

# THIRD WORLD *Economics*

TRENDS & ANALYSIS

Published by the Third World Network KDN: PP 6946/07/2013(032707) ISSN: 0128-4134 Issue No 649 16 – 30 September 2017

## WTO members still far apart on Ministerial outcome

Member states remain some distance from reaching agreement on the outcomes to emerge from this December's WTO Ministerial Conference in Buenos Aires. In many areas, the divisions are increasingly forming along North-South lines, as most developing countries seek resolution of outstanding issues on the WTO agenda while several developed countries are turning their attention to new issues instead. Meanwhile, the US, for its part, seems to be pursuing a different course altogether....

- MC11 becoming a North-South battle – *p2*
- DG, chairs of negotiating bodies on state of play ahead of MC11 – *p4*
- No convergence on PSH or domestic support reduction – *p6*
- US attempts to use wrecking ball against WTO – *p9*

---

### Also in this issue:

*Abandon “failed policies” of privatization and austerity, IMF told*

*p12*

*The World Bank’s simplistic claims on business regulations and inequality*

*p15*

---

## Contents

### CURRENT REPORTS

- 2 MC11 becoming a North-South battle
- 4 DG, chairs of negotiating bodies on state of play ahead of MC11
- 6 No convergence on PSH or domestic support reduction
- 8 Outcome unlikely on domestic regulation in services at MC11
- 9 US attempts to use wrecking ball against WTO
- 12 Abandon "failed policies" of privatization and austerity, IMF told

### OPINION

- 15 The World Bank's simplistic claims on business regulations and inequality

THIRD WORLD ECONOMICS is published fortnightly by the Third World Network, a grouping of organisations and individuals involved in Third World and development issues.

**Publisher:** S.M. Mohamed Idris; **Editor:** Chakravarthi Raghavan; **Editorial Assistants:** Lean Ka-Min, T. Rajamoorthy; **Contributing Editors:** Roberto Bissio, Charles Abugre; **Staff:** Linda Ooi (Administration), Susila Vangar (Design), Evelyn Hong & Lim Jee Yuan (Advisors).

• **Annual subscription rates:** Developing countries US\$75 (airmail) or US\$55 (surface mail); India Rs900 (airmail) or Rs500 (surface mail); Malaysia RM110; Others US\$95 (airmail) or US\$75 (surface mail).

• **Subscribers in India:** Payments and enquiries can be sent to: The Other India Bookstore, Above Mapusa Clinic, Mapusa 403 507, Goa, India.

• **Subscribers in Malaysia:** Please pay by credit card/crossed cheque/postal order to Third World Network Bhd.

• **Orders from Australia, Brunei, Indonesia, Philippines, Singapore, Thailand, UK, USA:** Please pay by credit card/cheque/bank draft/international money order in own currency, US\$ or euro. If paying in own currency or euro, please calculate equivalent of US\$ rate. If paying in US\$, please ensure that the agent bank is located in the USA. Payment to be made to Third World Network Bhd.

• **Rest of the world:** Please pay by credit card/cheque/bank draft/international money order in US\$ or euro to Third World Network Bhd. If paying in euro, please calculate equivalent of US\$ rate. If paying in US\$, please ensure that the agent bank is located in the USA.

Visit our web site at <http://www.twn.my>.

Printed by Jutaprint, No. 2, Solok Sungei Pinang 3, Sungai Pinang, 11600 Penang, Malaysia.

© Third World Network

# MC11 becoming a North-South battle

North-South faultlines are becoming more evident in the run-up to the WTO's eleventh Ministerial Conference in December, with most developing countries calling for outstanding items on the WTO agenda to be addressed even as developed countries mainly seek to shift the focus to new issues.

by D. Ravi Kanth

GENEVA: The eleventh Ministerial Conference (MC11) of the World Trade Organization, which will be held in Buenos Aires on 10-13 December, is increasingly transforming itself into a North-South battle on unresolved trade issues of the WTO's Doha Work Programme (DWP).

A large majority of developing and poorest countries issued the strongest message yet on 24 October that they remain firmly opposed to new issues such as investment facilitation, disciplines for micro, small and medium-sized enterprises (MSMEs), and a new mandate for electronic commerce, several trade envoys told the *South-North Development Monitor (SUNS)*.

At an informal meeting of heads of delegation (HoD) on 24 October, the large majority of developing and poorest countries comprising the African Group, the Africa, Caribbean and Pacific (ACP) Group, the least-developed countries (LDCs), the G33 developing-country coalition, China, India and South Africa demanded categorically that the Buenos Aires meeting must deliver a credible outcome on the permanent solution for food security without any linkage to an outcome on agricultural domestic support commitments as demanded by the European Union, Brazil and other members.

They also insisted that the special safeguard mechanism (SSM) which is mandated in the 2004 July Framework Agreement, the 2005 Hong Kong Ministerial Declaration, the 2008 revised draft Doha agriculture modalities and the 2015 Nairobi ministerial declaration must be delivered at Buenos Aires.

They emphasized that an outcome on cotton must be delivered at Buenos Aires as well so as to enable the so-called C4 West African cotton-producing countries – Benin, Burkina Faso, Chad and Mali – to secure a credible result on this much-promised issue.

The large majority of developing and poorest countries, including India, China and South Africa, also called for the elimination of the Aggregate Measurement of Support (AMS) in the industrialized countries as a prerequisite for commencing work on the domestic support reduction commitments.

The large majority of developing and poorest countries led by South Africa demanded that the specific improvements in the special and differential flexibilities in the Doha Work Programme and subsequently in other ministerial declarations, including the 2004 framework agreement, must be resolved at Buenos Aires so as to enable countries in Africa to industrialize and become competitive in international trade.

On e-commerce, the large majority of developing and poorest countries, including India and South Africa, said categorically that the 1998 work programme on e-commerce must continue and further work must follow after the Buenos Aires meeting.

The large majority of developing and poorest countries, including India and South Africa, said no to new issues such as investment facilitation and disciplines for MSMEs, which are outside the mandate.

The large majority of developing and poorest countries called for credible outcomes on duty-free and quota-free market access for the LDCs.

The large majority of developing and poorest countries said that they want a realistic and development-friendly outcome on fisheries subsidies without undermining the lives of poor and artisanal fishermen.

China, however, pursued a two-track strategy. It sided with the developing countries on issues concerning credible outcomes on the permanent solution for public stockholding programmes, SSM and cotton, and the elimination of AMS. But it chose to switch sides on e-

commerce, investment facilitation and disciplines for MSMEs by joining with the EU and other industrialized countries. China said it would attend an informal high-level meeting being convened on investment facilitation by Nigeria on 3 November. On fisheries subsidies, China maintained that it wants an outcome only on illegal, unreported and unregulated (IUU) fishing.

On their part, several industrialized and some developing countries – including the EU, Japan, Australia, Switzerland, Norway, Korea, Hong Kong (China), Chinese Taipei, Chile and Argentina – called for a work plan on new issues such as investment facilitation, disciplines for MSMEs and e-commerce.

The EU supported by several others specifically linked an outcome on the permanent solution for public stockholding programmes for food security in developing countries with domestic support reduction commitments. The EU and more than 40 countries also called for an outcome on improved domestic regulation in services. The EU asked members to be prepared to strengthen the multilateral organization in the face of challenges posed to its credibility.

The United States, however, continued to maintain its position that there cannot be any negotiated outcomes at Buenos Aires. The US said the ministerial meeting will be reckoned as a success if it results in an agreed blueprint for starting a dialogue to strengthen the WTO by rejuvenating its institutional structures in the near future, said a participant who asked not to be quoted.

The US, however, remained silent on the Dispute Settlement Understanding (DSU) and the systemic crisis it had triggered off in recent weeks following its decision to block the selection process for filling vacancies at the WTO's dispute settlement Appellate Body.

On this front, without naming the US, members from across all regions issued on 24 October a resounding message for strengthening the DSU in the face of grave challenges arising from the intransigent positions adopted by one member. Many members called for delinking the selection process for filling the Appellate Body vacancies from the issues raised by the US, said a trade envoy who asked not to be quoted.

#### African Group position

The strongest message delivered at the 24 October HoD meeting came from

Rwanda's trade envoy Ambassador Francois Xavier Ngarambe on behalf of the African Group. He said the African Group wants a "fair and equitable rules-based multilateral trading system that supports our development objectives."

"Since the launch of the Doha Round," he said, the African Group "has made contributions consistently aiming at eliminating systemic inequities inherited from many of the Uruguay Round Agreements."

It is little surprise, he said, that "the African Group supported the 2008 Rev.4 [modalities text] in Agriculture and submitted a number of Special and Differential Treatment proposals to review GATT/WTO Agreements in line with paragraph 44 of the Doha Declaration, among others."

Therefore, the Buenos Aires conference must deliver "a meaningful outcome on the Doha Development Issues, in particular those with direct connection with our continental integration, structural transformation and industrialization in line with Agenda 2063: The Africa We Want."

On behalf of the African Group, he listed the markers for the Buenos Aires meeting in all areas. In agriculture, the African Group listed the following issues:

(i) Given the role agriculture plays in Africa, especially in its economy for employment, GDP generation, rural development, food security and livelihoods, the African Group wants a high-ambition and development-friendly outcome at Buenos Aires that results in removing inequities in global farm trade.

