to the 1992 Rio Summit).

Peace and security are a prerequisite of sustainable development and a desired result in and of itself, said Uganda. It also said that the ambition of SDGs is too much with current methods and a mechanism should be put in place to enable the scientific and technological community to step up for the implementation of the agenda.

Uganda further said that the zero draft document lacks deliverables on leaving no one behind, stressing that means of implementation are an integral part of the agenda and an ambitious transformative agenda must depend on that.

Ecuador hoped to have a negotiating method that will include negotiation with national institutions, which was done by the website portal. Given the 14 days of negotiations remaining for this process, it said the zero text can be put on the screen to visualize the comments, and this will make the process transparent. It stressed the need to recognize the integrality of the human person and nature, paying attention to the needs of all groups in vulnerable situations, women, children, elderly, migrants, indigenous peoples, etc.

Ecuador said that CBDR is covered, but it should also be included in paragraph 7, where mention is made of climate change. It said that migration should not be thought of only as a nega-

tive phenomenon; it is an intersectional international issue with social, economic and environmental dimensions while respecting human rights.

Transformative features

The European Union said the declaration needs more emphasis on transformative features, noting the reference to the commitment in paragraph 3 to eradicate extreme poverty and that the document reflects the three dimensions (viz., economic, environmental and social) of sustainable development.

The EU also said that the spirit of new global partnership and universality should be addressed and should be included in the introduction and vision of the document. It said the references to promotion of gender equality, human rights, non-discrimination, democracy and good governance are welcomed but need to be strengthened. It emphasized human rights of women and girls, mentioning related UN conferences on this.

It said that the Universal Declaration of Human Rights (UDHR) should be mentioned before the Rio agreements. CBDR should not be singled out and should not apply as an overall operational principle of the agenda, the EU said, adding that the agenda is underpinned by universality while taking into account national capacities. The EU also said that the document needs to recommend and build more clearly on the Millennium Declaration and substantive human rights content. It added that the right to development is not on equal footing with the UDHR.

The EU further noted the need to mobilize all means of implementation – financial and non-financial. It expressed concern on the selective use of the outcome of the Open Working Group on SDGs, particularly in paragraphs 23-28, stressing the need to preserve the balance that the working group represents.

The United States was of the view that there is little more important to the success of the SDGs than a powerful political declaration – a concise, compelling central vision that can itself serve as a call to action. It recommended that the beginning of this declaration define and communicate, in practical terms, the central purpose and key elements of the agenda, adding that it sees the declaration not as an executive summary of the agenda but rather a vision for leaders to agree on.

Secondly, the US said, the text and review of trends should focus not only on the problems and challenges faced, but also on the enormous opportunities, providing a more positive treatment of the possible. It recommended a more comprehensive treatment of the positive momentum of the past 15 years and the opportunities they herald for the next 15. It said that with the "Our world today" section of the declaration, there should be acknowledgement of the enormous opportunity afforded by living in a time of unprecedented connectivity.

Thirdly, it highlighted a common commitment to universality, partnership and shared responsibility, with references to some of the US' domestic efforts for its citizens in line with the principles contained in the agenda. It said that "the hallmark of a universal agenda, and of successful development, is that effort and implementation are tailored to national and local contexts to maximize national relevance and to evolve as conditions change."

On CBDR, the US said "we do not see the principle ... as a proxy for this nor applicable to this development agenda."

France aligned itself with the EU, saying further that the political declaration satisfactorily reflects the ambition of the agenda. Several improvements can be made on the balance of the SDG Open Working Group and its integrated approach, it said, adding that universality and cross-cutting aspects should be put further forward. France said that the declaration should stress the linkage between different goals and human rights are an essential dimension, and should be reflected more.

On CBDR, it did not think the principle was taken up by the international community, and "we should refuse ambiguity". It also said that the reality of climate change should be better highlighted in the declaration, and gender equality and empowerment of women better reflected.

Germany said that complexity is difficult to communicate and part of the success of the Millennium Development Goals was effective communication. It mentioned reducing to five or six goals while avoiding silo thinking. On universality, it said the North-South divide must be overcome, and welcomed language on paradigm shift, adding that this should be strengthened. Germany said

it could not accept CBDR language in the text.

Australia said the political declaration is a credible basis to continue negotiations. It said eradicating poverty and gender equality should be strengthened, adding that poverty eradication is the overarching goal. Without gender equality the potential of half of the world is not fully realized, it said.

It said it did not support elevating one Rio principle over another, and did not accept that CBDR extends beyond the environmental agenda. It also did not

support inclusion in the agenda of language on foreign occupation.

Japan said that universality does not mean uniformity and criticized the assumption that developed countries need to shoulder responsibility, asking why CBDR is bound by the traditional North-South divide. It expressed its belief that CBDR is a "contaminated idea" and suggested a new concept on responsibility sharing. □

This article was written with inputs from the Women's Major Group at the UN.

Members divided over means of implementation

by Mirza Alas

COSTA RICA: The June negotiating round on the outcome document for the post-2015 development agenda ended without resolution of the means-of-implementation issue.

Means of implementation (MoI) had been the subject of many disagreements during the 2013-14 negotiations on the Sustainable Development Goals in the SDGs Open Working Group, when many developing countries wanted to have MoI under each specific goal while developed countries wanted to keep MoI only under Goal 17. Now the discussions are about how MoI should be integrated into the post-2015 development agenda as well as how the outcome of the Financing for Development (FfD) track should be incorporated into the final outcome document. The current disagreements show a clear North-South divide.

(The Third International Conference on Financing for Development will take place in Addis Ababa on 13-16 July.)

In the June negotiations, the developing countries, represented by the Group of 77 and China, emphasized the important role that MoI have in the post-2015 agenda and their fundamental position in ensuring that the SDGs can be attainable. The G77 further stressed that the MoI currently in the text should not be replaced by the outcome of the Addis Ababa FfD conference but that the projected Addis Accord will be a complementary input to the process.

This view was supported by many other developing countries and their respective groupings such as the Arab States, the Least Developed Countries

and the Alliance of Small Island States. Many other developing countries offered their views on the different ways in which the outcome from Addis could be integrated, but all of them agreed that the MoI text currently present in the zero draft of the outcome document was not there as a placeholder but a fundamental part of the document.

On the other hand, developed countries wanted the FfD process to be fully integrated into the zero draft and become the MoI pillar of the post-2015 agenda, which will effectively replace the current MoI language in the zero draft. The European Union reiterated its position that the Addis outcome should constitute the overarching MoI pillar of the post-2015 agreement, and that the current MoI language is a placeholder text until the outcome of the FfD process is agreed upon. For this reason they did not want to engage on the zero draft at the June session.

With only one more scheduled round of negotiations left on 20-31 July, there is urgency in having a completed outcome document by 31 July. The co-facilitators of the process, Ambassadors Macharia Kamau (Kenya) and David Donoghue (Ireland), in their closing remarks in the June session noted that there was not much consensus on the zero draft, but both expressed their confidence that the differences could be resolved and that an agreeable outcome will be ready on 31 July.

A new version of the zero draft will be ready in the next couple of weeks.

Below are highlights of selected

country and group statements.

Integral part

South Africa, on behalf of the G77 and China, said that MoI constitute an integral part of the agenda. This agenda will not be realizable without MoI. South Africa welcomed the inclusion of the MoI targets and said that the outcome of the conference in Addis should not replace the MoI from the report of the SDGs Open Working Group but should be complementary. It cautioned against preempting the outcome of the conference. The MoI should not be seen as a mere placeholder and cannot be a reverse of what has been achieved, particularly Goal 17 (of the SDGs), said South Africa. It added that the language on partnerships should be about the global partnership. (The G77 has been emphasizing that the global partnership for development is about state responsibility and thus intergovernmental partnership is primary, while developed countries actively promote public-private partnerships, seen by many as a dilution of state responsibility.)

