

# THIRD WORLD *Economics*

TRENDS & ANALYSIS

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## Indian court ruling opens door to cheaper medicines

On 1 April, India's highest court rejected a claim by pharmaceutical giant Novartis for a patent on a cancer drug, affirming the validity of an Indian law which requires that patents be granted only for genuinely new inventions. This landmark decision paves the way for India's generic drug companies to produce affordable versions of more medicines to treat not only patients within the country but also those from the rest of the developing world.

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# A victory for access to medicines

The Indian Supreme Court's 1 April decision which reaffirmed that only medicines that are genuinely new inventions should be granted patents has been hailed as a victory for the rights of patients to have affordable medicines.

by Martin Khor

GENEVA: Patients around the world who look to India to supply low-cost medicines to treat their ailments heaved a sigh of relief on 1 April when the Indian Supreme Court turned down a claim for a patent on a cancer drug.

This means that drug companies in India can continue to produce generic versions of the same drug, Glivec or Gleevec, at a much lower price, thus making it affordable to thousands more cancer patients.

Glivec, produced by the Swiss-based company Novartis, can cost a patient up to \$70,000 for a year of treatment, whereas the generic versions of the same medicine made by Indian companies cost around \$2,500. The drug is used to treat some forms of leukaemia as well as a rare type of stomach cancer.

The Supreme Court decision also seems to open the road for patents not to be granted for more medicines, since it confirmed that only drugs that are genuinely a new invention can be granted patents.

When a patent is granted to a company for a drug, other companies are not permitted to produce generic versions of the medicine for a period of 20 years or so. The monopoly given to the patent holder enables it to charge high prices since there is a lack of competition. Many or even most patients are unable to buy the medicines, giving rise to frustration and despair especially when their lives are at stake.

Some companies whose patents are about to expire apply for a new patent for the same drug after changing the composition slightly or changing the form of the drug. The "new" drug is often not a new invention, but only a minor modification that is made with the aim of having the patent renewed for another period. This practice is popularly termed "evergreening" of the patent. An extension of the patent term means that the company continues to enjoy the monopoly and high prices, which continue to be out of reach to many patients.

Although governments are obliged under the World Trade Organization's

TRIPS Agreement to have laws allowing for patents to be given for inventions, each country is allowed to set its own definition and standards for what constitutes an invention.

The Supreme Court decision confirms that the Indian patent authorities exercised their powers lawfully and properly when they rejected the patent application for Glivec on the ground that the medicine was not a new invention.

Novartis had challenged the interpretation given by the Indian patent office to Section 3(d) of the Indian Patents Act that seeks to prevent the grant of patents for non-inventive new forms of known medicines.

The Novartis application had claimed a patent for a new salt form (imatinib mesylate), a medicine for the treatment of chronic myeloid leukaemia, sold under the brandname Gleevec (or Glivec in other countries).

The Indian patent office had rejected the patent application on the ground that the claimed new form was anticipated in an earlier US patent of 1996 for the compound imatinib and that the new form did not enhance the therapeutic efficacy of the drug. The decision was upheld by the Indian Patents Appellate Board.

The legal challenge from Novartis had caused anxiety among patients' groups, governments of developing countries and some international organizations in view of the possible negative implications for access to affordable medicines if the Novartis petition succeeded.

Most developing countries rely on Indian generic drug companies for the supply of low-priced medicines for many diseases.

A weakening of the interpretation or use of Section 3(d) would have enabled multinational drug companies to extend their patent monopolies based on "evergreening" or "trivial" incremental improvements, which could delay the supply of generic medicines for the treatment of HIV/AIDS, cancer and other diseases.

The decision by the Indian Supreme Court is thus of major significance not only for India but for patients and health authorities in the developing countries.

### Balancing patents and public health

In interpreting Section 3(d), the Supreme Court observed that this section was introduced in the 2005 Amendment to the Patents Act to ensure that while India allowed product patents on medicines in accordance with its WTO obligations, it did not compromise public health through "evergreening" of pharmaceutical patents.

The Court hence took into account the concerns about the impact of the TRIPS Agreement on public health and on the development of an indigenous pharmaceutical industry. Moreover, it considered the implications of the Novartis case for the availability of essential medicines at affordable prices globally.

The Court decision reproduced two letters from Dr Jim Yong Kim, the former Director of the Department of HIV/AIDS at the World Health Organization (and current President of the World Bank), and from UNAIDS (the Joint UN Programme on HIV/AIDS) to the Indian Health Minister expressing their concerns relating to the continuous availability of affordable Indian generic drugs in other developing countries.

Thus, the Supreme Court decision has implications beyond India. It upholds the high standards by which drug patent applications can be processed. While genuinely new inventions are granted patents, drugs that are not really new need not be.

The implication is that Indian generic companies can be expected to produce many more medicines in future, and continue their reputation as the "pharmacy of the developing world."

It is also heartening that the Court decision reaffirms the priority for concerns for the patients' right to receive treatment at more affordable prices.

The decision is also likely to spark interest among other developing countries in the Indian patent law and the policies guiding it. Developing countries can learn from the Indian approach of balancing patents and public health. □

*Martin Khor is Executive Director of the South Centre, an intergovernmental policy think-tank of developing countries, and former Director of the Third World Network.*

## Standing in the Way of Development? A Critical Survey of the IMF's Crisis Response in Low-Income Countries

By *Elisa Van Waeyenberge, Hannah Bargawi  
and Terry McKinley*

The International Monetary Fund (IMF), which has been criticised for the rigid economic policy conditionalities attached to its lending programmes, says it now provides borrower states greater flexibility to adopt expansionary policies. *Standing in the Way of Development?* assesses this claim in the context of the IMF's central role in dealing with the effects of the global financial crisis in low-income countries (LICs).

This paper evaluates the general macroeconomic policy scheme promoted by the Fund and closely examines the nature of its engagement during the crisis in a representative sample of 13 LICs. The authors find that, despite some relaxation of policy restraints, the IMF essentially remains wedded to its longstanding prioritisation of price stability and low fiscal deficits over other macroeconomic goals.

Such a policy stance, it is argued, could undermine not only LICs' prospects for a quick recovery from the crisis but also their longer-term development outlook. In light of this, this paper outlines the broad contours of an alternative macroeconomic policy framework geared towards supporting long-run equitable growth and poverty reduction.