(ii) It underscored the need for a fair and market-oriented agriculture trading system in line with Article 20 of the WTO Agreement on Agriculture and in accordance with paragraph 13 of the Doha Ministerial Declaration.

(iii) The African Group supported the elimination of all historical imbalances, notably the elimination of AMS by MC11 as well as establishing disciplines on product-specific support to avoid subsidy concentration while preserving all the necessary policy space for purposes of fairness and equity.

Other approaches, such as the EU/Brazil approach based on the value of production, according to the African Group, "do not address these systemic inequities and may in fact perpetuate them; and, therefore these approaches are not conducive to any tangible outcome and cannot be supported as a ba-

sis for future work."

The African Group listed other important issues: a permanent solution on public stockholding programmes for food security purposes, a special safeguard mechanism as well as an ambitious outcome on cotton by MC11.

On public stockholding programmes for food security, the African Group maintained that "the Nairobi Ministerial Decision mandated a constructive engagement towards a permanent solution on this issue; to be conducted in a dedicated process and accelerated time-frame, distinct from the agriculture negotiations." "We therefore cannot support any linkage to the domestic support negotiations," the African Group said.

On fisheries subsidies, the African Group said it supports the ACP Group's proposal for a substantial outcome while preserving the policy space for countries to develop the fisheries sector.

On the development issue concerning special and differential treatment, the African Group stressed "the urgent need to make flexible the GATT/WTO stringent rules in order to create a conducive environment for industrialization, diversification and structural transformation."

It expressed sharp concern that "the current stiff resistance" to the proposals for special and differential flexibilities may be seen as "a testament to the fact that this may not be an Organization that promotes development, contrary to the objectives of the Doha Development Agenda."

The African Group said "rules were negotiated during the Uruguay Round without the participation of our countries", maintaining that "industrialized countries crafted these rules in accordance with the needs of their industries." It recounted how industrialized countries closed the policy space after establishing the WTO, particularly through agreements that prohibited the use of local content requirements, industrial subsidies and infant industry protection, among others.

The G90 developing countries, according to the African Group, are "simply seeking to make these rules commensurate with the economic needs of our industries in fulfilment of the mandate found in paragraph 44 of the Doha Ministerial Declaration."

Therefore, "the argument that operationalizing the special and differential treatment with respect to these rules might be difficult simply does not

hold”, the African Group maintained.

The African Group rejected calls for an outcome on domestic regulation for trade in services, saying that their specific questions were not even addressed. (See the article “Outcome unlikely on domestic regulation in services at MC11” in this issue.)

On new issues without a mandate, paragraph 34 of the Nairobi Ministerial Declaration and paragraph 1(g) of the 2004 July Framework will prevail. “It is impossible to envisage or expect any outcome whatsoever on issues without reaching consensus on the negotiating mandate,” the African Group maintained.

Commenting on e-commerce, the African Group said “it may be possible to agree to the continuation of the current work programme, although some members are deeply concerned that this is intended to lay the basis for premature and not sufficiently informed rule-making in future.” It added that these concerns are heightened by current proposals for a new institutional framework, which appear to be designed for negotiations on rules in future.

On the extension of the moratorium on customs duties on electronic transmissions, the African Group said “it is time to engage in a serious discussion on the implications of the moratorium in view of the rapidly evolving digitization trend. We are increasingly concerned about the economic rationale for providing duty-free and quota-free treatment to the most competitive companies in the world.”

“Moreover, in view of the increasing digitization of goods and services, what is likely to be the implications on revenue losses in a few years ahead? In view of these unanswered questions, the extension of the moratorium should not be seen as automatic,” the African Group cautioned.

#### Recipe for disaster

After endorsing the statement made by Rwanda on behalf of the African Group, South Africa said “aside from more than three or four issues that have some prospect for an outcome at MC11, the remaining DDA [Doha Development Agenda] issues, which Members continue to prioritize, will need to be taken up after Buenos Aires.”

South Africa’s trade envoy Ambassador Xavier Carim, who is also the chair of the WTO General Council, said “there is wide support to continue to work for outcomes at MC11 on fishery subsidies

and public stockholding.” He warned that “while the complex technical questions will not easily be resolved on either, the most serious risk to an outcome on public stockholding is the linkage being made to the one proposal on domestic support.”

“We need to be frank here: That proposal, based on a value of production cap, and being presented as an incremental step, will not achieve consensus because it does not establish a fair or equitable basis for future work,” the South African trade envoy said. “The linkage thus risks derailing possible progress on public stockholding, with possible knock-on consequences.”

India’s trade envoy Ambassador J.S. Deepak also warned that any linkage between the permanent solution for public stockholding programmes for food security and the outcome on domestic support is a recipe for disaster at Buenos Aires.

On e-commerce, South Africa said it is ready “to agree to continue exploratory discussions under the current work programme and to obtain a two-year extension of the moratorium – in tandem with an extension of the TRIPS moratorium – but even these cannot be taken for granted.”

Carim also expressed sharp concern over “the disengagement on and even rejection of” the G90 proposals on special and differential treatment.

He urged members not to attempt outcomes on domestic regulation in services, trade remedies or others that “cherry-pick” transparency and/or regulatory-related demands in agriculture, NAMA or elsewhere.

Carim said “it is abundantly clear now that any proposal for decision at MC11 on non-Doha, non-mandated issues, such as investment facilitation and MSMEs, will not be agreed.”

He called for the process leading to MC11 to be fully transparent and inclusive, and cautioned against “a repeat of the process at MC10 [which took place in Nairobi in 2015]”.

“We should therefore be fully focused on completing all technical work before departing Geneva, leaving very few, manageable political issues for Ministerial decision,” he said. It is imperative that “when our Ministers meet at MC11 they do not confront deeply contested issues that put the Conference itself at risk, as a breakdown at MC11 would deal the most serious blow to the multilateral trading system.”

“We must do all we can now to avoid that scenario,” he said.

In short, the strong messages delivered at the HoD meeting on 24 October point towards a continuing battle that might go to the wire, particularly on new issues, said a trade envoy who asked not to be quoted. (SUNS8561) □

## DG, chairs of negotiating bodies on state of play ahead of MC11

The progress reports presented at the 24 October HoD meeting on the various strands of talks taking place leading up to the WTO Ministerial Conference underlined the scale of work needed in the little time remaining to achieve convergence on the outcomes to be delivered at Buenos Aires.

by Kanaga Raja

GENEVA: The informal heads of delegation (HoD) meeting held on 24 October, just some seven weeks before the WTO’s eleventh Ministerial Conference (MC11) in Buenos Aires, heard an assessment by the WTO Director-General as well as reports by the chairs of the various negotiating bodies under the Doha Work Programme on the state of play so far on the key issues in the negotiations.

According to trade officials, in his remarks at the HoD meeting, Director-General Roberto Azevedo recounted the meetings that he had been attending in

recent weeks, including the informal ministerial meeting in Marrakesh, a meeting of trade ministers from the Africa, Caribbean and Pacific (ACP) Group, the IMF and World Bank meetings in Washington (where he met with US Trade Representative Robert Lighthizer), and meetings with the African Group and the group of Francophone countries.

According to the DG, there is a strong reaffirmation of support for a good outcome at MC11 but there are very difficult issues that remain. In some cases what is seen are divergent positions, and

he is hearing a lot of the same things that he has been hearing up to now.

He highlighted the issues that were raised at the Marrakesh meeting in October, including agriculture and its many sub-elements including domestic support, public stockholding programmes for food security, cotton and the special safeguard mechanism (SSM); fisheries subsidies; domestic regulation in services; special and differential treatment (SDT); electronic commerce; micro, small and medium-sized enterprises (MSMEs); investment facilitation; and women's empowerment.

According to trade officials, Azevedo also mentioned the WTO dispute settlement system, saying that the current situation is very concerning. Members need to find a way forward, he added.

He said that overall the discussions with the ministers have gone well, but in terms of convergence, it is not very encouraging.

There was a great deal of support at both the Marrakesh and ACP meetings for an MC11 outcome but there is a need to reduce the number of issues that are going to be on the table for ministers to take up in Buenos Aires.

In the very near future, members will have to decide which issues can be brought to MC11 and which have not advanced enough, said the DG.

According to Azevedo, Buenos Aires is not the end of the road. He expressed hope that members can leave Buenos Aires committed to strengthening the trading system and with a clear path forward for work on as many issues as possible.

### Chairs' reports

According to trade officials, the chair of the Negotiating Group on Rules, Ambassador Wayne McCook of Jamaica, reported that there has been significant work done on the three pillars in the rules negotiations.

On fisheries subsidies, the negotiating group had intensified its work during a four-day session. It reflected the strong determination of members to advance outcomes.

It is too early to predict exactly what the scope of this outcome will be but the members have in place at the moment the necessary conditions to bring about an agreement. But political and techni-

cal challenges remain.

The chair said that so far the members are not shrinking from these challenges and that there are no linkages or sequencing that has been attached to this, and that has been the key.