On the Technology Facilitation Mechanism paper, the G77 said that this should be an annex included in the text, as it is a relevant input for the negotiations. The Group said that the negotiations on this mechanism took place in the FfD negotiations and only minor editing is needed to take the agreement in Addis on this. It added that member states should consider the establishment of the technology mechanism for technology transfer for the developing world as a key element of MoI.

Algeria, on behalf of the Arab States, noted that the MoI section is the most important part of the post-2015 agenda. Lacking effective MoI, developing countries will not be able to achieve the wish for development and therefore the post-2015 agenda, it said, adding that the Addis Accord should be complementary to the agenda and not substitute it. It is too early to welcome the Addis outcome because the negotiations are ongoing, said Algeria, which also called on developed countries to increase official development assistance and fulfil their current commitments on ODA.

Benin, on behalf of the Least Developed Countries (LDC), agreed on a new deal in the area of FfD. The Addis outcome will be an important complement of Goal 17. Goal 17 does not contain a

package of MoI that can transform the agenda. Benin noted that it has participated in the FfD process and hoped that a document will be produced that will lead the implementation of the SDGs. A critical review on FfD will be needed and if there is a substantial mismatch with the Addis document, then there will be a need to come back to Goal 17 to make it ambitious. The international community needs to go beyond the approach of reiterating unmet commitments. There need to be actions and genuine partnership for LDCs.

Benin outlined several key points for the LDCs as follows:

1. A global consensus on specific measures and 0.25% of gross national income (GNI) as ODA to LDCs to be used in a catalytic way for national resource mobilization; ensure aid for trade, cancellation of debt and a debt moratorium; duty-free, quota-free market access for LDCs in accordance with the Bali package for LDCs; 1% of ODA for a technology bank established in accordance with the Istanbul Programme of Action.

2. Specific initiatives and mechanism to build LDC capacity for development; investment in infrastructure for LDCs and the operationalization of a technology bank for LDCs by 2017 and crisis mitigation and resilience building for LDCs; tailor-made and targeted support for LDCs; enhancing participation of LDCs in norm-setting bodies; eradication of poverty and achieving prosperity in LDCs as a public good.

The Maldives, on behalf of the Alliance of Small Island States (AOSIS), stressed maintaining MoI as an integral part of the agenda. It welcomed the inclusion of Goal 17 in its entirety in the zero draft. It further said that it recognized the linkages between the post-2015 and FfD processes but that these are separate in scope, and the FfD process will complement but not supplement the post-2015 track.

China observed that MoI are an important part of the post-2015 agenda and whether this agenda will be ambitious enough depends on the MoI part. The MoI, as outlined in the SDGs, are part of the report and therefore not a placeholder, it said. Relations between FfD and post-2015 MoI goals and targets are the basis of the post-2015 agenda and the FfD outcome will be complementary and a contribution to the agenda, China also said.

In the text there is no language that speaks to the global partnership and this should be based on Millennium Development

Goal 8 with North-South cooperation as the basis and South-South cooperation as complementary, China added further. It also said the follow-up and review of MoI is equally important so language on this is needed to make sure that this will also be delivered.

China also spoke about the importance of the CBDR principle in the agenda. It underlined the need to reaffirm this principle that has been agreed on by many processes and said that it should not be something for debate anymore.

Policy framework

Brazil emphasized that the MoI are an integral part of the SDGs and a requirement for their achievement. It said the Addis Accord complements Goal 17 and the MoI specific targets, providing the policy framework for the goal and the targets contained in the SDGs Open Working Group's proposal. Brazil also said the Addis Accord should be integrated into the post-2015 agenda in its entirety as an addendum to Goal 17 and the MoI specific targets.

It further said that the global partnership constitutes a cross-cutting aspect of the post-2015 agenda, and Goal 17 and the MoI specific targets will be monitored on the basis of global indicative indicators to be developed by the Inter-Agency Expert Group on SDGs. Brazil recalled that the mandate of the High-Level Political Forum (HLPF), as established in the Rio+20 summit and UN General Assembly Resolution 67/290, includes monitoring the MoI of the new agenda.

The FfD outcome document is supposed to articulate a narrative and set out a global policy framework to achieve the SDGs, it said, adding that the follow-up and review section of the post-2015 agenda should clearly reflect the integration of the follow-up and review of FfD into the overall arrangement under the HLPF.

Brazil stressed that the global partnership underpins the endeavour; while the Addis outcome may provide the framework, it does not exhaust all the tools and mechanisms to implement, monitor and review the revitalized partnership.

It noted that the current FfD draft has a number of shortfalls and limitations, pointing to the question of the upgrade of the tax committee to an intergovernmental body as a case in point. It also said that arrangements for FfD

follow-up and review still seem insufficient to meet the needs of the post-2015 agenda. The Technology Facilitation Mechanism, on the other hand, is a positive development, said Brazil.

On the CBDR principle, it said that this has been one of the foundations of the international sustainable development agenda since 1992; the principle will also be key in the discussions for the post-2015 development agenda, as indicated in the outcome document of the Special Event on the Millennium Development Goals and the proposal of the Open Working Group on SDGs. Developed countries still question the validity of the principle on the basis that it does not reflect the changes of the last 20 years – an argument, said Brazil, that is not applied in other UN fora such as the Security Council, to say nothing of the international financial institutions such as the IMF and the World Bank.

It stressed that CBDR will still provide the conceptual basis for the global partnership for sustainable development beyond 2015, balancing needs and responsibilities according to historical responsibilities and respective capabilities of developed and developing countries. Brazil said the principle embodies the premise that justice should be a compulsory part of the international sustainable development agenda.

Differentiation serves the purpose of "substantive equality" at the international level, questioning the formal argument of equality between different state parties in international agreements, it said further. Many international agreements, including trade-related ones, embody differentiation in their provisions even though the principle of CBDR is not spelled out. In many cases, according to Brazil, differentiation is used to address special needs of "countries prone to natural disasters" (as in the UN Framework Convention on Climate Change), or "African country parties, in light of the particular situation prevailing in that region" (UN Convention to Combat Desertification). In other cases, such as in the multilateral trading system, differentiation takes the shape of the principle of "less than full reciprocity" and, more broadly, the provisions on "special and differential treatment" for developing countries contained in practically all the agreements of the World Trade Organization.

Brazil then provided a reference to the legal definition of equality: treating differently those that are differently situated or in different circumstances, and

treating equally those that are similarly situated or that are in like circumstances.

India welcomed the placement of the MoI targets of SDGs including Goal 17 in the MoI section and emphasized that these targets belong in the current document and not merely as a placeholder. The targets will form the core of this section going forward, it said, adding that it expects the FfD outcome to supplement and add to these targets.

India said that the draft FfD outcome document speaks of "interlinkages" between the MoI and the FfD outcome, which is a helpful way to frame this relationship, rather than saying that one is the pillar of another or will replace it.

It also said this section will eventually be comprised of the SDG MoI targets together with the FfD outcome, and also the decision on the Technology Facilitation Mechanism.

India expressed flexibility regarding how to integrate the FfD outcome into the post-2015 outcome document. It said that integrating the full Addis outcome may make this document overly cumbersome, while renegotiating the FfD outcome into a "lite version" would also be difficult. "We could therefore simply refer to the Addis Ababa outcome in the form of a single paragraph, which also speaks to its interlinkages with the SDG MoI component," India said, adding that the full Addis document can then be annexed to the post-2015 outcome document. This would also preserve its interlinked but independent status as a document agreed to by ministers, according to India.

Cuba said the Addis conference is one of the MoI, and therefore it cannot substitute but only complement, adding that the current FfD document is not enough for all the targets in the agenda.