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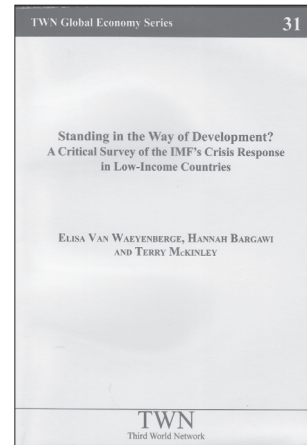
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# Current pace of work insufficient to deliver in Bali, warns Lamy

At the latest meeting of the WTO's Trade Negotiations Committee (TNC), the WTO chief said that member states had made little headway in formulating the decisions that are targeted for adoption by the WTO Ministerial Conference in Bali this December. In the following two articles, *Kanaga Raja* reports on the views presented by the WTO Director-General as well as member countries at the TNC on 11 April.

GENEVA: There has been "limited progress" on substance on potential deliverables in trade facilitation, agriculture, and special and differential treatment (S&D)/least developed country (LDC) issues for the ninth Ministerial Conference in Bali this December, according to the Chair of the WTO Trade Negotiations Committee (TNC).

In his statement at an informal TNC meeting on 11 April, TNC Chair Pascal Lamy, who is also the WTO Director-General, told the membership that "the stark reality is that the current pace of work is largely insufficient to deliver successfully in Bali. This means that without rapid acceleration and real negotiations, it is highly probable that you will not see the deliverables you desire in Bali."

"But, more than changing the pace of work, we need a change in mindset. We need to move from 'exploring', 'understanding' and 'discussing' issues to negotiating to closing gaps. We need to move from identifying what does not work to finding alternative solutions to gather consensus," he added.

At this stage, Lamy stressed, "it would not be responsible to start pointing fingers at others as the source of the problem."

"Those of you who are tempted to engage in blame game at this point, do it at your own peril. Rather it is time to have a hard look at where flexibilities can be found to address the three issues on the Bali menu. It is time to check with capitals that they are ready to spend the necessary political energy, to provide additional flexibility to generate convergence across all three areas."

Referring to trade figures that the WTO had released on 10 April, Lamy said that the forecast does not paint a rosy picture for international trade in 2013. This year looks to be a near-repeat of 2012 with both world trade and output forecast to expand slowly and below historical trends and averages.

World trade is forecast to grow by 3.3% in 2013. Although this is higher than the 2% growth in 2012, it is still below

the 20-year average of around 5%. In addition, downside risks persist, leaving the global economy fragile and the trading system facing the risk of protectionism. The world economy remains in a fragile situation, he said.

"Against this uncertain backdrop, the stakes for Bali are high. And this is why for the first time since 2008, there is political consensus that the Ministerial meeting in Bali should be about deliverables in trade facilitation, agriculture and S&D/LDC issues," he said.

With about 27 working weeks to the Bali conference, "are we on track on our three potential DDA [Doha Development Agenda] deliverables for Bali or not?"

## Limited progress

On all three deliverables, there has been a lot of activity resulting in limited progress on substance, he said, going on to provide a summary of where members are on the issues.

On trade facilitation, Lamy noted that the Chair of the negotiating group has restructured the negotiating process with the support of his four Friends of the Chair, following widespread recognition at the last negotiating group meeting that a draft agreement would not have been ready for Bali without more intensive work to find consensus on the text.

The Friends of the Chair have begun their consultations on their respective portfolios, Lamy reported, adding that in parallel with the negotiations on the text of the draft agreement, many developing countries and LDCs are conducting new needs assessments.

"These will provide an up-to-date documentary basis for those Members to start developing the partnership with donor Members and organizations that they will need in order to access resources for building capacity to implement new trade facilitation commitments."

Lamy said he saw two major substantive questions that members need to

answer collectively:

- One, what is the shared level of ambition in beefing up the trade facilitation-related GATT articles: high, medium or low? What is clear is that it cannot be "high for others" and "low for me".

- Two, is there enough confidence that the necessary capacity-building means will be available to trigger commitment to new disciplines by poorer countries?

"We also know that the scope of a new Trade Facilitation agreement will extend well beyond the traditional areas of responsibility of ministries of trade and commerce, both in terms of disciplines on border management and in terms of the new approach Members are designing to link development assistance with implementation. It is therefore imperative that capitals ensure close coordination among all relevant ministries that will be needed to bring these negotiations to closure in time for Bali."

On agriculture, the TNC Chair reported that intensive consultations have continued on the proposals tabled for decision at Bali, particularly on the proposal by the developing-country G33 grouping concerning public stockholding for food security and domestic food aid.

On 15 February, the Chair of the Special Session of the WTO Agriculture Committee, where the agriculture negotiations take place, launched a technical process related to the G33 proposal. This process was led by Jonas Skei of Norway as facilitator and was seen as useful and informative, Lamy said.

Building on the knowledge acquired from the technical meetings, Ambassador John Adank (the Chair of the Special Session) has subsequently held informal consultations with different groupings of members in a 1+1 format to seek further feedback from delegations on the proposal itself and explore possible ways forward.

According to Lamy, Ambassador Adank's take from these consultations, as reported to an informal meeting of the Special Session on 27 March, is that there is a willingness to engage on means to address the concerns expressed by the G33. However, it is clear that very significant divergences remain on how to achieve this.

"The substantive issue on this proposal seems to me to be: is there a way to accommodate the proponents' problem of purchases for stockpiling within the existing disciplines on domestic support, without destabilizing the rest of the agricultural disciplines," said Lamy.

Regarding the proposal by the G20, another developing-country grouping, for an understanding on TRQ (tariff rate quota) administration, the consultations to date have highlighted that members continue to see this as a useful one to explore for possible decision in Bali, even though there are sensitivities in relation to some aspects of the proposal that members have not yet settled. Some of these sensitivities, as well as differing views, were recalled at the Special Session on 27 March. The consultative process will need to return to this proposal in due course.

On the request for studies on the export competition pillar as well as on export restrictions, Lamy noted that the secretariat studies on export competition (WTO document TN/AG/S/27) and export restrictions (TN/AG/S/28) were circulated to the members on 21 March.

It was confirmed on 27 March that the G20 is working on a proposal concerning export competition, which should be submitted soon. Contrasting views emerged on the suitability of this area as a subject for decision at Bali, and also on export restrictions, he said.

"To conclude, we have in agriculture an active engaged process but we are still a long way from agreement in these important areas."

On the work being done in the Special Session of the WTO Committee on Trade and Development, Lamy reported that the Chair has continued with his text-based meetings on the three clusters of work, namely, the 28 Cancun agreement-specific proposals, the monitoring mechanism and the six agreement-specific proposals relating to the Agreements on Sanitary and Phytosanitary Measures and on Import Licensing Procedures. These meetings have been complemented by some specific issue-based "informal informals".