When the members meet to take this issue up in the next couple of weeks, there need to be precise and detailed interventions in the form of drafting changes to the "vertical" text on fisheries. It must be a bottom-up approach, the chair said, adding that he cannot provide the substance.

The chair said that the issue of fisheries subsidies is promising for a possible outcome at MC11.

The chair also mentioned the other two pillars of trade remedies (the proposal from China) and horizontal subsidies (the proposal from the EU).

The chair of the services negotiations, Ambassador Hector Marcelo Cima of Argentina, said that so far on the question of trade facilitation in services and on market access, members should not expect a negotiating outcome in Buenos Aires.

According to the chair, on domestic regulation in services, there continues to be quite a lot of energy in these discussions. A "significant" group says that there is enough progress that has been made for a negotiating outcome to be reached but "another sizable" group says that this is not something that can be done.

A large group of proponents will be presenting a revised paper very shortly and this will take into account many of the concerns that have been raised by others. These concerns are linked largely to policy space and the right to regulate.

The chair of the Committee on Trade and Development in Special Session, Ambassador Tan Yee Woan of Singapore, mentioned that the big issue here is the G90's 10 agreement-specific proposals on SDT.

The opponents have said that the exemptions and open-ended flexibilities would be damaging to the system, so the question is how should the work proceed in the 30 working days before MC11? Are there alternative approaches? Are there any areas of convergence? According to the chair, the answer to that is "no".

The chair of the NAMA (non-agricultural market access) negotiations, Ambassador Didier Chambovey of Switzerland, said that there has not been a

meeting since 21 July. An informal meeting has been called for 1 November.

The chair of the TRIPS Council in Special Session, Ambassador Dacio Castillo of Honduras, raised questions on the role for the TRIPS Council in Special Session in the preparations for MC11. Should there be negotiations on the register of geographical indications of origin for wines and spirits afterwards? He said that the known positions were reiterated and members sensed little appetite for negotiations in this area.

The chair of the Committee on Trade and Environment in Special Session, Ambassador Syed Tauqir Shah of Pakistan, said that a meeting was held on 3 October which was an information session. There have been no new proposals but delegations said that the environment is too important an issue and should not be forgotten in any ministerial declaration.

The chair of the Dispute Settlement Body in Special Session, Ambassador Coly Seck of Senegal, reported that an informal meeting was held on 10 October. There have been no new proposals and there has not really been a push for an outcome at MC11 but there is a desire to continue discussing these issues after MC11 in the current format and members like to take up one issue at a time.

WTO Deputy Director-General Yi Xiaozhun reported on behalf of the chair of the Committee on Agriculture in Special Session, Ambassador Stephen Karau of Kenya, who was out of town.

He said that the issue of public stockholding for food security purposes is a priority issue. There are two proposals on the table.

On domestic support, he said this is the priority for the vast majority of members. On cotton, the Cotton-Four (C4) countries have put forward a new proposal and are looking for a high level of ambition.

On agricultural market access, he said that a substantial outcome will not be feasible at MC11, but others would like to continue to take this up after MC11.

On SSM, the proponents have called for an outcome but the prospects are limited because without something in market access, opponents are very reluctant to move on this issue.

On export restrictions, he said many members support a limited outcome on enhancing transparency on export pro-

hibitions and restrictions but others say that this should be seen within the context of a more comprehensive outcome.

According to trade officials, Director-General Azevedo concluded that from what he has heard from members, there is still a long way to go and a short time in which to do this. He urged members to prioritize the issues.

### Domestic support priority

Meanwhile, in his report to the Committee on Agriculture in Special Session at its meeting on 19 October, chair Karau had said that domestic support remains the priority for the vast majority of members. It is the pillar that has received a lot of attention in all meetings thus far, as well as in his consultations with members. It was also one of the main issues discussed at the Marrakesh mini-ministerial meeting, he said.

This engagement was reflected again by two more submissions that would be introduced on 19 October: one by the ACP Group and the other by New Zealand, Australia, Canada, Chile and Paraguay.

Nevertheless, important gaps still remain in the positions of members on the negotiating issues. Members remain broadly divided between:

- those that favour an overall limit on trade-distorting support, whether based on a percentage of the value of production or on a monetary ceiling; and
- those that consider that the Aggregate Measurement of Support (AMS) should be eliminated first – notably because it allows for product-specific subsidy concentration – and that at least some steps should be taken in that direction.

In addition, several members consider that efforts should be proportional and the burden should not be put more on some members than on others. They consider that new disciplines based on the current elements – AMS and *de minimis* – would be more appropriate and caution against a one-size-fits-all type of solution.

While acknowledging the usefulness of the proposal by the EU/Brazil and co-proponents, several members regretted the absence of disciplines on product-specific support and/or immediate disciplines on the Blue Box. Some members reiterated their sensitivities regarding Article 6.2 and *de minimis* entitlements.

ments.

On cotton, Karau noted that the C4 proposal containing a draft ministerial decision on cotton was circulated on 11 October. The proposal received preliminary comments from Quad Plus participants during a brief meeting on 13 October. Some of the members who provided comments regretted the high level of ambition, while others requested the C4 to clarify some elements of the proposal, including the proposed treatment of developing-country members.

On export restrictions, the chair said the discussions thus far have confirmed that many members support a limited outcome, mainly focused on enhancing transparency in export prohibitions and restrictions. It should also be highlighted that most members consider that an outcome on export prohibitions and restrictions could not be envisaged in the absence of a more comprehensive outcome in the agricultural negotiations overall.

On market access, the chair said there is acknowledgement among the members, including the proponents, that a substantive outcome may not be feasible at MC11. Simultaneously, he has not heard any member questioning the importance of market access reforms.

The chair had nothing new to report on export competition.

The chair concluded that a lot of work remained to be done in just the seven weeks available before MC11. He said it was now time to translate the engagement demonstrated in Marrakesh by ministers and the shared willingness to have success at MC11 into concrete actions.

“To prepare the ground for success at MC11, it should be our objective to submit to Ministers a limited number of issues for their consideration. This implies that we need to intensify our work here in Geneva and close as many gaps as possible in the negotiating positions of members on the issues. Experience has taught us that the agenda for Ministers must be manageable if results are to be obtained,” he said.

“Put differently, our objective should be to submit to Ministers a clear understanding of what can be envisaged as agricultural outcomes at MC11, with as few points as possible left open for negotiation by Ministers. Depending on the issue, the envisaged outcome could be a substantive one, a post-MC11 work programme or a combination of the two,” he added. (SUNS8561) □

## No convergence on PSH or domestic support reduction

Attempts by the WTO head to spur progress towards outcomes at Buenos Aires on the key issues of public food stocks and domestic farm subsidies have yielded no breakthrough thus far.

by D. Ravi Kanth

GENEVA: Two closed-door meetings held by WTO Director-General Roberto Azevedo – one with proponents of a permanent solution for public stockholding (PSH) programmes for food security in developing countries and the second on agricultural domestic support reduction commitments – have failed to bring about any convergence, trade envoys told the *South-North Development Monitor* (SUNS).

Azevedo held the meeting with the PSH proponents on 25 October and met the proponents for domestic support reduction commitments on 27 October.

Azevedo, who was formerly the chief trade negotiator for Brazil during the run-up to the 2008 revised draft agriculture modalities, assumed the role of

negotiator at the closed-door meetings in the absence of the current chair of the Doha agriculture negotiations, Ambassador Stephen Karau of Kenya, who was busy with elections back home in Nairobi.

At both the meetings, the United States was conspicuously absent.

The DG was apparently interested at this juncture only in talking with the proponents rather than opponents on the two issues, said a trade envoy from South America who asked not to be quoted.

The US has made its position clear that there cannot be any negotiated outcomes or a ministerial declaration at the Ministerial Conference in Buenos Aires.

“The DG is aware of all the intricacies

cies and the linkages in both these issues, unlike the current Doha agriculture talks chair who is clueless about the likely outcomes at Buenos Aires,” the South American trade envoy said, adding that Azevedo is in a position to nudge the proponents to come to a common understanding.

The 25 October meeting on the PSH was attended by trade envoys of the European Union, Brazil, Norway, Russia, Indonesia (which coordinates the G33 developing-country coalition), India, Turkey, Korea, the Dominican Republic, Kenya and Egypt among others.

During the brief meeting, Indonesia, India, Korea, Turkey, Kenya and Egypt – all members of the G33 – made an emphatic case for a credible and effective permanent solution on PSH at Buenos Aires so as to enable developing countries to assist hundreds of millions of poor farmers without any legal hurdles.

Indonesia delivered the strongest message during the meeting. It made clear that the G33 members along with a large majority of developing countries will reject any attempt to link the PSH permanent solution with the domestic support reduction issue. It said the two issues stood on their own merit without any linkage, and that any attempt to force a linkage now will not only have serious ramifications but will derail the meeting in Buenos Aires, said another trade envoy who asked not to be quoted.

In response, Azevedo intervened to say that the linkage issue is not the main one, suggesting that the participants must focus on other elements of the permanent solution, the envoy said.

India raised fundamental concerns on the interim decision on PSH reached at the WTO's ninth Ministerial Conference in Bali in 2013. It said the coverage of products in the Bali decision must be replaced by the current Annex I list of products in the WTO's Agreement on Agriculture. Suggesting food products only in the Bali decision has created confusion, said India.