(Other MoI for sustainable development include technology transfer to, and capacity building of, developing countries.)

Cuba also said it is clear that the MoI need to be proportionate to the ambition and commitments that countries, particularly developing countries, are undertaking. There has to be a balance between the commitments and the MoI to achieve them, it said, adding that FfD and Goal 17 as in the draft are not enough to satisfy this criterion. With a few exceptions, the majority of the MoI are a political declaration of good intentions but today they have not become a reality, stressed Cuba, which underscored the need to consider the lessons of the Millennium Development Goals. To

think that developing countries will be able to achieve 17 goals and 168 indicators (in the SDGs) is a utopian dream without the resources to pursue this.

Pakistan said that this is a highly ambitious and transformative agenda, and an ambitious FfD outcome will be very important, stressing that both processes are important but separate and the FfD outcome cannot replace current MoI but only complement it. The new framework will transform the new global partnership and not only ODA, said Pakistan.

It also said that climate financing is being counted as ODA and the UN Framework Convention on Climate Change says that it needs to be new and additional. Pakistan also noted the importance of maintaining CBDR as an important principle.

Overarching pillar

The European Union said its position is that the Addis outcome should constitute the overarching MoI pillar of the post-2015 agreement. In this context the zero draft language is really a placeholder text, as clearly indicated in a footnote, it said, adding that it did not intend to engage on the text at this stage.

The EU emphasized that in order to secure a high level of ambition, the best possible outcome in Addis should be secured and then fully integrated into the post-2015 agenda. This is the best way to ensure that the agenda is effectively supported and implemented across the board without unnecessary duplication or inconsistency, it said. The EU further noted that integration is a precondition for maximum effectiveness, efficiency and impact.

It argued that "Addis is fully capable of being the MoI pillar" for the post-2015 agenda, and that "Monterrey and Doha [the two FfD conferences prior to Addis] have left us an excellent legacy. We need to build on their comprehensive approach by recognizing changes underway in the world." The EU also said that Addis, framed in terms of a balanced approach to the three pillars of sustainable development with financial and non-financial means of implementation, and with a multistakeholder approach, is broad enough to support the effective implementation of the post-2015 agenda.

The EU said a single, robust monitoring, accountability and review framework would lead to much stronger implementation and follow-up for both post-Addis and post-2015, leading to

better outcomes for all.

Japan stated that MoI and the global partnership in the zero draft is a placeholder right now and member states should wait for the FfD outcome, adding that FfD supports the implementation of the post-2015 agenda. It said that it is important to endorse the outcome document of FfD in its entirety in this section of the post-2015 outcome document, suggesting a simple chapeau for this endorsement. It added that the FfD outcome should not be reopened in the post-2015 agenda.

Japan said there should be paragraphs for the Technology Facilitation Mechanism, and also proposed deleting the MoI section in the SDGs to avoid duplication with FfD.

The United Kingdom restated its view that the section on MoI is a placeholder and that the Addis outcome plus the MoI agreed in the SDGs Open Working Group together constitute the MoI for the post-2015 development agenda. It recalled that "the rationale put forward for holding the Addis conference ... prior to the SDG summit in the first place was to agree on a finance and policy package to support delivery of the SDGs ... therefore ... the outcome from Addis should be incorporated into Section 3 [on MoI]".

The UK noted that the text currently in Section 3 includes the Open Working Group's MoI targets, including goal-by-goal MoI. It could see how this gives the MoI greater visibility and could therefore result in greater prominence and traction, and invited the co-facilitators to "presentationally ... consider how to avoid duplication across the sections in the final version of the document."

Joining other developed countries in promoting a wider notion of MoI, the UK said that "to be truly transformational, they must cover financial and non-financial policies and actions at domestic and international levels by all stakeholders, including public and private, government and non-governmental actors."

(Developing countries and many civil society groups are concerned that a broad approach to MoI would dilute or even negate the long-established MoI commitments of developed countries to provide finance, technology and capacity building to achieve sustainable development.)

The Netherlands observed that it is necessary that a strong package of MoI actions come out of the Addis track, to strengthen and build on the MoI that

(continued on page 10)

Nairobi meet can't end Doha Round without "credible" developmental outcomes

Meeting with trade diplomats from selected countries on 1 July, the Kenyan foreign minister, who will chair this December's WTO Ministerial Conference in Nairobi, said the Doha Round talks cannot be wrapped up without "credible" development-friendly results.

by D. Ravi Kanth

GENEVA: Kenya's Foreign Minister Amina Mohamed said here on 1 July that the Doha Development Agenda (DDA) negotiations cannot be concluded without "credible" developmental outcomes at the WTO's 10th Ministerial Conference in Nairobi later in the year, several trade envoys told the *South-North Development Monitor* (SUNS).

During a closed-door luncheon meeting of select trade envoys of developed and developing countries hosted by Japan on 1 July, Mohamed delivered the strongest message yet to the United States trade envoy Ambassador Michael Punke and other major developed countries that the Round will not be concluded unless there are credible outcomes for the developing and least-developed countries as promised in the Doha negotiations over the last 14 years.

In response to Punke's pessimistic assessment that the Doha Round must be concluded at any cost at the 10th Ministerial Conference because of its failure to make progress, the Kenyan minister said pointedly that "people like Punke have lost the hope but this is war and we have not lost it," a South American trade envoy present at the meeting told SUNS.

Mohamed said African countries will blame Kenya for hosting the ministerial meeting in Nairobi if all their developmental demands are swept under the carpet in order to conclude the Round.

She said the situation was much more negative before the Hong Kong Ministerial Conference in 2005 but she had turned it around as the then chair of the WTO General Council.

Trade envoys from the US, the European Union, China, India, Brazil, South Africa, Indonesia, Canada, Colombia, Mexico, New Zealand, Norway, Switzerland and Jamaica were among those present at the meeting.

The chair of the agriculture negotia-

tions under the Doha Round, Ambassador John Adank of New Zealand, the chair of the industrial goods or non-agricultural market access (NAMA) negotiations, Ambassador Remigi Winzap of Switzerland, the chair of the services negotiations, Ambassador Gabriel Duque of Colombia, and the chair of the rules negotiations, Ambassador Wayne McCook of Jamaica, gave their respective assessments of the state of play in the negotiations.

Adank admitted that there is no progress yet in the agriculture negotiations due to the continued standoff on the new approaches for market access negotiations based on the average formula framework.

The chair of the NAMA negotiations said members still remained divided on the new approaches, adding that without progress in the agriculture negotiations it is difficult to bring convergence in the market access for industrial goods, according to participants present at the meeting.

Hurdles

The Kenyan minister also held earlier in the day one-on-one meetings with the representatives from India, Indonesia, Brazil and China, among others.

Trade envoys of these countries conveyed to Mohamed that they are facing hurdles to attaining convergence because of the US which is blocking progress in agriculture by refusing to negotiate on domestic support based on the Doha Round mandates, including the 2008 revised draft agriculture modalities, said a trade official familiar with the meetings.

Mohamed was apprised in graphic detail of how all the previous Doha Round mandates – the 2001 Doha Ministerial Declaration, the 2004 July Framework, the 2005 Hong Kong Ministerial Declaration and the 2008 revised draft

modalities – are being set aside to satisfy the US demands to conclude the Round by hook or by crook.

"One trade envoy during the meeting with Minister Mohamed made a persuasive case on how the negotiations are being stalled through disruptive tactics by a major industrialized country," an African official told SUNS.

After the one-on-one meetings, Mohamed took part in the luncheon meeting, during which the US Ambassador Punke called for concluding the Round because of lack of progress over the last 14 years. The US envoy suggested that the Round must be concluded on a low level of ambition based on what is doable and "recalibration". He said there is no appetite among members to continue with the negotiations, in line with a statement that he had delivered at a ministerial meeting in Paris in June.