"While some progress has been made in all three areas, there is an urgent need to redouble our efforts and close the gaps, in what are key elements of the developmental component of our ongoing work," stressed Lamy. He added that the substantive question on this issue is "whether there is a way to allow for a regular review of S&D provisions in our disciplines across the board and more importantly, what would be the operational consequences of such peer review."

On the LDC-specific issues – preferential treatment to services of LDCs, duty-free quota-free market access for LDC products, rules of origin and cotton – Lamy said: "We are still awaiting proposals from the LDCs so that work can commence on them."

In this respect, he said that he has

been requested by the LDC group to appoint a facilitator to address the LDC component for Bali. "They have expressed their wish to see Ambassador Steffen Smidt (Denmark) appointed as Facilitator. I would like to inform you that as TNC Chair, I will appoint Ambassador Smidt to act as my facilitator, as soon as he receives the green light from his capital."

"And since we are on LDC issues, let me stress the importance of reaching agreement on the matter of the extension of the TRIPS transition period for LDCs, which is currently set to expire in July, in view of the TRIPS Council meeting scheduled for 11-12 June which is fast approaching."

### Horizontal review

The TNC Chair went on to stress that work on substance needs to urgently accelerate in negotiating groups.

"It is substance that drives the process and on which progress is gauged. Therefore, written proposals, language and textual suggestions around which to build consensus have to begin to emerge very soon. And here I would caution about over-engineering solutions. There is no time left to 'over-engineer'. The process in negotiating groups should be Chair-led. But, I must also stress that the primary responsibility for negotiation rests with you."

Lamy said that, as an insurance policy for all members that tactical linkages across the three areas are preserved, "it will be necessary to have a horizontal review of our progress across the three issues. The TNC will be central in this. Coupled with a number of green rooms and small groups in variable geometry."

As Chair, he said, he intends to convene "green room" meetings every fortnight to look horizontally at progress in the three areas and engage in negotiating substance. "I intend to convene the first of these green rooms on 1 May and then on 14 May. As usual, these will be followed by TNC meetings to ensure full transparency and inclusiveness. I can already announce that the next TNC should take place on 31 May."

"But, let me be clear, for any horizontal review process to be useful and productive, real negotiations within the negotiating groups need to take place and remain at the heart of your activities. There can be no substitute for a meaningful negotiating group process," the TNC Chair stressed.

"We also know that there are other areas connected to the WTO agenda that

some of you are actively engaged in which could also be ready in time for Bali, including ITA [Information Technology Agreement] expansion and GPA [Government Procurement Agreement]. In addition, the results of the Global Aid for Trade review in July will also have to form part of the Bali deliverables."

As for the post-Bali process, the TNC Chair said that he is continuing his consultations under the two assumptions that (i) Bali delivers, and (ii) the consultations do not distract from the main goal of delivering in Bali.

"It is clear that the Bali Conference has to instruct on the post-Bali process. However, my view is that this conversation has to continue before we can arrive at a shared understanding of what the post-Bali agenda will entail."

To conclude, Lamy said: "We are working on Plan A – delivering successfully in Bali on the three areas of trade facilitation, agriculture and S&D/LDC issues. Although the odds are not bright today, they are still good enough to warrant a major effort. But, to succeed, you need to urgently change course, to be more flexible in your negotiating attitude, to accelerate your substantive work and to refrain from throwing bricks at each other. These are the ingredients to avoid hitting a wall with undesirable consequences not only for Bali, but importantly, for the credibility of the multilateral trading system."

A number of delegations spoke following the statement by the TNC Chair (see next article). (SUNS7564) □

*(continued from page 12)*

"We strongly urge, and expect, each Member to express two preferences – not more, not less – in this round. Strict adherence to this element by all Members will make this process more efficient," he stressed.

He emphasized that any preference received in the first round of consultations will not be used in the second round.

"I would therefore urge all Members to come forward once again to meet with us and to express their preferences on the basis of the revised slate of candidates."

"We are gratified by the 100 per cent participation of the membership in the first round, and the overall respect for and adherence to the Procedures shown. We look forward to the same high level of engagement in this next round. Let me reiterate that this process is your process: the decision to appoint the new Director-General is yours to make," said the Chair. (SUNS7565) □

## Concerns over lack of progress on potential Bali deliverables

by Kanaga Raja

GENEVA: Member countries of the WTO agreed on 11 April that at the moment they were not on track for success at the Bali Ministerial Conference this December and that divergences, some quite vast, remained among members, with disagreements centring on the levels of ambition and what was meant by "balance".

These views were voiced at the 11 April informal meeting of the Trade Negotiations Committee, following on the statement of the WTO Director-General and TNC Chair Pascal Lamy, who reported on "limited progress" on substance on potential deliverables in trade facilitation, agriculture and S&D/LDC issues.

According to trade officials, fears were expressed that the technical work required to conclude the negotiations on trade facilitation, agriculture and the development issues is quite significant and that time is rapidly running out. Concerns were also voiced by some members about the post-Bali process.

Developing countries again highlighted several issues of importance to them which they felt should form part of the Bali package. These include duty-free quota-free market access for LDC products (DFQF), which they said is not a negotiating issue but one of implementation, as well as cotton. Some also stressed the importance of food security and the need for a deliverable on this issue.

Some developing countries pointed out that on trade facilitation, some of the major players are demanding high levels of ambition and binding commitments on some issues while offering only best-endeavour language in other areas of the trade facilitation negotiations. Trade facilitation, they stressed, cannot be the only harvest emerging from Bali.

### LDC priorities

According to trade officials, Nepal, speaking on behalf of the LDCs, said that Bali is just a step in the single undertaking and in the negotiating process for achieving agreement in the overall Doha Round. There is a need for political will and the need to deliver for the LDCs. Bali is not the end but there is a need to have

a mindset for a clear and balanced outcome of benefit to the poorest countries. What the LDCs need is something that will be of benefit to them and further delay will only lead to an exacerbation of their plight.

Highlighting the importance of market access, rules of origin, and trade-related technical assistance and capacity-building, Nepal said these remain serious problems for the LDCs. Why the LDCs, constituting 49 countries, represent only 1% of world trade is something that should be addressed, said Nepal.

This stalemate must be overcome and a way forward found. With political will, this is possible, and Nepal was encouraged by what it said is a broad convergence on LDC-specific issues. It hopes that the Bali conference can be a turning point and that this can lead to some enhanced market access opportunities.