Azevedo maintained that the inclusion of food products in the Bali agreement was agreed among ministers instead of inserting language on “few products”. He said that if India insists on any change on the issue of product coverage, then it would have to agree to tightening the safeguards or other issues in the permanent solution, the South American envoy said.

India then raised several issues on the safeguards as well as transparency provisions for the proposed mandated

permanent solution. The Bali agreement, it said, contained the most intrusive and unworkable transparency provisions that none of the developed countries, except New Zealand, would be able to implement in reality.

Instead of working to develop an effective permanent solution, India said, some proponents are making the permanent solution impossible to use.

Turkey demanded an easy and effective permanent solution, a view which was also shared by other members such as Korea, Kenya and Egypt.

In response to India's position, the EU, Brazil and Norway maintained that the permanent solution must remain as close as possible to the Bali interim decision. The three countries stuck to that line with varying nuances, and maintained that the permanent solution must remain anchored on the Bali agreement, trade envoys said.

The EU said it is in favour of a permanent solution for PSH programmes but insisted on transparency and safeguard measures.

Brazil said that it is expanding the scope for a balanced outcome on the permanent solution by including it with domestic support, and suggested that the unresolved issues in the two areas can be taken up later after the Buenos Aires meeting.

Brazil said the permanent solution must reflect the Bali decision and any changes must be minimal. It argued that if India wants to add any substantive changes, then they must be discussed after Buenos Aires given the paucity of time.

Norway said the permanent solution must be close to the interim solution that was agreed in Bali.

Russia circulated a proposal on PSH programmes on 27 October in which it argued that while it is willing to agree to lesser transparency provisions in the permanent solution, it will need enhanced safeguard provisions, according to a person familiar with the proposal. In effect, Russia, a major wheat exporter, raised the bar on safeguard provisions in the permanent solution so as to ensure that China and India do not export wheat, the person said.

The DG – who did not call for the consultations the other key opponents to the permanent solution for PSH such as the US, Australia, Canada, Pakistan and Paraguay – said that any attempt to open up the elements in the Bali decision could lead to reciprocal demands from other members, according to people familiar

with the development.

### Domestic support

During the meeting on domestic support on 27 October, the DG pleaded with the proponents that they must make every effort for a beginning on domestic support at Buenos Aires, failing which they will be sending a wrong signal to the people who are watching from outside, said a trade envoy who asked not to be quoted.

“If you don't do anything on domestic support, then it will not send a good message; therefore be prepared to discuss something among yourselves,” the DG said, according to the envoy.

The EU, Brazil, Australia, New Zealand, Japan, Switzerland on behalf of the G10 countries, Mexico, China, India, Guyana on behalf of the Africa, Caribbean and Pacific (ACP) Group, and Paraguay took part in the meeting.

India and China referred to their own joint proposal which called for eliminating the most trade-distorting domestic support or the Aggregate Measurement of Support (AMS). The two countries maintained that the AMS in the industrialized countries is the biggest issue at this juncture.

India made a forceful case that because of the AMS, some members are able to support some products up to 200% and 300% of the value of the production, while developing countries only have *de minimis* that cannot be breached beyond 10%, said a participant from South America.

India and China noted that there are huge divergences among members on domestic support, saying that they are not sure whether they will be able to proceed further.

China said the ultimate goal for members must centre around the elimination of the AMS, suggesting that the two countries are suggesting a process that eventually leads to the elimination.

The EU and Brazil maintained that their own proposal on domestic support is basically a middle-ground solution for kickstarting the negotiating process.

Australia and New Zealand referred to their proposal, saying that it offers a credible route to all members to address domestic support with a small beginning.

But Mexico, Japan and Switzerland said they cannot accept the EU-Brazil and Australia-New Zealand proposals, which they said target some countries while leaving others untouched.

Japan acknowledged the need to cut "water" but maintained that it should not be at others' cost. Japan asked for a price for cutting water in the AMS, suggesting that it is engaged in its own reform.

Switzerland said that while it has not carried out as big a reform, it also has the same concerns over the EU-Brazil and Australia-New Zealand proposals.

In short, the divergences on domestic support remained unbridgeable, said a participant who asked not to be quoted.

The participants remained sharply

divided even on the future programme on domestic support, with Switzerland suggesting that Article 20 in the Agreement on Agriculture will remain the basis for future work.

With only a few weeks left ahead of the Ministerial Conference, the developing and least-developed countries are facing an ugly situation, as the entire Doha edifice on agriculture and other issues is being reduced to rubble even before they reach Buenos Aires. (SUNS8564) □

## Outcome unlikely on domestic regulation in services at MC11

Prospects of an agreement at Buenos Aires to discipline domestic regulation of services trade appear slim, with many countries arguing that more time is needed to resolve prevailing differences in this area.

by D. Ravi Kanth

GENEVA: The multilateral outcome on enhanced disciplines for domestic regulation in trade in services proposed by major developed and some developing countries for the upcoming WTO ministerial meeting in Buenos Aires almost evaporated on 23 October following unbridgeable divisions on the need to finalize any decision at this juncture, trade negotiators told the *South-North Development Monitor* (SUNS).

At a meeting of the Doha negotiating body on services on 23 October, several developed countries and their developing-country allies pressed for an outcome based on their revised draft proposal for MC11.

The sponsors demanding an outcome at Buenos Aires include the European Union, Argentina, Australia, Canada, Chile, Colombia, Costa Rica, Hong Kong (China), Iceland, Israel, Japan, Kazakhstan, Korea, Liechtenstein, Mexico, Moldova, New Zealand, Norway, Peru, Switzerland, Chinese Taipei, Turkey and Uruguay.

In their latest revised proposal, the sponsors maintained that "the main body of text (Articles 1 to 6.1) has been jointly developed by all the Members listed above as a basis for further work." Several bracketed texts in the draft, according to the sponsors, "indicate areas where the Members listed above have not reached agreement." The sponsors, however, called for further discussions.

The enhanced disciplines on domes-

tic regulation (DR) as proposed by the sponsors cover areas such as licensing requirements and procedures, qualification requirements and procedures, and technical standards affecting trade in services where specific commitments are undertaken.

The sponsors argued that an outcome on DR disciplines is essential at Buenos Aires, suggesting that they are willing to discuss with other members all aspects in their text.

The six-page draft text suggested in "general provisions" that "these disciplines apply to measures by Members relating to licensing requirements and procedures, qualification requirements and procedures, and technical standards affecting trade in services where specific commitments are undertaken."

The sponsors said that "they do not apply to any terms, limitations, conditions, or qualifications set out in a Member's schedule pursuant to GATS [the WTO's General Agreement on Trade in Services] Article XVI or XVII."

Further, the sponsors maintained that "Members recognize the right to regulate, and to introduce new regulations, on the supply of services within their territories in order to meet [national] policy objectives. These disciplines shall not be construed to prescribe or impose particular regulatory approaches or any particular regulatory provisions in domestic regulation."

A group of countries which are not

among the DR sponsors, including China, maintained that they would support an outcome on the DR disciplines at Buenos Aires, according to a trade negotiator who asked not to be quoted.

However, another group of countries, including India and Bangladesh, suggested that an outcome on DR must be finalized after MC11, the negotiator said.

India also indicated at the 23 October meeting that it is not seeking any outcome on its own proposal for trade facilitation in services at Buenos Aires. India said while it wants credible improvements in trade in services as set out in its proposal, the time is not ripe for immediate discussions.

More than 10 countries from Africa and South America – South Africa, Uganda, Zimbabwe, Cameroon, Rwanda, Kenya, Venezuela and Cuba, among others – firmly maintained that it would not be possible to have an outcome on domestic regulation in services at Buenos Aires.

South Africa suggested that it is realistically impossible to have a multilateral outcome on DR at MC11, said another negotiator who asked not to be quoted.

It would be difficult to address the concerns raised by the African Group of countries on the sponsors' DR proposals through text-based negotiations before the Buenos Aires meeting, the negotiator said.

### Call for clarity

In its restricted document issued on 27 September, the African Group had said that it has "always approached domestic regulation from a perspective that gives paramount importance and affirmation to, amongst other things, the right to regulate and the inter-linkages between regulations and broader domestic economic imperatives."

"In building the Africa we want, the African Group places great importance on having further clarity from the proponents [the sponsors] in the development of future disciplines on domestic regulation," the African Group maintained.

It raised many questions including "general questions," "questions on administration of measures," "questions on transparency," "questions on development of measures," and "questions on

development”.