In contrast to the American envoy's pessimistic assessment, South Africa's trade envoy Ambassador Xavier Carim said it is possible to work out a credible developmental package if all members chose to adopt common standards across all areas of the DDA.

He suggested, for example, that "recalibration" and lowering the level of ambition must be symmetrical in all areas, and not by raising the level of ambition in one area and lowering it in another. He argued that there cannot be cherry-picking by some members who are keen to conclude the Doha Round, according to participants present at the meeting.

After listening to the chairs and members such as South Africa, the US and Norway, the Kenyan minister told the participants that they will be blamed for not working "constructively" and "positively" towards credible outcomes with which all members can be comfortable.

She said that African countries will not accept the closure of the Doha Round at Nairobi without realizing the "developmental" outcomes for which they have waited all these years.

Mohamed, who is to chair the 10th Ministerial Conference, said that there is still time to work out a "package" in the coming months based on "constructive" and "positive" engagement. She said that when she was the chair of the General Council in 2005 before the Hong Kong ministerial meeting, she had worked round the clock to bring progress despite an utterly negative environment.

There is room to turn around if one or two major countries adopt constructive positions for achieving results at Nairobi, she said, according to a South American trade envoy.

Mohamed also suggested the need to host an informal ministerial meeting of select countries sometime in October to finalize the "developmental" deliverables at the Nairobi meeting.

Call for clarity

Meanwhile, in a separate development, several developing countries on 26 June challenged the chair of the Doha Round agriculture negotiations to prove how the average formula framework will tackle specific and non-*ad valorem* tariffs and zero tariffs in several industrialized countries.

During a specially convened technical session by the chair and the WTO secretariat to explain how the variations of the average formula framework will work, agriculture officials of India, Argentina, Korea, Pakistan and the EU raised several issues.

Several countries pressed for clarity as to how specific, mixed and compound tariffs in various countries' agriculture tariff schedules which are not converted into *ad valorem* equivalents can be subjected to either a cut of the overall tariff average or applying an average cut of tariff lines.

Since a 2005 informal ministerial meeting in Paris, attempts to convert special and compound agriculture tariffs into *ad valorem* duties have been stalled by major developed countries. Consequently, the agriculture tariff schedules of many developed countries include tariffs in specific and compound duties.

Given the large presence of non-*ad valorem* duties which are not expressed in percentage terms in various members' agriculture schedules, there is no clarity yet as to how they can be accommodated in the so-called average approaches, said a participant familiar with the meeting.

India and Argentina asked the chair and WTO secretariat to explain how the non-*ad valorem* tariffs are being treated in the average formula framework. But neither Adank nor the secretariat provided a credible answer on how this issue would be treated, the participant said.

The chair had suggested three approaches to replace the 2008 revised draft modalities that called for a tiered-formula approach with specific flexibilities for the industrialized and developing

countries. The three approaches mooted were: (i) a modified version of the 2008 revised draft modalities with different cuts and possibly different bands, (ii) applying a cut of the overall tariff average, and (iii) applying an average cut of tariff lines.

Korea asked the chair to indicate the proponents of these three approaches. China maintained that members must adhere to the 2008 revised draft modalities. Pakistan asked the chair how the in-quota tariffs will be addressed in the average formula framework.

India showed that the average formula framework would deliver an unbalanced outcome where developing countries would undertake higher com-

mitments without flexibilities than the industrialized countries which maintain several barriers to agricultural market access.

The EU sought to know how the average formula framework would work for countries that have a large proportion of zero tariffs.

The chair and secretariat were unable to provide any convincing answers during the meeting, according to a participant.

In short, it is proving difficult for the chair and the WTO secretariat to convince members to replace the 2008 draft modalities with average tariff cuts in the market access pillar, a South American trade official said. (SUNS8055) □

Canadian move for "new landing zones" spurned

A Canadian initiative to advance the Doha Round agriculture talks has met with rejection from major developing countries for veering from existing mandates for the Round.

by D. Ravi Kanth

GENEVA: Major developing countries – China, India, Brazil and South Africa – unambiguously rejected on 3 July a proposal from Canada to set "new landing zones" in the Doha Round agriculture package without adhering to the existing mandates that have been negotiated since 2001, trade envoys told the *South-North Development Monitor* (SUNS).

In an attempt to frame elements for the post-Bali work programme by the end of July, Canada has circulated a "matrix" proposal which broadly suggested a plan for the so-called "gateway" issues in the Doha Round agriculture package.

At a meeting hosted by Canada on 3 July, trade envoys from the United States, the European Union, Norway, Switzerland, Australia, New Zealand, China, India, Brazil, South Africa, Colombia and Mexico took part in discussions on the elements in the Canadian proposal.

The proposal has listed individual elements as well as the 2008 Rev. 4 revised draft modalities in a detailed matrix framework. In agriculture, for example, it says that "consensus on Rev. 4 as an overall package [is] not possible" on the three pillars of the agriculture negotiations, i.e., domestic support, market access and export competition.

This is misleading and factually in-

correct, as a large majority of WTO members have repeatedly demanded that the Rev. 4 text must remain the basis for concluding the negotiations in all the three pillars of agriculture, several developing-country officials told SUNS.

In the domestic support pillar, according to the Canadian proposal, the "level of ambition foreseen in Rev. 4 is no longer doable for some members."

Until now, only one member – the US – is not able to accept Rev. 4 because of the country's current farm bill which was enacted last year. The US farm programmes go well beyond the proposed draft commitments in Rev. 4 and the US cannot agree to overall trade-distorting domestic support within the \$14.5 billion limit under that text.

On public stockholding for food security in the developing countries, Canada has suggested three points. They include: (i) "G33 insists that discussion be based on November 2012 proposal," (ii) "other members reject the concept of including market price support in the green-box regardless of stated policy objectives," and (iii) "members also concerned with possible trade-distorting 'spillover effects' (including export and import substitution)."

All the three elements on public stockholding programmes in the Canadian proposal are based on statements

that have been made by the US, the EU, Canada, Australia, Pakistan and Thailand, among others.

The Canadian paper does not reflect the views expressed by an overwhelming majority of developing and least-developed countries seeking a permanent solution based on the three alternatives the G33 developing-country grouping had proposed, including Green Box consideration for market-based support for public distribution schemes.

As regards the market access pillar of the agriculture negotiations, the Canadian proposal claims that "new ideas and proposals are generally seen as lowering ambition relative to Rev. 4 tiered formula", and "some members favour recalibrated and simplified approaches to reducing tariffs, while other members remain resistant to departures from Rev. 4."

Further, it maintains that "there are sharp divergences among members over the degree to which safeguards and flexibilities are linked to overall ambition [and] G33 rejects [the] linkage."

Canada's proposals on market access seem factually incorrect as a large majority of developing and the poorest countries demanded that the Rev. 4 tiered formula with flexibilities must remain as the basis for the post-Bali work programme.

On export competition, the Canadian proposal has maintained that this pillar is "generally seen as most doable and stabilized ... Requires outcomes in other pillars to be politically viable."

Even on export competition, Canada is incorrect because several countries pressed for clear disciplines on export competition and food aid in line with the 2008 revised draft modalities.

In short, without mentioning the 2004 July Framework and the 2005 Hong Kong Ministerial Declaration, Canada is preparing the ground for imposing new landing zones that are not based on any of the previous mandates, several trade envoys maintained.

RAMs' exemption

At the meeting, Canada proposed that a major gateway issue in the post-Bali work programme is the removal of the exemption for the Recently Acceded Members (RAMs) such as China from undertaking any reduction commitments in the domestic support pillar.

Canada also sought to know what needs to be done with the 2008 revised draft modalities, and how to proceed on setting new landing zones on overall trade-distorting domestic support.