Emphasizing the LDC issues of DFQF, rules of origin and cotton, Nepal said that there is a need for some serious enhancement of trade-related technical assistance. The LDCs are working towards putting forward some proposals soon.

DFQF, Nepal underscored, is an implementation issue and not a negotiating issue, and it would like to see some timeframes developed on this. It wants to see something coming from the proposals that would not leave any LDC worse off than is currently the case. It said it will also support the forthcoming proposal by the Cotton-4 country grouping. It is engaging constructively on trade facilitation, and on the LDC-specific issues, it is prepared to continue working with members.

On agriculture, it said it will continue its engagement with members, stressing that the development dimension must be at the heart of this particular discussion.

Burkina Faso, speaking on behalf of the Cotton-4, said that Bali is a stage in the Doha Round that could be a turning point in terms of concluding the round. A single proposal adopted by Bali on development issues could be extremely important, and this issue is the cotton issue. It wants to see adopted an approach on cotton that would have impor-

tant content for developing countries. Any LDC or Bali package must include cotton. Bali will be able to give new impetus to the cotton negotiations. It wants to see real progress on the basis of the last agricultural draft text (of December 2008).

### Key agriculture element

Representing the Cairns Group of agricultural exporters, Australia said that work has been helpful in terms of identifying issues on trade facilitation, agriculture and development where there are divergences. It is pleased that agriculture has been returned to a place of prominence in the negotiations, and is supportive of the horizontal approach suggested (by the Director-General).

The Group underscored the importance of food security to its members, and said that it will be very active in the negotiations on public stockholding (for food security). The export competition issue is very important to the group and the issue of export subsidies must be addressed, Australia added. It has long been a problem for many countries and is the most trade-distorting type of support offered to producers in rich countries.

It is prepared to approach discussions on this issue in a pragmatic and realistic manner, and hopes that others would be open-minded as well. The time for preparing for the Ministerial Conference is limited and members must work at a higher tempo. The group is willing to endeavour to this end and will work hard to see that agriculture emerges as a key element in any Bali package.

Speaking for itself, Australia said that it welcomes the note of concern expressed by the Director-General and the need to change the dynamics. It is encouraged by what the LDCs and the Cotton-4 had to say. Its own concern is in two other areas – trade facilitation and agriculture.

On the agriculture proposal of the G33 on food security, Australia has significant concerns with the proposal in its current form. Its scope goes far beyond what is acceptable as a Bali issue. The technical work has not made it clear why there is a need for this. Only two developing countries could actually afford a programme like this. While it can agree that food security is important, what it is worried about is that this would cause commercial and systemic concerns for Australia. This is something which risks reopening parts of the agriculture agree-

ment. By contrast, Australia said, the G20's TRQ administration proposal is the sort of proposal that members can agree to.

On the question of export competition, Australia said it is important for the US and the EU to show leadership and flexibility on this issue so that something can be delivered. It is important that the 2013 deadline (on ending export subsidies) be respected and that the 2005 Hong Kong Ministerial Declaration be adhered to.

On trade facilitation, the idea of trading off trade facilitation with the G33 proposal on food security as currently constituted is not acceptable to Australia. The level of ambition is too high and it would be an impossible dilemma for Australia to be confronted with a decision about accepting trade facilitation at the price of dismantling one of the WTO's most important achievements, the Agreement on Agriculture.

Indonesia, speaking on behalf of the G33, welcomed the constructive engagement but stressed the need to build on this momentum. There is a need to address the food security needs of developing countries, it said, adding that some progress has been made in the discussion of the G33 proposal. Technical discussions have led to some focused progress and it hoped that this will translate soon into deliverables for Bali.

The G33 is prepared to be flexible and is ready to engage. It seeks a balanced outcome and it would like to see a similar spirit coming from its trading partners. Food security is something that is of great importance to it and it needs a deliverable here.

On its own behalf, Indonesia said that a successful Ministerial Conference in Bali is in sight for all members. When it decided to host the conference, it did so with full confidence that members could deliver concrete outcomes. Even with only 33 weeks to go before the meeting, it continues to believe this can be done.

Speaking on behalf of the Recently Acceded Members, Chinese Taipei said time is quickly running out, and not just technical work but political will is needed as well. Members are not yet in a problem-solving mode, and they need to move things up to political level. Both industrial and developing countries can benefit from trade facilitation.

On agriculture, it said that it is involved at a high level and it is interested to be involved in consultations and discussions on the G33 proposal. It looked

forward to engaging as well on the G20's TRQ administration proposal.

On the Doha Round and the development dimension, it said that it is very important that the needs of developing countries and LDCs are taken into account. At the last Ministerial Conference, which was held in Geneva in 2011, there was a pledge made to seek a full package under the single undertaking but acceptance that members can try and harvest the low-hanging fruit. That is what members should try and do at Bali. The preparatory work between now and then should be done in a fully transparent, inclusive and participatory manner.

### Optimal outcomes

Jamaica, speaking on behalf of the African, Caribbean and Pacific (ACP) Group, pointed to the three pillars of the negotiations (trade facilitation, agriculture and S&D/LDC issues). It said that while there cannot be absolute symmetry, there must be optimal outcomes in each of these areas without holding any of these areas hostage to the others. Stressing the need for flexibility and the need to be realistic, Jamaica said a single Bali pillar is not feasible. There is a need to accelerate work and to be much more pragmatic. The Bali Ministerial outcome is of systemic importance. Jamaica said that the ACP Group is very keen to ensure that Section II of the trade facilitation negotiations (on S&D and technical assistance and capacity building) is addressed.

Speaking on its own behalf, Jamaica agreed with the G33 statement and appealed for an attitude adjustment. The multilateral platform is indispensable for the ACP countries, which have fewer options than those on whose shoulders the outcome of Bali rests.

Switzerland viewed the G20 proposal as realistic and achievable, while it said that the G33 proposal as it stands now does not seem like a deliverable for Bali. On trade facilitation, it said that it is very important that members engage in the technical work required and that they should not make it a kind of a scoring system where one scores points, but one in which members are prepared to be flexible. There is a need to ensure that adequate technical assistance is available.

It said that the agreement-specific proposals seem doable, as does the S&D monitoring mechanism, but if there are any new proposals to come, they should come as soon as possible. Pointing to the

proposal on export competition, which could be submitted soon, it said that if this proposal is not forthcoming, this might be a good thing because members should avoid overloading the agenda. It is important not to add issues that are not doable in Bali. It is very important that the major players show their commitment and engagement in this process.

Representing the Association of South-East Asian Nations (ASEAN), Brunei said that the proposals that are yet to be tabled should be tabled as soon as possible.