The general questions raised by the African Group included the following:

a. In accordance with GATS Article VI.4, which disciplines do you think are necessary, and why?

b. What were the circumstances or specific issues that led to the suspension of the negotiations on DR in the past, and have those circumstances changed?

c. Is there a clear economic rationale for adopting DR disciplines, and what is the evidence that benefits from the proposed disciplines will accrue to all members?

d. Is there any evidence of the costs entailed by introducing these new obligations, and who would bear those costs?

e. Is there any consideration that there are different capabilities amongst members, and amongst their firms and stakeholders, to take greater advantage of these proposed new disciplines?

f. Have the proponents undertaken an economic impact assessment that demonstrates that their stakeholders are losing out on economic opportunities in the absence of multilateral DR disciplines?

g. In which members have your stakeholders experienced problems that the disciplines are seeking to address, and has there been any attempt to resolve them bilaterally? Have domestic remedies been exhausted?

h. In instances where you have felt aggrieved, has the issue been taken up with the competent authorities in the member?

i. To what extent has the application of GATS Article VI.5 been insufficient in meeting the objectives being sought?

j. How will these disciplines contribute to supporting structural transformation and industrialization for Africa?

k. Can proponents indicate the basis for making their proposal/s differently from the approaches taken in 2009-11 where separate rules were considered for licensing requirements and procedures and qualification requirements and procedures?

l. Can proponents clarify whether their proposals would impose obligations only on existing commitments?

m. Are there linkages between the proposed DR disciplines and e-commerce and investment?

n. What are the proponents' perspectives on DR in an increasingly digital world economy, how do each of the DR elements relate to e-commerce, and

what are the implications?

Even a plurilateral outcome on DR as suggested by WTO Director-General Roberto Azevedo in Washington recently is not possible in Buenos Aires as it would be unwise to move from a multilateral solution to a plurilateral outcome in less than seven weeks, the negotiator suggested.

On behalf of the African Group, Rwanda's trade envoy Ambassador Francois Xavier Ngarambe expressed "profound concern at attempts to manufacture consensus where there is none on domestic regulation disciplines."

During the informal heads-of-delegation meeting on 24 October, Ngarambe said: "There are systemic divergences and conceptual differences in understanding about the scope of application, regulatory capture, preservation

of policy space, regulatory models, regulatory autonomy, intrusive GATS-plus transparency obligations, and the sovereign right to regulate, to name a few."

"Simply ignoring these serious concerns is neither pragmatic nor realistic, and it will not bring us any closer towards convergence," he warned.

Meanwhile, the EU, which circulated a proposal on addressing e-commerce-related issues in services for Buenos Aires, has suggested that it is ready to take up the issue only after MC11.

In short, the prospects for an outcome on enhanced disciplines in domestic regulation at Buenos Aires seem extremely bleak and close to nil if the mood at the Doha services negotiating group meeting on 23 October is any indication, the negotiator argued. (SUNS8560) □

## US attempts to use wrecking ball against WTO

A new US proposal on transparency and notification requirements envisages drastic punitive measures for non-complying WTO members while at the same time bypassing the WTO's Doha work programme. *D. Ravi Kanth* considers the potentially far-reaching implications of the US move.

GENEVA: The United States on 31 October indicated how it is going to put the Doha Round of trade negotiations to bed, after circulating a proposal on mandatory transparency provisions and notification requirements in all the WTO agreements that would amount to altering the rights and obligations of members, trade envoys told the *South-North Development Monitor* (SUNS).

[A mere ministerial decision altering the rights and obligations of members may not even be valid. The WTO treaty makes clear that such an alteration in rights and obligations could only be done through the amendment procedure, and where (as in this case) it affects the most-favoured-nation (MFN) principle, it has to get the acceptance of all the WTO members. – SUNS]

At a 31 October informal meeting of the Doha rules negotiating body, the US intervened a few times to suggest that it does not agree to the ongoing textual discussions on fisheries subsidies, indicating that it could possibly reject it during the week, said a fisheries negotiator from a developing country.

The US pointedly told the chair of the Doha rules negotiations, Ambassa-

dor Wayne McCook of Jamaica, that it does not accept the textual discussion that members are having as the basis for outcomes on harmful fisheries subsidies.

The US also demanded for the first time that the discussion on harmful fisheries subsidies must include fishing activities in inland waters as well as aquaculture. The US disagreed with a proposal from Guatemala on issues concerning territorial jurisdiction in the ongoing discussion on harmful subsidies.

The US referred to its proposal on transparency notifications on fisheries subsidies, which is part of a comprehensive seven-page proposal it submitted to the WTO General Council as well as the Council for Trade in Goods on 30 October.

The US proposal on strengthening transparency notifications on fisheries subsidies would require, among others, that each member notify, as part of its regular notifications under Article 25.3 of the WTO Agreement on Subsidies and Countervailing Measures, the following information to the extent possible: (a) programme name; (b) legal authority for the programme; (c) name of recipient; (d) vessel name and identification number;

(e) catch data by species in the fishery for which the subsidy is provided; (f) status of the fish stocks in the fishery for which the subsidy is provided (overfished, fully fished or underfished); (g) fleet capacity in the fishery for which the subsidy is provided; (h) conservation and management measures in place for the relevant fish stock; and (i) total imports and exports per species.

The US proposal says that “each Member shall also provide, to the extent possible, information in relation to other subsidies that the Member grants or maintains to persons engaged in fishing or fishing related activities that are not covered by paragraph 12, in particular aquaculture and fuel subsidies.”

It has set out how transparency and comprehensive notifications must be complied with in other agreements, failing which punitive triggers will be applied.

#### “Nuclear triggers”

A draft ministerial decision on enhanced transparency provisions and notification requirements circulated by the US suggested for the first time how a member failing to comply with the transparency provisions will be denied access to the WTO as well as other rights.

Effectively, the transparency provisions and notifications cover all the regular committees of the WTO.

“The US assessment is that by using the regular committee route and by using the ministerial decision, including in areas such as subsidies and countervailing measures, they are creating nuclear triggers which will not only add to members’ obligations – where there are currently none – but more importantly ensure that the current text on fisheries subsidies which has references to the Doha work programme and the Hong Kong Ministerial Declaration is put to bed once and for all,” said a trade envoy who asked not to be quoted.

“Consequently, there will be no ministerial decision and even if there is one, that will also include the US proposal on intrusive transparency notifications which have nothing to do with the Doha work programme,” the envoy suggested.

In short, the US has taken the oxygen out of the Doha work programme by coming out with a punitive proposal on transparency notifications that amount to altering the rights and obligations of members, the envoy sug-

gested.

The US proposal on transparency notifications covers the following WTO agreements:

- i. Agreement on Agriculture;
- ii. Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping);
- iii. Agreement on Subsidies and Countervailing Measures;
- iv. Agreement on Safeguards;
- v. Understanding on the Interpretation of Article XVII of the GATT 1994 (State Trading);
- vi. Agreement on Implementation of Article VII of the GATT 1994 (Customs Valuation);
- vii. Agreement on Import Licensing Procedures;
- viii. Agreement on Rules of Origin;
- ix. Agreement on Preshipment Inspection;
- x. Decision on Notification Procedures for Quantitative Restrictions (G/L/59/Rev.1);
- xi. Agreement on Trade-Related Investment Measures;
- xii. Agreement on the Application of Sanitary and Phytosanitary Measures;
- xiii. Agreement on Technical Barriers to Trade.

The draft ministerial decision instructs “appropriate committees, working groups or other bodies, such as the Working Group on Notification Obligations and Procedures, to assess and report annually to their designated supervisory bodies on Members’ compliance with notification obligations under the agreements, take appropriate steps to reinforce compliance with the notification requirements under such agreements (for example, by carrying out notification workshops), and to make recommendations, as appropriate, on means by which greater compliance can be encouraged and achieved.”

The US draft decision “instructs the Trade Policy Review Body to ensure that beginning in 2018 all trade policy reviews include a specific, standardized focus on the Member’s compliance with its notification obligations under the agreements.”

Further, it says “at any time, Members are encouraged to provide a counter notification on behalf of the delinquent Member concerning notification obligations under the agreements.”

Under the US proposal, “beginning in 2018, a Member that fails to provide a required notification under an agreement

listed in paragraph 1(b) by the relevant deadline or has failed to provide any prior required notification shall submit to the relevant committee by 1 November 2018 and by 1 November of each subsequent year an explanation for the delay, the anticipated time-frame for its notification, and any elements of a partial notification that a Member can produce to limit any delay in transparency.”

“If a Member fails to provide the complete notification within one year of the deadline, the Secretariat shall research the matter and, in consultation with the relevant delinquent Member, provide a notification on its behalf,” the draft decision maintained.

More important, the US proposed a set of administration measures “if a Member fails to provide the complete notification within one year of the deadline and the delinquent Member fails to cooperate with the Secretariat so that the Secretariat is unable to obtain enough information to provide a notification.”

The administrative measures that shall apply to the delinquent member include:

“(a) After one but less than two full years from a notification deadline, the following measures shall be applied to the delinquent Member at the beginning of the second year:

“(i) representatives of the delinquent Member cannot be nominated to preside over WTO bodies;

“(ii) documentation will not be provided to delinquent Member delegations in Geneva nor to the Member’s capital;

“(iii) the delinquent Member’s access to the WTO Members’ web site will be discontinued;

“(iv) the Director-General will contact annually the Minister of the delinquent Member responsible for the WTO, or any other official at the appropriate level emphasizing the question of notifications;

“(v) the Secretariat will report annually to the Council on Trade in Goods on the status of the delinquent Member’s notifications; and

“(vi) the delinquent Member will be subject to specific reporting at the General Council meetings.