Ottawa's proposal received support from the trade envoys of major industrialized countries, who want to give short shrift to the existing Doha Round mandates like the 2004 July Framework, the 2005 Hong Kong Ministerial Declaration and the unsettled 2008 revised draft modalities.

In sharp response, major developing countries told Canada that they will not enter into any discussion based on the matrix proposal because it violates the previous mandates. China pointedly asked Canada whether it prepared the matrix proposal for its junior officials, said participants familiar with the meeting.

The RAMs like China, for example, are exempted from undertaking reduction commitments in the existing mandates. "For us the entire domestic support pillar and all the unresolved issues in that pillar are a gateway issue," said a trade envoy from a developing country.

"Unless there is complete clarity on the domestic support pillar, including the issue of Aggregate Measurement of Support (AMS) in which major industrialized countries are required to substantially reduce their current entitlement, there is no way we can move forward," the envoy argued.

A trade envoy from a major developing country at the meeting asked the US whether it is going to reduce its AMS, which is supposed to be brought down to \$14.5 billion as part of the agriculture negotiations.

Commenting on the 2008 revised draft modalities, the four major developing countries said categorically that Rev. 4 must remain the basis for concluding the negotiations at the 10th WTO Ministerial Conference in Nairobi, Kenya, later in the year.

As regards the landing zones for the overall trade-distorting domestic support, the EU suggested that it should be decided by the Nairobi ministerial meeting.

The developing countries also flatly turned down a move to fix a deadline for submitting initial offers because of lack of resolution of all major outstanding issues in the Doha Round agriculture package.

"There is no prospect for a post-Bali programme with precise modalities," a developed-country trade envoy maintained. "Countries must stop adopting tactical positions and avoid cherry-picking," the envoy argued.

Another developed-country envoy suggested that the "recalibration" package remains uneven, due to which it is failing to get support. So far, only a few

industrialized countries are willing to support "recalibration" while a majority of developing and least-developed countries have expressed their opposition, the envoy argued.

In a separate development, several trade envoys of the African countries maintained on 3 July that all issues in the Doha Development Agenda are open for the Nairobi meeting.

Rwanda, Uganda, Tanzania and Egypt, among others, said they will not tolerate attempts to remove all major issues in the Doha agriculture and developmental dossiers to appease some major industrialized countries, an African trade official told *SUNS*.

In a nutshell, Canada has now taken the leadership role in cobbling together a dubious work programme with elements that do not correctly reflect the views expressed by a large majority of members during the last six months. Canada's proposals signal the ugly and undemocratic method to kill the Doha Round negotiations without addressing the core issues for which the Round was launched in 2001. (*SUNS8057*) □

(continued from page 7)

were agreed in the SDGs Open Working Group. It also provided a few comments on Section III of the zero draft on monitoring and accountability and review.

On accountability, it said the "what" is progress on the development outcomes that have been defined through goals and targets, and the "how", the means, financial and non-financial resources and policy actions enabling such progress. The monitoring and accountability framework is where the "what" and the "how" come together, with the goals and targets providing a benchmark in terms of outcomes for the inputs needed. It referred to some existing monitoring mechanisms in the UN and the Organization for Economic Cooperation and Development (OECD), and highlighted that the OECD Guidelines on Multinational Enterprises for private sector accountability "could helpfully be linked to the SDGs".

The United States spoke on mobilizing and galvanizing action for resources with a focus on domestic resource mobilization, referring to the private sector, civil society and academia, among others. It noted that the current chapters are placeholders and that it was premature to come to a conclusion of the Addis conference and therefore it looked forward to the discussion on MoI after the Addis conference. □

US, EU block permanent solution on food security public stockholding

The US and the EU have come out against a proposal in the WTO aimed at enabling developing countries to maintain public food stocks for food security purposes.

by D. Ravi Kanth

GENEVA: Major developed countries, particularly the United States and the European Union, have vehemently opposed a proposal from the G33 coalition for a permanent solution on public stockholding programmes for food security in the developing countries, several trade envoys told the *South-North Development Monitor (SUNS)*.

The US and the EU blocked a G33 proposal that calls for "transferring" market price support for public stockholding programmes for food security in developing countries into the "Green Box" under the WTO's Agreement on Agriculture (AoA), several trade envoys told *SUNS*.

Programmes included for coverage in the Green Box are exempted from reduction commitments and thereby remain beyond any legal challenge at the WTO.

G33 proposal

During a meeting of select trade envoys convened by the chair of the Doha Round agriculture negotiations Ambassador John Adank of New Zealand on 25 June, Indonesia, on behalf of the G33 developing-country coalition, proposed transferring market price support for the public stockholding programmes for food security to the Green Box and said this will not change the structure of the AoA.

Trade envoys from the US, the EU, China, India, Indonesia, Australia, Norway, the Philippines and Brazil were among those who took part in the meeting.

Indonesia, which is the coordinator for the 46-member developing-country coalition, argued that the public stockholding programmes for food security are already contained in the Green Box.

The Green Box programmes were constructed by the US and the EU in the Uruguay Round agreement to exempt such programmes from any reduction commitments.

In Annex 2 of the AoA, public stockholding programmes for food security

are covered in paragraph 3: "Expenditures (or revenue foregone) in relation to the accumulation and holding of stocks of products which form an integral part of a food security programme identified in national legislation." However, this provision in the Green Box on public stockholding programmes for food security is further subjected to calculation of Aggregate Measurement of Support (AMS) in the Amber Box in terms of footnote 5 of Annex 2.

Indonesia said the existing ambiguity can be addressed without any change in the structure of the Green Box by including market price support for public stockholding programmes.

A solution can be designed without changing the structure of the AoA while addressing the legitimate objectives of the G33 proposal, Indonesia persuasively argued, according to participants familiar with the meeting.

The G33 expressed sharp concern over diversionary tactics adopted by some members who refuse to engage on the basis of its proposal.

Indonesia challenged the claims made by some countries such as Australia and Pakistan that there would be unintended consequences on trade and food security of other countries. The G33 also challenged a claim made by the developed countries that it would have a "systemic" impact of market price support in the Green Box.

Indonesia said these two claims are unscientific and without evidence, said a trade official who was present at the meeting.

The most productive way to find a permanent solution on public stockholding programmes is to have other members come up with a "clear, text-based counter-proposal on how the stated concerns might be addressed ... Simply general comments or utter rejections will not help", Indonesia said.

In response to Indonesia's statement, the US expressed disappointment that the G33 is seeking a permanent solution by transferring market price support into the Green Box.

The US, the EU and Australia claimed that the edifice for the Green Box was constructed over many years. The developed countries repeatedly spoke about the "integrity" of the Green Box and how it would be compromised and affected because of transferring market price support for public stockholding programmes.

The EU flatly rejected the call for any Green Box exemption for public stockholding programmes for food security.

Australia maintained that such a treatment under the Green Box for public stockholding programmes would have far-reaching consequences on the global trade for farm products, a concern that was also shared by Pakistan.

In sharp response, India ridiculed the claim that the edifice and the integrity of the Green Box will be affected because of market price support for public stockholding programmes for food security. India challenged the hyperbolic claims about the sanctity of the Green Box measures.

India maintained that the public stockholding programmes are very much covered in the Green Box of the AoA negotiated during the Uruguay Round of trade negotiations. After including the programmes in the Green Box, India asked, why are the same programmes subjected to reduction commitments under the AMS?

India said if the sanctity of the Green Box is undermined, then it is time to review all the Green Box support programmes of every country. It said that there cannot be double standards involving one set of norms for some programmes and another set for developing countries.