Singapore said that what members need to do is not just change the pace but the direction in which they are going. Going around in circles at a higher rate of speed is not helpful. There is a need for all members to work together. Members are at a decisive turning point and trade facilitation, agriculture and development issues need to get done. This is very important in terms of building confidence. It is hearing a willingness among members to show greater flexibility and this is extremely important.

Egypt said that the Bali conference is an opportunity to renew support for the multilateral trading system, which has at its core the Doha Development Round. Development is the centrepiece of this round. There needs to be an outcome that produces something on agriculture and cotton, as well as other development issues including strengthening of S&D. Any early harvest that comes out must have the developing-country requirements addressed.

On trade facilitation, Egypt said that there should not be a discussion going beyond the mandate of GATT Articles V (freedom of transit), VIII (fees and formalities connected with importation and exportation) and X (publication and administration of trade regulations). These are identified as the core of the trade facilitation negotiations, which should be used to "clarify" the GATT Articles and not to "amend" them. It bemoaned the lack of progress in Section II of the trade facilitation negotiations.

Japan said that since the last TNC meeting, it has indicated its desire to join the Trans-Pacific Partnership trade talks and has launched negotiations or preparatory talks aimed at securing a trade agreement with the EU. Despite this, Japan remains committed to the multilateral trading system. However, there has not been enough progress to get an outcome in Bali, and members have to change paths soon and get capital-level officials more involved. Members need

to try and find a way to intensify the work and enhance the effectiveness of the process. There is a need to move very quickly if there is to be an outcome in Bali. If not, then the prospect will arise that a failure at Bali would mean a failure of the Doha Development Agenda, it warned.

Argentina agreed with the Cairns Group statement. On trade facilitation, it said clear rules are needed, but a harmonization of procedures is not. On agriculture, it agreed that the G20 proposal on TRQ administration is something doable. Disciplines are also needed on the application of these TRQs and some kind of monitoring mechanism is required to ensure TRQ transparency. It is very important that the Hong Kong Ministerial mandate to end export subsidies by 2013 is reached. That is imperative, it stressed.

Norway underlined the need to ensure that adequate trade-related technical assistance is available on trade facilitation. There is no shortage of funds but what is needed is a mechanism to ensure that those funds are available to those who need them. On S&D, it said that it is difficult to see exactly how this monitoring mechanism would work, noting that the existing S&D works well. But a monitoring mechanism could be useful.

On the G33 proposal, it sees a willingness to look for solutions without undermining the system and creating new problems. What is needed now is a game-changer and for key players to step up with actions, not words, it added.

Bangladesh supported the LDC group and said that DFQF is not a matter of negotiation and is already in the Hong Kong Ministerial Declaration. It is really just a matter of implementation.

### Taking stock

The US said: "The purpose of this stock-taking exercise is straightforward: to sit together in one room and consider where we stand. It is important that we do this, because without a common understanding of our problems, we can't solve them. The date for the [Bali] Ministerial Meeting is far closer than it seems. And as many have said today, time is of the essence."

"And make no mistake; there is an urgent need for a serious course correction. The last Ministerial Conference in Geneva in December 2011 seemed to be a real turning point for the Membership

of the WTO. All 153 Ministers at that time took the important step of acknowledging that Doha was at [an] impasse, but also expressed a readiness to explore creative new approaches, including interim results in discrete areas where progress might be achieved, even against the broader backdrop of deadlock."

On trade facilitation, the US said, "We have not seen the 'meeting of the minds' that we might have expected would emerge. This is not for lack of engagement. Indeed, for three months we've conducted scores of meetings in every imaginable geometry, including intensive involvement by experts, ambassadors, and recently with the assistance of respected 'friends of the chair'."

"Certainly, there has been an increase in knowledge among participants, an increased understanding of the gaps. What has not occurred is a narrowing of the gaps. Most concerning for the process, we watched key players support converging positions one week, then step away from the same position the next – a waste of precious time that calls into question the utility of weeks worth of labour."

The US said further: "Nor does there appear to be a meeting of the minds on fundamental concepts. Perhaps most significant, we don't even agree on the threshold issue of whether the trade facilitation agreement will be binding. This despite a ground-breaking proposal by the United States that would allow developing countries to self-determine individual implementation schedules according to their individual needs. This despite recent evidence from one LDC, which generously shared the details of its UNCTAD-provided needs assessment, that it might implement all of the obligations of a potential trade facilitation agreement in not more than four years, and at a modest cost of \$15 million. This despite the world's multilateral, regional, and national development agencies proclaiming, repeatedly, their readiness to provide assistance."

The US claimed: "We all know that a trade facilitation agreement will benefit all countries – the evidence on time and cost savings is overwhelming. But these benefits will only accrue if Members are willing to finalize a strong agreement and then to implement it. Only three months ago, a diverse group of Ministers met at Davos and pointed us in a clear direction – a small package for Bali built around trade facilitation, an

element on agriculture, and an element on development. There was genuine hope that intensive work could deliver such a result."

Yet only three months later, said the US, the picture is grim. "While it is not my intention to throw bricks, I will be frank in our substantive assessment of where various issues stand. That is the whole point of 'taking stock'."

According to the US, the situation in the agriculture negotiations is even more dire. "In this context, it is worth recalling the fundamental nature of the exercise in which we're engaged. Because we know that major issues are at impasse, we're aiming at a 'small package'. Small means not everything. Or even a small piece of everything. The need for a retreat to a 'small package' was deeply disappointing to the United States, in part because the contemplated outcome does not address top US priorities of market access for agriculture, manufactured goods, and services."

"The G20 proposal last fall related to TRQ administration represents the type of initiative that is calibrated to our current context," the US said, adding that it remains ready to address this proposal. While not perfect, its scope does not call into question fundamental balances in the agriculture sector, and it aims to promote trade. Nor is it technically difficult to negotiate.

"The G33 proposal on stockholding of food put forward by India is exactly the opposite. Many in Geneva have expressed concerns about this proposal from the beginning, while also expressing willingness to consider the proposal with an open mind. For four months, the United States and others have engaged extensively to learn more, even in the face of incomplete information. But unfortunately these intensive discussions of the proposal have revealed more causes for concern, not fewer."

According to the US, "Frankly, the very essence of this proposal is confusing and concerning. Since the beginning of the Doha Round, developing countries have made clear that they view disciplines for the reduction of trade-distorting agriculture subsidies as one of the fundamental goals of the Round. Instead of creating new disciplines to reduce agriculture subsidies, the G33 proposal represents a step back from existing Uruguay Round disciplines – creating a new loophole for potentially unlimited trade-distorting subsidies."