“(b) After two but less than three full years following a notification deadline, the following measures shall be applied to the Member at the beginning of the third year, in addition to the measures in paragraph 6(a):

“(i) the Member will be designated as an Inactive Member;

“(ii) the Inactive Member will be denied access to training or technical assistance other than that necessary to meet their WTO Article XIV:2 obligations; and

“(iii) when the Inactive Member takes the floor in the General Council it will be identified as such.”

The US said that “at the beginning of each year when measures will be applied, the Director-General will notify the Ministers of the Members responsible for the WTO of the administrative measures being applied with respect to the delinquent Member.”

“Once the Member comes into compliance with its notification requirements, the measures will cease to apply,” the US maintained.

In conclusion, the US has assumed a role that corresponds to a “global bully” which wants to apply nuclear triggers while blowing up the Doha work programme in the run-up to the WTO Ministerial Conference in Buenos Aires, several envoys suggested.

(As an op-ed on 31 October in *The New York Times* pointed out, the US bullying on trade may have produced limited results in the early 1980s, when the US accounted for about 25% of world trade. But now the US accounts only for 13%. The WTO thus may survive a US withdrawal, though suffering grievous harm, while the US will open itself to trade retaliatory actions and US enterprises may find their intellectual property rights, for example, franchising, trademarks or patents, violated or transgressed and be unable to respond. – *SUNS*) (SUNS8566) □

**Third World Economics** is also available in Spanish.

**Tercer Mundo Economico** is the Spanish edition of *Third World Economics*, edited and published in cooperation with Red del Tercer Mundo, Uruguay.

For subscription details, please contact:

Third World Network/  
Red del Tercer Mundo,  
Av 18 De Julio 2095/301  
Montevideo 11200, Uruguay  
Fax (5982) 419222  
Email: redtm@chasque.apc.org

# Economic & Political WEEKLY

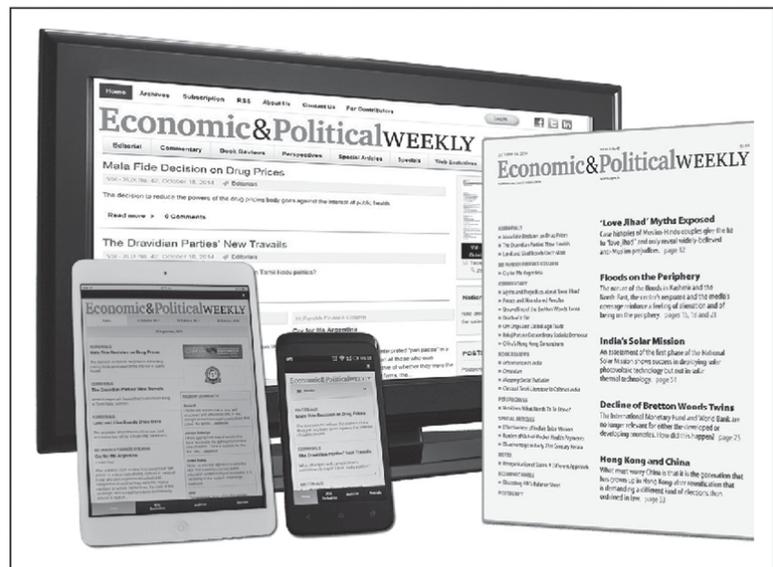
Popularly known as *EPW*, the journal began its existence in 1949 as *The Economic Weekly* and since 1966 as *Economic & Political Weekly*.

Published from Mumbai, India, by Sameeksha Trust (an independent and registered charity), *EPW* is an institution that enjoys a reputation globally for its independent scholarship and for fostering critical inquiry in the social sciences.

*EPW* is a unique left-leaning journal that devotes space for critical commentary on current events and policy debates alongside rigorous academic research.

## Why subscribe to *EPW*?

- Easy-to-access Archives from 1949 to date (*The Economic Weekly* and *EPW*)
- An indispensable resource for researchers working on India and South Asia
- A new initiative called **engage** with features for the digital era
- Digital subscription plans that fit your needs



320-22, A to Z Industrial Estate, Ganpatrao Kadam Marg,  
Lower Parel, Mumbai, 400 013, India.

Phone: +91-22-40638282

Website: [www.epw.in](http://www.epw.in) Contact: [circulation@epw.in](mailto:circulation@epw.in)

Follow us on:   

# Abandon “failed policies” of privatization and austerity, IMF told

Decrying the ruinous impacts of IMF loan conditionalities demanding privatization, deregulation and austerity, a UN rights expert has urged the Fund to ensure that its lending practices do not fall foul of human rights norms.

by Kanaga Raja

GENEVA: The International Monetary Fund (IMF) should change its priorities and finally let go of the outdated conditionalities of privatization, deregulation of markets, and “austerity” in social services, which in the past have engendered human rights violations, and instead make loans subject to a new set of conditions.

This is the view of the UN Independent Expert on the promotion of a democratic and equitable international order, Alfred de Zayas (of the United States), in a report presented on 17 October to the seventy-second session of the UN General Assembly in New York.

Bearing in mind that power dynamics are changing the international order, it is time for the World Bank and IMF to revisit their Articles of Agreement and discover their new vocation to promote development and human rights through “smart” lending practices that benefit not only banks and speculators but billions of human beings, he said.

Unlike the World Bank, which is increasingly aware of the risks and consequences of its activities and which undertakes to investigate and take action, the IMF still appears more committed to the obsolete neoliberal economic model, he noted.

According to a UN news release, de Zayas, in presenting his report, said: “I deplore the fact that the lending practices of the international financial institutions sometimes go against the aims of the United Nations, not just in the field of human rights, but also in achieving the Sustainable Development Goals.”

“The IMF currently imposes conditions which discourage social spending and therefore hinder States’ fulfilment of their human rights obligations. Often these conditions increase unemployment, lower standards governing labour, health and the environment, and reduce

access to free quality education,” he said.

“From this point forward, the World Bank and the IMF must work in tandem with the UN system, including with the specialized agencies, funds and programmes, such as the UN Conference on Trade and Development and the ILO [International Labour Organization],” he added.

“International law will continue evolving for the good of mankind. At the same time, no international financial institution or commercial agreement is above international law. All must respect the overarching international human rights treaty regime,” the rights expert said in his report.

“The human rights dimension in lending can no longer be ignored,” he underlined.

## Do no harm

In September, the Independent Expert had presented a separate report to the thirty-sixth session of the UN Human Rights Council in which he called on the World Bank to embark on an inclusive process for drafting a new and separate human rights policy which should embody a commitment to integrate human rights into its work (see *TWE* No. 646).

The latest report draws attention to the IMF and, in particular, the “conditionality” of its loans.

According to the report, the Independent Expert is of the view that, in the discharge of its functions, the IMF should ensure that its lending practices, and in particular the conditionality thereof, do no harm to developed or developing economies and do not conflict with established human rights norms, such as by imposing privatization of government services, deregulation of markets or austerity measures that, as empirical evidence has shown in many cases, have

led to widespread unemployment and misery.

The Independent Expert said he does not suggest that IMF staff are indifferent to human rights, but sees a need for the IMF to anticipate the consequences of the conditionality of its lending practices and to integrate ex ante human rights assessments so that its activities do not lead to violations of human rights.

According to the report, notwithstanding the existence of excellent empirical studies, accurate diagnoses and innovative reform proposals, a regrettable level of inertia prevails in IMF management.

The Independent Expert noted that in her book *The Shock Doctrine*, Naomi Klein focuses on the fundamental problem: economic shock therapy and crisis opportunism. She describes how the doctrine “privatize or die” has been imposed on crisis-racked countries, noting that in the 1990s “the [United States] Treasury and the IMF became much tougher in their demands for instant privatizations”. She describes the “Tequila Crisis” in Mexico and the “Wild West” privatizations in the Argentina of Menem and the Bolivia of Goni and the Russian Federation of Yeltsin, which had devastating human rights consequences.

Some IMF insiders resisted this trend, said the Independent Expert. For example, senior IMF economist Davison Budhoo memorably resigned after accusing the Fund of using “statistical malpractice” in order to exaggerate the level of economic crisis in countries, following which the IMF would propose its own solutions. In Trinidad and Tobago, for example, the oil-rich country was made to look far less stable than it actually was. In another instance, Budhoo contended that the Fund “invented, literally out of the blue”, huge unpaid government debts. These “gross irregularities”, which Budhoo claimed were deliberate and not mere “sloppy calculations”, were taken as fact by the financial markets, which promptly classified Trinidad and Tobago as a bad risk and cut off financing.

This mismanagement in the Caribbean, de Zayas said, had its counterpart in Asia during the 1990s Asian financial crisis. He cited Klein as commenting: “As far as the IMF was concerned, the crisis was going extremely well. In less than a year, it had negotiated the economic

equivalent of extreme makeovers for Thailand, Indonesia, South Korea and the Philippines ... The IMF 'help' had turned crisis into catastrophe."

Even the IMF Independent Evaluation Office concluded that the structural adjustment demands imposed on Asian countries were "ill-advised", warning that "crisis should not be used as an opportunity to seek a long agenda of reforms just because leverage is high".

Improving people's lives would require the IMF to abandon obsolete economic models and take a human rights-based approach, said the Independent Expert. A change away from the Washington Consensus of privatization, deregulation and austerity measures to a more "progressive" philosophy of inclusive development is essential, he stressed.