Green Box review

In his article "Why WTO needs a Hypocrisy Clause", Timothy Wise, an academic at the Global Development and Environment Institute at Tufts University in the US, has argued that "the WTO's 'Green Box', which is meant to hold non-trade-distorting subsidies, is now home to about \$120 billion of the \$130 billion in nutrition programmes and farm supports."

Several other studies have also conclusively proved that several of the schemes now included in the Green Box are trade-distorting and affect global trade.

(continued on page 16)

UN body to elaborate treaty on TNCs/human rights holds first session

As a UN body tasked with drawing up a global instrument on business and human rights met for the first time, it was reminded of its “ultimate objective”: strengthening the protection of human rights against corporate abuses.

by Kanaga Raja

GENEVA: The open-ended intergovernmental working group in charge of elaborating an international legally binding instrument on transnational corporations (TNCs) and other business enterprises with respect to human rights convened its first session here in July.

The inaugural session (6-10 July) appointed Ambassador Maria Fernanda Espinosa of Ecuador as the Chairperson-Rapporteur of the working group.

The session opened with a video message from the United Nations High Commissioner for Human Rights, Zeid Ra'ad Al Hussein.

It also heard from keynote speaker Victoria Tauli-Corpuz, the UN Special Rapporteur on the rights of indigenous peoples, who told the delegates that an international legally binding instrument on business and human rights could contribute to redressing gaps and imbalances in the international legal order that undermine human rights, and could help victims of corporate human rights abuse access remedy (see below).

In a resolution (26/9) adopted at its 26th session on 26 June 2014, the UN Human Rights Council had decided to establish “an open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights; whose mandate shall be to elaborate an international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises.”

It also decided that the first two sessions of the open-ended intergovernmental working group shall be dedicated “to conducting constructive deliberations on the content, scope, nature and form of the future international instrument, in this regard.”

The Council further decided that the Chairperson-Rapporteur of the working

group “should prepare elements for the draft legally binding instrument for substantive negotiations at the commencement of the third session of the working group on the subject, taking into consideration the discussions held at its first two sessions.”

The working group was to hold a series of panel discussions on related issues as well as several side events during its week-long first session.

Gaps in legal framework

According to a Concept Note proposed under the responsibility of the designated Chairperson-Rapporteur, resolution 26/9 stresses that the obligation and primary responsibility to promote and protect human rights and fundamental freedoms lies with the state, and that states must protect against human rights abuse within their territory and/or jurisdiction by third parties, including TNCs.

It noted that while the obligation of states to regulate business activities within their territorial jurisdiction is clear, on the other hand, states' obligations regarding corporate conduct acting abroad remain unclear.

“Member states' discussions during the process of preparation of the resolution underlined that there are gaps in the international legal framework related to the duty to protect human rights in respect of business activities, and that related instruments are concentrated in soft law.”

Furthermore, said the Concept Note, the international legal system reflects an asymmetry between rights and obligations of TNCs. While TNCs are granted rights through hard law instruments, such as bilateral investment treaties and investment rules in free trade agreements, and have access to a system of investor-state dispute settlement, there

are no hard law instruments that address the obligations of corporations to respect human rights.

Noting that the role of TNCs has exponentially expanded over the last few decades and that value chains are shaped by TNCs that account for around 80% of global trade, the Note said it is clear that the role of corporations has evolved in a way that transcends national laws. Yet, TNCs still lack international legal responsibility commensurate with their role and influence in international and domestic affairs.

While it is important to strengthen national legal frameworks and mechanisms for access to remedy in cases of human rights violations, there is an increasing need for international cooperation between states to ensure that victims of corporate human rights abuse have access to remedy, it said.

Victims of corporate activities

In her opening remarks at the first session, Tauli-Corpuz, the UN Special Rapporteur on the rights of indigenous peoples, noted that indigenous peoples have been at the forefront of discussions regarding the human rights abuses committed by corporations since the 1970s.

For decades, indigenous peoples have been victims of corporate activities in or near their traditional territories, which have depleted and polluted their traditional territories without their consent, putting many peoples on the verge of cultural or physical extinction.

“Today, little has changed in relation to this situation,” she said, pointing out that indigenous peoples and other local communities continue to suffer disproportionately the negative impact of corporate activities, while community leaders and activists suffer a true escalation of violence at the hands of government forces and private security companies.

“Many of the displacements of indigenous peoples from their ancestral territories and the extrajudicial killings of indigenous activists usually happen in communities where there are ongoing struggles against corporations.”

The Special Rapporteur recalled her predecessor, Professor James Anaya, concluding that extractive and other large-scale corporate activities constitute today “one of the most important sources of abuse of the rights of indigenous peoples in virtually all parts of the

world."

The Human Rights Council's resolution 26/9 establishing the working group represents a significant development, said Tauli-Corpuz.

The UN responded to calls from around the world, including the persistent appeals of indigenous peoples, to strengthen the architecture of international human rights law in order to adapt further to the challenges posed by corporate-related human rights abuses.

"While the global economic trends are increasingly characterized by dominance of corporations, their role extends beyond the capacities of any one national system to effectively regulate their operations. The issues at stake are global, and so should be the response."

Too often those whose human rights are affected by the operations of businesses – for too long considered the externalities of business activity – are left without any real access to effective remedies, and often states themselves are without the requisite tools to hold corporations to account where needed.

According to the Special Rapporteur, this is a matter which concerns her the most because the weakness of states, corporations and the UN in providing effective remedies creates desperation and hopelessness, which provide a fertile ground for the operations of criminal transnational syndicates.

"An international legally binding instrument on business and human rights could contribute to redressing gaps and imbalances in the international legal order that undermine human rights, and could help victims of corporate human rights abuse access remedy."

The rights expert acknowledged that some progress has been achieved in the area of human rights and business in recent years. Notably, the adoption by the Human Rights Council in 2011 of the UN Guiding Principles on Business and Human Rights marked a significant step forward, particularly by clarifying many elements of the state's duty to protect human rights from business-related human rights violations, and acknowledging also that businesses themselves have responsibilities to respect human rights.

Tauli-Corpuz underlined that the search for a new international legal instrument and the implementation of the Guiding Principles should not be seen as contradictory, but rather complementary objectives.

She said that the mandate established by resolution 26/9 is highly relevant

and necessary.

Corporations are key actors in shaping and influencing economic as well as political, social and cultural issues, activities and frameworks all over the world, including production and consumption patterns and livelihoods of communities. While global economic trends are increasingly characterized by the dominance of corporations, their role extends beyond the capacities of any one national system to effectively regulate their operations.

As foreign investors, corporations are benefiting from an international protection regime that is consolidated through rules under bilateral investment treaties and/or free trade agreements and other regional arrangements. This system is enabled through an investor-state dispute settlement mechanism and far-reaching rules for recognition and enforcement of arbitral awards.

According to the Special Rapporteur, reform of the international investment protection regime, including the substance of the treaties and the investor-state dispute settlement mechanism, is emerging as an issue of concern for both developing and developed countries.

"What we see more and more is that foreign investors and transnational corporations are provided with very strong rights and extremely strong enforcement mechanisms. On the other hand, global and national rules dealing with the responsibilities of corporations and other forms of businesses are characterized by the form of soft law." They fall short of legally binding instruments that allow for achieving balance in the rights and responsibilities of these actors.

The rights expert said: "We face a context where corporations still lack international legal responsibility commensurate with their role and influence in international and domestic affairs. At the same time, there are gaps in the international legal framework in regard to the duty to protect human rights and access to remedy."

An international legally binding instrument would significantly help in establishing the much-needed balance in the international system of rights and obligations with regard to corporations and host governments, she added.

Key opportunities

Resolution 26/9 goes one step further along the pathway towards

strengthening the system of human rights law, and this opportunity for the working group must be seized upon to address two urgent global realities – the first being access to remedies, and the second relating to the need to uphold the primacy of human rights in the context of business activities.