"This new loophole, moreover, will be available only to a few emerging economies with the cash to use it. Other developing countries will accrue no benefit – and in fact will pay for the consequences. First, in the immediate term, when the governments using the programme buy up stocks, world prices will go up, making it harder for poorer countries to meet their food needs. Later comes the inevitable problem of miscalculation. Over the longer term, the lure of guaranteed prices that are set before the planting season will draw more acres into production. If recent history is repeated, more stocks will be created than anticipated, and the surplus then will be dumped onto international and domestic markets – competing with the products of countries which aren't subsidizing – and lowering prices that farmers around the world get for their commodities."

"It is ironic that this proposal comes under a title of 'food security'. Even if it did contribute to food security for the two or three countries that can afford the costs to support such a system – and this is debatable – it will certainly create volatility and insecurity for the vast majority of others. We, like many others in this organization, find it unthinkable that one of our few agriculture deliverables at Bali would be a step backwards from existing disciplines and cause more harm to international trade and to those who most need its benefits. We cannot support such an outcome," said the US.

The US further said: "Constructively, some members of the G33 recently have acknowledged the widespread concerns expressed with regard to their proposal and suggested a re-calibrated proposal for Bali. We stand ready to consider a new and more realistic proposal."

Beyond the existing proposals, the US said it is concerned about rumours of yet more proposals on agriculture.

"We want to be very clear in this regard. The G20 proposal seems to represent a fairly unique example of an agriculture initiative that does not immediately call into question the broader balances within the agriculture pillar – or with other pillars. But we see no further prospect for cherry picking from the agriculture pillar. Any Member insisting on a partial result in one part of agriculture should be prepared to offer readiness for parallel cherry picking in the rest of the pillar, for example, in agriculture market access. Or beyond the agriculture pil-

lar, for example, in manufactured goods."

"Frankly, we are highly skeptical that potential proponents are ready for this type of discussion, and so the likely result, if we go down this path, will be continued impasse. Do we really want to watch this movie again?"

The US said: "Against this frustrating backdrop, how can we be anything but gravely concerned about the prospects for Bali? Some are eager to engage in a discussion of the 'post-Bali agenda'. But the post-Bali agenda can only be built on a foundation of a meaningful package of Bali deliverables."

"The time has come to speak bluntly. The Bali package is intended to be comprised of elements that are relatively easier to deliver. If Bali fails, it is hard to imagine how Doha can succeed. It defies logic to believe that, if we fail to deliver on the easier issues, ... the WTO is capable of delivering on the more difficult issues – issues at impasse now for more than a decade."

"We agree with many who have said that the fate of Doha is inextricably linked to the fate of Bali. If Bali fails, the signal that we will send, in a world full of fruitful trade negotiations, is that the WTO is the one place where trade negotiations don't succeed...," said the US.

### Profound relevance

The EU said that the effort to deliver in Bali is directly linked to the future of the Doha Development Agenda and has profound relevance for the long-term integrity of the multilateral trading system. It is no longer possible for members to emphasize their commitment without actually practically allowing the negotiations to move forward. The time to demonstrate the right kind of commitment has to start now and nobody will be able to hide from his or her responsibility in case of failure.

"Each one of us shares some amount of disappointment with the Bali set of issues as it stands today, particularly because core areas of interest to each one in this room are not being addressed as quickly as the proponents would like, or are simply not addressed at all. Some progress has been made in the three pillars over the last months, but clearly the speed of progress is not sufficient. It seems we are once again caught in a self-defeating manner, in the trap of hostage taking: if my issues do not move, yours

won't move either."

According to the EU, it is clear that trade facilitation is the one area that still requires the biggest technical effort. Hundreds of brackets (indicating lack of agreement) still remain to be removed before a manageable number of outstanding issues can be usefully dealt with at a higher level. Without rapid progress here, nothing will be agreed in time for the Bali Ministerial Conference. Over the next few weeks, there is a need to transform this momentum into real progress and actual compromises on the texts. The trade facilitation cluster in the beginning of May and the negotiating group at the end of May should be important steps for that purpose.

On agriculture, the EU said that the recent transparency exercise on public stockholding programmes was useful and allowed a better understanding of the programmes in a few developing countries, not all, as well as the breadth and complexity of the issues underlying the G33 proposal on food security.

The EU said it remains committed to finding doable and realistic solutions without destabilizing the rest of the agricultural disciplines and whilst maintaining the integrity of the Green Box, in particular by ensuring that Green Box support does not in any way have the effect of providing price support to producers. Since many of these issues are too far-reaching and go to the heart of the overall negotiations on domestic support under the Doha Development Agenda, it may well be that when looking for solutions, some elements might be part of the early-harvest package for Bali whilst others might need to form part of a wider negotiation post-Bali.

On the G20 proposal on TRQ administration, the EU remained ready to engage constructively, seeing it as a potential part of an overall outcome at Bali which respects the necessary balance in agriculture.

Noting that further potential proposals on agriculture have been mooted even at this late stage, the EU warned against making proposals which would be fundamentally unbalanced in the absence of a wider agreement covering all agricultural pillars including domestic support and market access and other negotiating areas. This could jeopardize the prospect for an early-harvest package at Bali.

South Africa said: "As we continue with the preparations for Bali we should

not forget that the economic recovery from the Great Recession in the major developed economies remains weak, and in some countries economic conditions are worsening ... The fear of increased competition and loss of jobs is creating the impetus for macroeconomic and trade policies to be domestically focused in the major economies. This fear of global competition is at the heart of the current prolonged impasse in the Doha Round. It is also the reason that some members have decided to focus on bilateral and plurilateral negotiations – hoping to restore their competitiveness and build leverage to shift the balance in the multilateral system in their favour.”

In the discussions that led up to this meeting, including at Davos this year, some of the major players have made it clear that they have red lines on some issues of interest to the poorest countries and they are only able to deliver on what is doable to them. This is the context to the work for a small package of deliverables for Bali, said South Africa. The good news, however, is that after much discussion and negotiations in Geneva in the past few months, all members agree that a small package of deliverables should be harvested in Bali.

“We also agree that this package should include at least three significant pillars: the concerns of LDCs and other poor countries; agriculture; and trade facilitation. We all agree that this package should be balanced and that the balance should be in favour of the poorest countries,” it said.

On trade facilitation, it said that there are still several hundred brackets in the text. The level of ambition in the draft text remains uneven. Some of the major players are demanding high levels of ambition and binding commitments on some issues where this suits their own system and business interests whilst offering only best-endeavour language on issues where they will have to make changes to their legislation and system.