Recently, he noted, the IMF has made a considerable effort at improving its image through the issuance of fact-sheets, discussion notes and public statements in order to demonstrate that it has taken on board the many criticisms of its practices. Yet one must still question whether the organization has really reformed itself and whether it is now protecting social spending and prioritizing health and education, the rights expert said.

According to de Zayas, to the extent that the IMF maintains its focus on imposing strict limits on government spending, it must be clearly defined what kind of government spending is toxic and what is not. "Under no conditions should government spending for health and education be reduced." However, military procurement and research and development spending should be paused for the duration of IMF loans. Where security concerns exist, the United Nations and regional arrangements should provide what is known as "collective security".

### Countries in crisis

The report by the Independent Expert highlighted three countries in crisis – Greece, Argentina and Tunisia – and the IMF's surveillance capacities in these countries.

It noted that as the financial crisis in Greece demonstrates, IMF surveillance capacities are unequally applied, depending on the status of a member state's economy. Once an economic crisis hits,

the IMF may doggedly impose austerity measures as conditions, with variable consequences for rights realization in member states.

Triggered by the Wall Street meltdown in 2008, the crisis in Greece dragged many weaker economies under, with disastrous consequences for economic, social and cultural rights. The IMF watchdog, its Independent Evaluation Office, determined that the IMF operated in a "culture of complacency" prone to "superficial and mechanistic" analysis.

A series of calamitous misjudgments were made, and the warning signs of impending crisis were ignored. In the report of the Office, it was noted that its own investigators were unable to obtain key records or penetrate the activities of secretive ad hoc task forces.

The results of an evaluation by the Independent Evaluation Office of the performance of the IMF in the run-up to the financial crisis pointed to inadequate surveillance in the euro area, which echoed a larger problem of IMF surveillance in advanced economies. Several factors were at play, including "a high degree of groupthink, intellectual capture, a general mindset that a major financial crisis in large advanced economies was unlikely, and incomplete analytical approaches".

According to the Independent Evaluation Office, the IMF violated its own cardinal rule by signing off on a bailout in 2010 even though it could offer no assurance that the package would bring the country's debts under control or clear the way for recovery. An exception was made because of the risk of "systemic contagion". Indeed, the concern being addressed was saving the monetary union, not helping Greece out of its predicament, said the Independent Expert. The Independent Evaluation Office, however, only acknowledged the failure of the bailout, without addressing the adverse human rights impacts of the conditions imposed, he noted.

At the end of his country visit to Greece in December 2015, the Independent Expert on foreign debt and other related international financial obligations of states on the full enjoyment of all human rights, particularly economic, social and cultural rights, Juan Pablo Bohoslavsky, had issued a statement voicing concern about those very impacts, including the fact that an esti-

mated 2.5 million people were without health insurance as a result of the crisis.

He had gone on to detail that the rights to work and social security were in a state of disarray, that youth unemployment remained at 47.9% and only 1 out of 10 registered unemployed persons received unemployment benefits, while millions were left without basic social security.

Part of the problem had been the loan "conditionality imposed by the troika consisting of IMF, the European Commission and the European Central Bank."

De Zayas said that he agrees with many who consider that the troika is continuing to fail in the ongoing crisis in Greece, which can only be resolved by debt relief and international solidarity. Additional austerity measures will only lead to continuing human rights violations.

In a leaked IMF memo to the European Commission, it was estimated that Greece's debt would reach 200% of GDP in two years without relief. In 1980, it was 22.6%. In 2008, 127%. In 2014, 177.1%. Since the beginning of the financial crisis, the economy of Greece has plunged by over 25%.

The IMF memo continues as follows: "Greece's debt can now only be made sustainable through debt relief measures that go far beyond what Europe has been willing to consider so far."

However, even these dire predictions have not stopped the imposition of system-shaking loan conditions, nor the devastating human rights consequences which result from them.

In February 2017, the European Union and the IMF decided to impose further austerity measures on Greece, namely, to make a further €7 billion payment to its creditors by July or risk defaulting on its entire debt, which remains at a staggering €330 billion.

Sadly, said the rights expert, the most succinct common-sense summation of the crisis in Greece was given by the country's former Minister of Finance Yanis Varoufakis in an interview with Al Jazeera, in which he stated that Greece was and is being subjected to "fiscal waterboarding".

As a safeguard to prevent the further erosion of human rights in the country, the Independent Expert encouraged all creditor states and financial institutions to revisit the conditionality of their

past and future loans to Greece.

Instead of demanding privatization, deregulation and reduction of social services, the IMF should consider applying a different set of conditions; no loan should be awarded to any country that continues spending for military procurement. "This means that Greece, a bankrupt country, must not be required by NATO to devote scarce resources to military expenditure."

With regard to Argentina, de Zayas noted that the mismanagement of Argentine debt is not new. And even if the blame is shared, the IMF has earned no laurels. As early as 2004, the wrong options were chosen.

The then Minister of Finance of Argentina, Roberto Lavagna, characterized the Fund surveillance efforts as "ideological assessments" which blurred the capacity of the Fund to conduct objective assessments of policy reform.

Even the Independent Evaluation Office acknowledged that "IMF surveillance failed to highlight the growing vulnerabilities in the authorities' choice of policies and the IMF erred by supporting inadequate policies too long". Its correct diagnoses aside, interestingly enough, the words "human rights" did not appear in the report of the Office, which is only concerned with economic and financial matters.

Turning to the case of Tunisia, the Independent Expert noted that observers have similarly warned that the extreme conditions imposed on Tunisia by the IMF would reverse progress made in the country following the Jasmine Revolution.

In March 2017, the International Trade Union Confederation warned that the IMF was "pushing Tunisia to the brink of economic and political disaster with its refusal to release urgently needed funds at a time when the country most needs international support."

According to the Tunisian government, the IMF suspended payments on its four-year \$2.8 billion loan "to pressure the Government into mass dismissals in the public sector, along with sales of government assets and possible cuts to pensions." Among other conditions, the IMF demanded that Tunisia sell stakes in three state-owned banks, in addition to abolishing 10,000 public sector jobs.

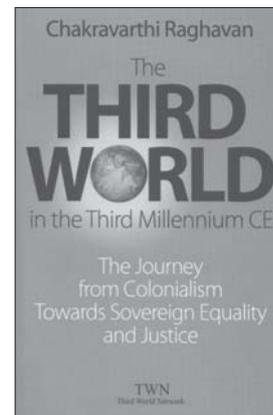
(continued on page 16)

## The Third World in the Third Millennium CE The Journey from Colonialism Towards Sovereign Equality and Justice

By Chakravarthi Raghavan

The development path traversed by the countries of the Third World since emerging from the colonial era has been anything but smooth. Their efforts to attain effective economic sovereignty alongside political independence, even till the present day, face myriad obstacles thrown up on the global economic scene. This drive to improve the conditions of the developing world's population has seen the countries of the South seek to forge cooperative links among themselves and engage with the North to restructure international relations on a more equitable basis – not always with success.

In this collection of contemporaneous articles written over a span of more than three decades, *Chakravarthi Raghavan* traces the course of dialogue, cooperation and confrontation on the global development front through the years. The respected journalist and longtime observer of international affairs brings his inimitable blend of reportage, critique and analysis to bear on such issues as South-South cooperation, corporate-led globalization, the international financial system, trade and the environment-development nexus. Together, these writings present a vivid picture of the Third World's struggle, in the face of a less-than-conducive external environment, for a development rooted in equity and justice.



SBN:978-967-5412-83-7 368pp  
14 cm x 21.5 cm Year: 2014

	Price	Postage
Malaysia	RM40.00	RM2.00
Developing countries	US\$13.00	US\$6.50 (air)
Others	US\$18.00	US\$9.00 (air)

**Orders from Malaysia** – please pay by credit card/crossed cheque or postal order.

**Orders from Australia, Brunei, Indonesia, Philippines, Singapore, Thailand, UK, USA** – please pay by credit card/cheque/bank draft/international money order in own currency, US\$ or Euro. If paying in own currency or Euro, please calculate equivalent of US\$ rate. If paying in US\$, please ensure that the agent bank is located in the USA.

**Rest of the world** – please pay by credit card/cheque/bank draft/international money order in US\$ or Euro. If paying in Euro, please calculate equivalent of US\$ rate. If paying in US\$, please ensure that the agent bank is located in the USA.

All payments should be made in favour of: **THIRD WORLD NETWORK BHD.**, 131 Jalan Macalister, 10400 Penang, Malaysia. Tel: 60-4-2266728/2266159; Fax: 60-4-2264505; Email: [tw@twnetwork.org](mailto:tw@twnetwork.org); Website: [www.twn.my](http://www.twn.my)

I would like to order ..... copy/copies of *The THIRD WORLD in the Third Millennium CE: The journey from colonialism towards sovereign equality and justice*.

I enclose the amount of ..... by cheque/bank draft/IMO.