At the present time, said the rights expert, the ability of communities and people affected by corporate human rights violations to access remedies is very weak and such remedies do not even cut across all jurisdictions. At the same time, in many cases corporate human rights violations touch upon the interests of more than one country's jurisdiction.

"In this sense, for the Intergovernmental Working Group to make real advances in providing access to effective remedies, the future legal instrument must clarify the extraterritorial obligations of states to ensure access to effective remedies within all states that are connected to the corporations in question."

Fortunately, the Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights go a long way to clarifying the application of law in this context, and will provide a powerful resource for the working group to call upon for guidance.

Tauli-Corpuz said that a second key opportunity for the working group concerns the possibility for a new international instrument, within the context of business activities, to reinforce the fundamental principle of international law which recognizes the primacy of human rights above all other systems of law.

As recognized by the UN Committee on Economic, Social and Cultural Rights in its 1998 statement on globalization, "the realms of trade, finance and investment are in no way exempt from these general [human rights] principles".

The global reality for many communities, as well as states from all parts of the world, is that corporations today have the ability under international trade and investment law to sue states when the latter pass laws that aim to improve human rights and environmental protections.

In this context, said the rights expert, the international community is failing to realize the guarantees of the international human rights regime.

The work of the working group can also benefit corporations by producing

a level playing field for investment across all states. In this sense, the working group has the opportunity to develop standards for all states that codify within international law the regulatory advances being made within some jurisdictions on a piecemeal basis. "Providing this type of regulatory clarity and certainty, within international human rights law, provides a uniform approach which will benefit all corporations."

This advance would also undermine the practice of some corporations to seek out investment jurisdictions with weak regulatory environments, thereby creating negative incentives for other corporations to do likewise, resulting in what some refer to as the race to the bottom.

"Similarly, for states, this advance in international law would also undermine the ability of their counterpart states weakening their regulations, at the same time exposing their populations to human rights violations, in the process of attracting investment."

The Special Rapporteur underlined that any discussion on an international legal instrument regulating the responsibility of corporate actors in relation to human rights should not divert attention from the important responsibilities that pertain to states in fulfilling their obligation to protect their own citizens against corporate activities.

Unfortunately, more often than ever, states are silent witnesses or victims of corporate abuse, but they are all also, either by action or by omission, responsible to a certain extent in these abuses. The line that separates corporate interest from state policy is sometimes blurred.

The rights expert said that an international legally binding instrument would go some way towards establishing balance in the international system of rights and obligations with regard to corporations and host governments. It would benefit states in their human rights obligations in relation to corporate activities.

Businesses that already respect human rights and are engaged in best-practice development would also benefit and have a clear interest in supporting and helping develop this instrument, she added.

In this connection, the Special Rapporteur expressed hope that the discussions in the working group will also contribute to making concrete progress in this regard.

She reminded the delegates that "we should not lose sight of the ultimate objective of this exercise, which should not be other than strengthening the protection of human rights against abuses com-

mitted in the context of corporate activities. For indigenous peoples, as well as for many other human communities of this world, the issues at stake are just too high." (SUNS8058) □

Despite scepticism, UN hails its anti-poverty programme

The UN has lauded the achievements of the Millennium Development Goals in tackling global poverty, but civil society activists are less impressed.

by Thalif Deen

NEW YORK: The United Nations, which launched one of its most ambitious anti-poverty development programmes back in 2000, has hailed it as a riveting success story – despite shortcomings.

Launching the final report of the Millennium Development Goals (MDGs) at a meeting in the Norwegian capital of Oslo on 6 July, UN Secretary-General Ban Ki-moon said "following profound and consistent gains, we now know that extreme poverty can be eradicated within one more generation."

The MDGs, which are targeted to end this December, "have greatly contributed to this progress, and have taught us how governments, business and civil society can work together to achieve transformational breakthroughs," he said.

The UN claims it has cut poverty by half. "The world met that goal – and we should be very proud of that achievement," he added.

But the target for the complete eradication of poverty from the developing world has been set for 2030 under a proposed post-2015 development agenda, including a new set of Sustainable Development Goals (SDGs), to be launched at a summit meeting of world leaders in September.

Goal-setting can lift millions of people out of poverty, empower women and girls, improve health and well-being, and provide vast new opportunities for better lives, according to the *Millennium Development Goals Report 2015* released on 6 July.

"Only two short decades ago, nearly half of the developing world lived in extreme poverty. The number of people now living in extreme poverty has declined by more than half, falling from 1.9 billion in 1990 to 836 million in 2015," the study said.

Weak goals

But civil society organizations (CSOs) were sceptical about the claims.

Jens Martens, Executive Director of Global Policy Forum (New York/Bonn), told Inter Press Service (IPS) rather bluntly: "The MDGs are not a success story."

They reduced the development discourse to a small number of quantitative goals and targets and did not touch the structural framework conditions of development, he said.

Pointing out some of the shortcomings, he said the goal on income poverty has been weak and the threshold of \$1.25 per day completely inadequate. Someone with a per capita income of \$1.26 is still poor.

"And focusing only on income poverty is not at all sufficient. Governments have to deal with the problems of poverty and inequality in all their dimensions."

Furthermore, said Martens, the MDGs did not take into account that the consumption and production patterns of the people in the Global North, with their impact on climate change and biodiversity, have grave consequences for the survival and living conditions of the people in the Global South.

Therefore, it is good news that the new SDGs reflect a much broader development approach, are universal and multi-dimensional, and contain not only goals for the poor but also goals for the rich, he noted.

Ben Phillips, International Campaigns and Policy Director at ActionAid, told IPS world leaders cannot fulfil their pledge to end poverty unless they tackle the crisis of the widening gap in wealth and power between the richest and the rest.

Ending poverty by 2030 cannot and should not be only an arithmetic exercise on the basis of very low dollar poverty lines which will not guarantee a life of dignity for all, he said. "If people go to bed hungry, don't have access to water and sanitation, to education or health coverage, the income threshold is not the end of poverty," Phillips said.

Even to get beyond the very low poverty lines they have, however, growth will not be enough if it is not more evenly shared, he said.

"The world can overcome poverty and ensure dignity for all if political leaders find the courage to challenge inequality by boosting jobs, increasing minimum wages, providing universal public services, stopping tax dodging and tackling climate change."

Governments need to stand up to corporate interests who are now so powerful that they are not only the sole beneficiaries of global rigged rules but the co-authors of them, he argued.

"It's clear that governments will only take on the power of money if they are challenged by the power of the people."

Still, the good news is that the movement to tackle inequality and confront plutocracy is growing, declared Phillips.

Martens told IPS lessons from the MDGs show that development goals are only useful if they are linked to clear commitments by governments to provide the necessary means of implementation.

That's why the Addis Ababa Conference on Financing for Development (FfD), scheduled to take place in Ethiopia on 13-16 July, is of utmost importance.

To avoid the complete failure of this conference, he said, all governments have to accept that they have common but differentiated responsibilities to provide the necessary means to implement the SDGs; and they have to strengthen the UN substantially in international tax cooperation by establishing an intergovernmental tax body within the UN.

Uneven progress

Meanwhile, the *Millennium Development Goals Report 2015* found that the 15-year effort to achieve the eight aspirational goals set out in the Millennium Declaration in 2000 was largely successful across the globe, while acknowledging shortfalls that remain.

The data and analysis presented in

the report show that, with targeted interventions, sound strategies, adequate resources and political will, even the poorest can make progress.

Highlighting some of the shortcomings, the report said that although significant gains have been made for many of the MDG targets worldwide, progress has been uneven across regions and countries, leaving significant gaps.

Conflicts remain the biggest threat to human development, with fragile and conflict-affected countries typically experiencing the highest poverty rates.