The language on S&D for the poorest countries in Section II of the text is cast in flexibilities reminiscent of Henry Ford’s dictum: “You can have any colour you like as long as it is black.” And the promises developed countries made in previous negotiations to provide binding capacity-building and technical assistance to support the implementation of these new commitments have remained unfulfilled until now.

On agriculture, “we have made some progress in agreeing that this should be one of the elements of any

package. However, there are still major challenges ahead. The proposal on transparency in TRQ administration has been largely supported but some major developed countries still remain to be convinced. The proposal by the G33 to address the needs of poor farmers in many developing countries and for food security remains a red line [to] some major players. We will need both political will and flexibility to deliver a symbolic but meaningful gesture of the WTO’s sensitivity to the interests of the poor.”

Noting that the G20 is also at work to table a proposal on export competition, it said that practices of the developed countries such as export subsidies contain some of the most egregious aspects of the unresolved issues in agriculture trade which impact negatively on the poorest farmers, particularly in Africa. Willingness to address this in the Bali package will signal that there has been no abandonment of the promises made, and agreements reached, to eliminate these trade-distorting and harmful practices.

Against the backdrop of their issues being painted as red lines by the major developed members, the LDCs have been struggling to fashion a set of proposals for Bali, said South Africa. They have been concerned that whilst preserving their demands contained in several agreements reached in previous WTO Ministerial meetings, their proposals for Bali do not clash directly with the red lines demarcated by some major players.

However, South Africa added, the stakes at Bali are about more than the delivery of a small package of deliverables. “What is bedevilling [these] negotiations is the concern of some that a small package is a necessary platform to resuscitate the momentum for the conclusion of the Doha Round and the fears of others that if the small package does not contain issues of interest to them it may be the last package of deliverables for a long time as the Doha Round may never be resuscitated. These systemic issues are the underlying concerns in the negotiations and we cannot afford to ignore them and only return to them after Bali.”

The Doha Round and indeed the WTO is not on the radar screens of the major players. The business communities in these countries have resigned themselves to working for market access through plurilateral and bilateral agreements. Meanwhile, the multilateral system is languishing. Developing countries remain hopeful that the promises made in the Doha Round to rectify the imbalances in the multilateral trading system

and address the needs and interests of developing countries in the negotiations will be delivered, South Africa added.

“This is not the time to give up on multilateralism but to strengthen it. It is not the time to create new and powerful trading blocs that will erode the principle of non-discrimination or MFN enshrined in Article I of the GATT. This is not the time for small ‘coalitions of the willing’ to create new standards and seek to impose them later on the rest of the membership. As our world becomes more diverse, more complex and more challenging, we need to roll up our sleeves and seek creative solutions that will defy the sceptics and strengthen multilateral rules that are fair, balanced, inclusive, and development-oriented. Reaching an understanding on these underlying issues will contribute immensely to improving the negotiating atmosphere for a small package of deliverables at Bali,” said South Africa.

According to trade officials, New Zealand said that it is very important that members try and look for balance and avoid a blame game. The level of engagement should be elevated but process must not be confused with substance. Greater engagement is required on the part of the major players, which need to show what the contours of the package will be.

### Behind schedule

China said that it would like to associate itself with the G20 and G33 statements, and supported the presentation by the LDC group. “We have to admit that we are seriously behind our schedule to achieve credible deliverables at [Bali], considering [there are] only 80 working days left before the summer break. Therefore, we would like to take this opportunity to call upon all Members, the major ones in particular, to enhance the sense of urgency and to exercise maximum flexibilities in future discussions.”

Its assessment is that the relevant topics under discussion, albeit difficult, are not impossible, and the key is to find a pragmatic solution to take care of all members’ concerns and to strike the proper balance in the small package. Having listened to members’ interventions, it felt that no one could bear the consequences of failure at Bali. “That failure [would mean] not only the defeat of the Doha Round, but also the loss of the multilateral trading system. To avoid such an unpleasant result, we have to hurry up since time is already not on our side.”

According to trade officials, Chile said that if a package for Bali cannot be obtained, it will be the end of the Doha Round, because there will be no basis for anything. If there is no change of mindset, an agreement will not be reached. There is a need for a sense of urgency and political will.

India said that it is broadly in agreement with what the Director-General has said. There has been a lot of useful technical discussion on trade facilitation. It has no problem with trade facilitation as a concept. There is a lot here that would help facilitate imports but would also help facilitate exports.

On the other elements of the package, namely the two agriculture proposals, India said it is important to keep in mind that these proposals were included and discussed in 2008, and one of these proposals was discussed in 2005 if not earlier.

On the agreement-specific proposals, it said that these issues have been under discussion since before 2003. So, something needs to get going here. On the monitoring mechanism, it is clear as well that this is something that has been under consideration for quite a long time.

India expressed its deep commitment to bringing about a Bali package. It recognized that trade facilitation will be a part, but there have to be other elements of this as well. Trade facilitation cannot be the only harvest.

It said it has certain ideas and perspectives and realizes that others have their own ideas as well. The idea is to try and narrow differences and find convergence. While a lot has been heard about red lines, the good news is that everybody agrees on the need for a Bali package and everybody agrees that the three areas are the ones on which there should be agreement.

The G33 proposal has found broad acceptance with the exception of about two or three delegations who object to what is on the table. The G33 is prepared to be flexible and to look at other options. What is needed is a "what if" conversation, but the "what if" should be "what if I do this for you" and not "what if I take this from you". The bad news though is that time is running out and there is a need to move forward. If the need to throw bricks at each other is felt, this won't make it any easier; members must make all efforts to try and avoid this.

On trade facilitation, India said there

are many proposals out there. In fact, the trade facilitation text is 33 pages long while the G33 proposal is only two pages long and the operative part is only about seven lines. On the question of trade facilitation, some major players are saying that it presupposes that their systems are perfect and that it is others that must make changes. They are also asking for carve-outs and are seeking to make best endeavours in areas that they find politically difficult. The future does not appear too bright at the moment.

Oman, speaking on behalf of the

Arab Group, said that members must have something on LDCs in respect of development issues and on accessions, particularly on Yemen's accession which has been held up for some time.