Please charge the amount of US\$/Euro/RM ..... to my credit card:

Visa

Mastercard

A/c No.: \_\_\_\_\_ Expiry date: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

# The World Bank's simplistic claims on business regulations and inequality

An annual report card on 190 countries' business climates uses shoddy research to promote deregulation as a means of reducing inequality.

by Peter Bakvis

The World Bank is once again using its flagship publication, *Doing Business 2018*, to make unfounded claims that more "business-friendly" regulations are key to lowering income inequality.

This annual report ranks countries in terms of their "business-friendliness", based on the World Bank's assessment of regulations related to property registration, construction permits, taxes and a number of other indicators.

In a review of last year's edition, I pointed out that the World Bank asserted that weaker business regulation contributed to decreased inequality on the basis of correlation results for only two of the 10 regulation categories for which it publishes indicators. The Bank declined to divulge results for the other eight categories.

This year's 300-page report, released on 31 October, repeats the claimed connection between weaker regulations and less inequality by observing that the 20 countries receiving their best (i.e., most business-friendly) scores – almost all of which are advanced economies – have a lower Gini inequality coefficient than the 20 countries that receive the worst scores.

Most countries in the latter group are torn by severe civil or political conflict. It includes Syria, DR Congo, Afghanistan, Central African Republic, Libya, Yemen, South Sudan, Venezuela and Somalia. Leaving aside the fact that the state of chaos in most of these countries is such that the government is probably in no position to enforce any kind of regulation, it seems ludicrous for the Bank to imply that the only thing these conflict countries have to do to achieve more equal income distribution is to deregulate business.

The report makes similarly specious claims of an association between good *Doing Business* scores and growth of employment. It doesn't bother to point out that lack of employment growth in So-

malia may have more to do with the fact that the country has been in civil war for the past three decades than that *Doing Business* has given it the worst country rating.

## Job creation

Although *Doing Business 2018* has been sub-titled *Reforming to Create Jobs*, the report acknowledges that the claimed association between these World Bank ratings and employment "cannot be interpreted in a causal fashion." Despite this, it makes broad, unsubstantiated assertions about the benefits of its anti-regulation agenda similar to those it has been making over the 14 years that *Doing Business* has been published (*DB 2018* is the 15th edition).

The 2018 report shows a shoddiness that one might have hoped would be corrected when the Bank's 600-strong Development Economics Group assumed oversight of the publication four years ago. For example, it states: "Reforming in the area measured by *Doing Business* can be particularly beneficial to employment creation when those reforms take place in the areas of starting a business and labour market regulation." A footnote provides three academic articles that are supposed to justify the assertion, but none of them deal in the slightest with labour regulations.

In 2009, when millions of workers were losing their jobs at the height of the Great Recession, Bank management decided to suspend an earlier *Doing Business* indicator on labour flexibility because of one-sided assertions about the benefits of labour market deregulation. (The World Bank continues to compile data on labour regulations and presents it in an annex to the report, but the data are not included in *Doing Business* scores or rankings.)

Since then, the Bank has made ef-

forts to gain a deeper understanding of labour and employment issues and in 2013 devoted its annual *World Development Report* to the theme of "Jobs". That report included an extensive review of economic research on the supposed negative impact of labour regulations on job creation that *Doing Business* repeatedly alleged. The *World Development Report 2013* concluded that "most estimates of the impacts [of labour regulations] on employment levels tend to be insignificant or modest."

*Doing Business 2018* studiously ignores this finding and instead repeats the myth about the benefits of labour market deregulation. The labour regulation annex cites one study in support of its claim that "more flexible labour regulation could increase employment" – a 10-year-old World Bank staff paper titled "Are Labour Regulations Driving Computer Usage in India's Retail Stores".

The *World Development Report* on jobs also found that several labour regulations played a role in reducing income inequality. Research in several institutions is showing that deregulation has been an important factor in explaining increased inequality in many countries. Ongoing research at the Bank's sister institution, the International Monetary Fund, is expected to conclude that labour market deregulation was a significant driver of declining labour shares in the national incomes, and thus increased income inequality, in several economies in recent decades.

Additionally, *Doing Business* has given penalty points to countries whose total tax rate exceeds a certain threshold. They include in this measure taxes on profit, dividends, property, capital gains and financial transactions, as well as labour taxes and government contributions to pensions, health and safety, parental leave, etc. This year's threshold is 26.1% of corporate profits. The incentive to keep taxes and social contributions from companies at modest levels, by giving better scores to low-tax venues, is in clear contradiction with the World Bank's stated objective of giving governments the means to provide essential public services, especially to the poor, and reducing inequality.

The shoddiness and inconsistency of *Doing Business* would be almost laughable if the influence of the report were not so far-reaching. It is the World Bank's highest-circulation publication and both

the Bank and the International Monetary Fund have used the report's indicators to pressure countries to reduce regulations, sometimes through loan conditions. □

*Peter Bakvis directs the Washington DC office of the International Trade Union Confederation, which represents 180 million workers in 162 countries. This article is reproduced from Inequality.org under a Creative Commons licence.*

(continued from page 14)

On 12 June 2017, the IMF Executive Board completed its first review of the economic programme of Tunisia, thereby enabling Tunisian authorities to draw an additional \$314.4 million of IMF funds.

While Tunisia sought a waiver of some conditions, the government did agree to privatizations, an increased value-added tax and a scale-back of its public sector.

The rights expert noted that participants at the meeting of the Group of 20 in Hamburg in July 2017 deplored the additional austerity measures forced on Tunisia by the IMF.

#### Role of the IMF in the international order

The Independent Expert pointed out that in addition to its potential to weaken public sector infrastructure, IMF conditionality has been shown to threaten the right to health.

Researchers have noted that, with governments required to demonstrate rapid economic growth and fiscal constraint, long-term investments, such as those required to improve healthcare, are discouraged, which leaves countries with under-resourced health sectors vulnerable to breakdowns and public health emergencies.

For example, in a study entitled "The impact of IMF conditionality on government health expenditure: a cross-national analysis of 16 West African nations", scholars in the fields of sociology and public health linked IMF conditionality with reduced expenditure on health by governments and consequently with setbacks in efforts to achieve universal health coverage.

Commentators have further drawn a connection between IMF conditionality, reduced health sector spending and the Ebola outbreak in West Africa. Scholars have likewise drawn attention to the impact of IMF conditionality on efforts to combat AIDS in developing countries.

"Bearing in mind that the denial of

adequate health care can lead to much suffering and death, the issue of accountability is inescapable. Admittedly, international organizations enjoy immunity from domestic legal action, but that immunity is already being challenged in the United States of America, for example, by civil society groups like Earth Rights International," said de Zayas.

He also said that in principle, IMF loans should ensure that the risk of corruption and tax fraud is avoided and that appropriate monitoring and follow-up is available. Although the IMF in its publications has recognized the importance of fiscal transparency and combating corruption, in practice, those standards are not uniformly raised.

The Independent Expert noted that in 2001, Anne Krueger, then Deputy Managing Director of the IMF, proposed a new approach to sovereign debt restructuring. Whereas in domestic law individuals and corporations have recourse to bankruptcy codes that give them protection from their creditors, sovereign states do not. "Alas, her proposal was not endorsed by the ideology-bound IMF and the idea was essentially killed by Wall Street. It is, however, still valid today."

The Independent Expert encouraged the IMF to mainstream the Basic Principles on Sovereign Debt Restructuring Processes, as contained in a September 2015 UN General Assembly resolution.

Indeed, leaders in academia, the public sector and civil society – including Pope Francis and economists Joseph Stiglitz and Thomas Piketty – have raised awareness of the need for a global bankruptcy process, de Zayas noted.

He said that the IMF should join forces with other international financial institutions in facilitating debt relief programmes and removing aggressive vulture funds and holdouts from the international financial landscape.

#### A new set of loan conditions

The Independent Expert recommended that the IMF make loans subject to a new set of conditions, including:

(a) A moratorium on military expenditure (except for salaries and pensions) for the duration of the loan;

(b) Adoption of national legislation which ensures that national and transnational corporations pay their taxes, prohibits profit-shifting and outlaws tax havens;

(c) Adoption of General Anti-Avoidance Rule legislation to address specific base erosion and profit shifting concerns;

(d) Adoption of legislation imposing fines on persons and corporations which evade taxes and obliging citizens who have money hidden offshore to repatriate their wealth within a defined period of time, or otherwise face the risk of penal sanctions;

(e) Adoption of legislation to prevent corruption and bribes, accompanied by effective monitoring mechanisms;

(f) Enactment of financial transactions tax laws;

(g) Assurances by the borrower that no part of any loan is used to satisfy claims by vulture funds or holdouts.

Furthermore, the Independent Expert recommended that the IMF should assist jurisdictions in developing capacities to tackle illicit financial flows; strengthen the global financial safety net with an adequately resourced, quota-based IMF at its centre; and contribute to public investments in education, the care economy, water and sanitation, as well as other quality public services.

"Only through the concerted efforts of IMF and the World Bank, together with the United Nations, will a more democratic and equitable international order emerge," the rights expert concluded. (SUNS8557) □

**Connect to Third World Network's  
World Wide Website for the latest on**

**International Relations • Environment •  
Agriculture • Science • Economics • Trade •  
Health • Education • Communications •  
Development • Indigenous Peoples •  
Medicine • Forestry**

**www.twn.my**