Gender inequality persists in spite of more representation of women in parliament and more girls going to school.

Women continue to face discrimination in access to work, economic assets and participation in private and public decision-making, according to the report.

Despite enormous progress driven by the MDGs, about 800 million people still live in extreme poverty and suffer from hunger.

Children from the poorest 20% of households are more than twice as likely to be stunted as those from the wealthiest 20% and are also four times as likely to be out of school. In countries affected by conflict, the proportion of out-of-school children increased from 30% in 1999 to 36% in 2012, the report said. (IPS) □

Financial transaction tax could boost development goals

Taxing financial trades has the potential to not only curb speculation in the financial markets but also generate funds for development.

by Nora Happel

NEW YORK: Ever since the Monterrey Consensus on Financing for Development in March 2002 called for new and innovative strategies to complement traditional official development assistance (ODA), various financial instruments have been discussed.

They include a solidarity levy on airplane tickets, debt swaps, measures to combat tax havens and capital flight – and the financial transaction tax (FTT).

With the finance ministers of 11 European countries, Austria, Belgium, Estonia, France, Germany, Greece, Italy, Portugal, Slovakia, Slovenia and Spain, continuing negotiations on the modalities of a future FTT, proponents say it is an opportune moment to look at the controversial tax and its potential as an innovative finance mechanism.

Most current discussions on FTTs, including plans on the European Union FTT, involve a small tax on the exchange of financial instruments, such as securities, bonds, shares and derivatives. It would apply to transactions on the wholesale market and not apply to the retail market.

The FTT has two main functions. It is designed to stabilize financial markets by curbing high-frequency trading and speculation, as well as serve as a tool to raise important amounts of revenue, which could be spent, at least in part, on development purposes.

However, there are ongoing debates on the efficiency of an FTT and its potentially damaging effects on the financial sector.

Opponents claim that an EU FTT would cause share-trading to emigrate, as happened to Sweden when it imposed a unilateral FTT about 30 years ago. Such fears have prevented countries with important financial sectors and asset management industries like the United Kingdom and Luxembourg from consenting to an EU-wide FTT, resulting in the multilateral initiative of the 11 "willing" EU countries instead.

The London-based Institute of Economic Affairs argues in a 2011 report that the revenue an FTT raises is minimal due to falls in revenue from other taxes. Also, price volatility will increase as financial markets get smaller and decreasing income for companies will ultimately translate in higher prices and lower wages for workers in the whole country.

As reported by the *Guardian*, Matthew Fell, director for competitive markets at the Confederation of British Industries (CBI), said: "The UK government is right to reject a FTT as damaging for jobs and growth."

"It is disappointing that eurozone economies are pursuing the FTT, whose costs ultimately fall on consumers and businesses, and will be a drag on the eurozone recovery."

Proponents of the FTT, such as the Robin Hood Tax campaign and Stamp Out Poverty, do not consider these arguments valid.

They point to the fact that FTTs have already been successfully implemented in many countries and that an EU FTT would increase growth in Europe by 0.2–0.4%, according to the European Commission's most recent impact assessment.

Tackling climate change, ending poverty and malnutrition, enhancing social and economic development in a sustainable manner – the ambitious post-2015 development framework, which will be adopted this year in September at the UN – requires considerable financial resources.

Those in favour of an FTT also acknowledge its potential as an innovative finance mechanism and confirm that chances to implement the Sustainable Development Goals (SDGs) will increase markedly if a sufficiently significant part of the money raised by means of the tax is spent on humanitarian purposes, climate change and development.

David Hillman, spokesperson for the United Kingdom's Robin Hood Tax campaign, told Inter Press Service (IPS): "One of the great benefits of the financial transaction tax is that it's a proven revenue raiser. Many FTTs already exist around the world today that collectively raise at least \$30 billion a year."

"International targets to tackle poverty and climate change were knocked badly off course by the reckless actions of the finance industry. It is only right the sector makes a fair contribution for the damage it caused. Because financial markets have grown so large, the FTT is capable of raising the levels of finance needed to tackle these issues."

"A win-win instrument"

Dorothea Schafer, research director in the field of financial markets at the German Institute for Economic Research (DIW Berlin), also considers the FTT an effective innovative finance tool.

Commenting on the EU FTT, she told IPS: "Key benefits of the FTT are the considerable revenue it can generate and its steering effect, i.e., the fact that it reduces the profitability of high-frequency trading, stimulates long-term orientation and thus helps to build a sustainable financial system."

"I consider the FTT a win-win instrument: if the steering effect does not

occur because trade with financial instruments remains lucrative, at least a decent amount of income will be raised. However, if the steering effect occurs, and trade with financial instruments, especially derivatives, decreases, this will contribute to the stability of the financial system."

"Provided that the FTT encompasses all financial instruments, it can generate a considerable revenue, even if the tax rates end up being lower than those provided for in the EU Commission draft."

The proposal by the European Commission currently requires the 11 participating member states to set tax rates to levels not lower than 0.1% on conventional transactions and 0.01% on derivatives in view of the notional value.

According to Bloomberg Business, the 11 EU member states continue quarrelling over the details of a future EU FTT, especially over which trades to tax,

the amount of revenue the tax should raise and modes of tax collection.

Another important point of debate is what the money raised should be spent on. In the past, both German Chancellor Angela Merkel and French President Francois Hollande have recognized the need to spend at least a part of the revenue on climate change and development objectives.

It remains to be seen if the potential of the FTT as an innovative finance mechanism will be taken advantage of to a greater extent in the future. Decisions regarding what share of the tax will be spent on development are made on the national level and depend on political will.

However, this year's discussions on financing for development and the adoption of the SDGs at the UN might allow for a fruitful climate as a basis for further-reaching political decisions. (IPS) □

(continued from page 11)

In Brazil's cotton dispute against the US, the WTO Appellate Body has pointed to the possible adverse effect of the US' Green Box measures.

The US and the EU, which specially constructed the Green Box in the AoA with specific carve-outs for their agricultural support during the Uruguay Round, have systematically moved their subsidy programmes to the Green Box because of their current exemptions.

In the Doha Round negotiations, the G20 farm coalition led by Brazil, India, China and South Africa have underscored the need to review the Green Box measures.

In the draft negotiating text sent to the failed Cancun Ministerial Conference, the chair of the WTO General Council had proposed on 23 August 2003, in bullet point 1.5, that "Green Box criteria remain under negotiation."

The July 2004 Framework agreement and the 2005 Hong Kong Ministerial Declaration mandated the review of Green Box measures.

The review of the Green Box also figured during several closed-door meetings between the chair and select trade envoys in which the EU and Canada fiercely opposed the proposal for examining Green Box programmes.

Against this backdrop, the opposition from the US, the EU and Australia

to including the market price support for public stockholding programmes is not only disingenuous but smacks of "hypocrisy" and "double standards".

In one go, it proves that the trans-Atlantic trade partners are willing to avail themselves of all Green Box schemes to cover up their hundreds of billions in market-incentive programmes for their farmers but will not allow the public stockholding programmes to be exempted from reduction commitments in the Green Box.

Effectively, the two countries are sending a message that they are not willing to allow Green Box coverage of public stockholding programmes meant to address livelihood and food security needs of hundreds of millions of poor people in the developing world.

The US has, however, audaciously suggested that the G33 will block an agreement at the 10th Ministerial Conference in Nairobi, Kenya, later in the year even if there is an agreement on all other issues of the Doha Round package, said a trade envoy.

If the developed countries are determined to close the Doha Round without conceding minimal gains for the developing and the poorest countries, said a trade envoy from South America, then the developing countries must follow what Brazil's former trade minister Celso Amorim had advised when he said, "No deal is better than a bad and flawed agreement." (SUNS8051) □