Colombia agreed with the Cairns Group. It said there must be more flexibility from the developed countries with respect to the agriculture proposals. There is a need for a horizontal process that is intensified. The major players, instead of restating their red lines, should say what it is they can do to bring about compromise, it added. (SUNS7566) □

## GC Chair reports on first-round outcome in WTO D-G selection

**The first round of consultations to choose among the nine contenders for the WTO Director-General's post has ended, with the candidates from Ghana, Costa Rica, Kenya and Jordan identified as the four least likely to garner consensus.**

by Kanaga Raja

GENEVA: The Chair of the General Council of the World Trade Organization, Ambassador Shahid Bashir of Pakistan, reporting on the outcome of the first round of consultations held from 2-9 April on the selection of the next Director-General of the WTO, said on 12 April that the four candidates least likely to attract consensus were those from Ghana, Costa Rica, Kenya and Jordan.

After the announcement of the outcome, which had already been conveyed to candidates in confidence the previous day, Costa Rica, Ghana and Jordan announced that their candidates were withdrawing, while Kenya, withholding consensus, said that its candidate, Amina C Mohamed, remained in the contest and had declined to withdraw.

The next Director-General, once appointed, will be replacing current incumbent Pascal Lamy, who will be concluding his second four-year term on 31 August this year.

The appointment process is being conducted by a "troika" led by the General Council Chair, who is assisted by the Chair of the Dispute Settlement Body, Ambassador Jonathan Fried of Canada, and the Chair of the Trade Policy Review Body, Ambassador Joakim Reiter of Sweden, acting as facilitators.

Ambassador Bashir informed the WTO membership of the first-round outcome at an informal heads-of-delegation

meeting of the General Council on 12 April.

According to the Chair, the four candidates who were least likely to attract consensus (according to the order in which their nominations were received) were Alan John Kwadwo Kyerematen (Ghana); Anabel Gonzalez (Costa Rica); Amina C Mohamed (Kenya); and Ahmad Thougan Hindawi (Jordan).

According to trade officials, the delegations of Jordan, Costa Rica and Ghana announced at the informal meeting that the candidates from their countries have withdrawn. Kenya said that it could not join the consensus and that its candidate has not withdrawn from the race.

The Ghanaian and Kenyan delegates raised concerns about the process, particularly over the fact that a few delegations had submitted more than four preferences during the first round and some less than that. This, in their view, was not a positive development.

Trade officials further said that the troika will now proceed with a second round of consultations (from 16-24 April) on the basis of a revised slate of five candidates (again in the order in which their nominations were received): Mari Elka Pangestu (Indonesia); Tim Groser (New Zealand); Herminio Blanco (Mexico); Taeho Bark (Republic of Korea); and Roberto Carvalho de Azevedo (Brazil).

This seemed to imply that despite

Amina maintaining her candidacy, she would not figure in the second round of consultations.

In his statement at the informal General Council meeting, the Chair said he understood that there were "some concerns in some quarters regarding the results" and that he would share with the membership the manner in which he, assisted by the facilitators, had arrived at these results.

The Chair said: "Let me say that, as you will recall, the membership directed at the 13 March meeting of HOD [heads of delegation] that our discretion be fully constrained and that we assess solely the number of preferences and the breadth of support across geographic regions and recognized categories of Members. And this is exactly what we did."

Ambassador Bashir added: "The results were clear and unambiguous, whether measured in terms of number of preferences received, or by breadth of support across geographic regions or across the generally recognized categories of Members – LDCs, developing countries and developed countries."

The Chair and the facilitators had consulted with all 159 WTO members by 9 April, and each member, whether Geneva-based or non-resident, was asked the same precise question, i.e., "What are your preferences?"

"We requested each Member to provide multiple preferences, without ranking, and ... urged that four preferences be given. We also informed each Member that we would not accept any negative preferences."

The Chair pointed out that each "confessional" took only a few minutes and no discussion took place in any of the meetings.

Turning to the results that flowed from these consultations, Amb. Bashir recalled that paragraph 17 of the WTO Procedures for the appointment of Directors-General (adopted by the General Council in 2002 and set out in WTO document WT/L/509) sets out that "the ultimate aim of the consultation process shall be to identify the candidate around whom consensus can be built. In order to do this, it may be necessary to conduct successive consultations to identify the candidate or candidates least likely to attract such a consensus".

The same paragraph also states: "The Chair, with the assistance of the facilitators, shall consult all Members, including non-resident Members, in order to assess their preferences and the breadth of support for each candidate."

### Overarching points

Ambassador Bashir went on to make five overarching points.

"First, it was clear from our consultations that Members considered all of the nine candidates to be highly qualified and respected individuals", and he thanked all delegations for their clear and constructive responses, and the candidates and members who had nominated them for the dignified manner in which they had conducted themselves in this process. "We hope that in the next phases of the process the dignity of the candidates and the Members nominating them can be preserved."

"Second, this is a Member-led process. Our assessment of your preferences was based solely on the elements set out in paragraph 17 of the 2002 Procedures. I would also recall that JOB/GC/39 reaffirmed the 2005 definition of breadth of support, which stated that: 'As regards the breadth of support, we considered the distribution of preferences across geographic regions and among the categories of Members generally recognized in WTO provisions: that is, LDCs, developing countries and developed countries.' The Chair at that time also informed Members that other criteria were considered and rejected by Members in the formulation of the Procedures in 2002. As reflected in past decisions and in experience, and based on common sense, 'breadth of support' means the larger membership."

The Chair further said: "Third, the results that flowed from our consultations were dictated by your expressions of preferences and were communicated to the Members who nominated candidates yesterday, i.e., on 11 April 2013. In this brief meeting, paragraph 18 of the Procedures was highlighted, which stipulates that: 'It is understood that the candidate or candidates least likely to attract consensus shall withdraw.' This is accordingly the only firm obligation for the candidates and the Members who nominated them."

"Fourth, you may recall that in the 19 March HOD meeting, Members were urged to come forward with four preferences. For the sake of transparency, I wish to inform you that all but a few Members did come forward with four preferences. These few Members expressed either five or fewer than four preferences, and came from different geographic regions and all the recognized categories of Members – LDCs, developing countries and developed

countries."

The Chair said he understood there was a specific concern about the numbers of preferences expressed. While some members from different geographic regions and recognized categories of members expressed five preferences and some fewer than four, the vast majority expressed four. The fact that some delegations deviated from four preferences did not affect the results in this round.

Fifth, Ambassador Bashir reiterated that the ultimate objective of this endeavour is to appoint a Director-General by consensus. "Accordingly, support across the membership is an essential factor. In other words, preferences expressed by Members not only from the region of the nominating Member but also importantly from other regions and across the recognized categories of Members mentioned earlier allow us to assess candidates around whom consensus can be built."

### Upcoming second round

The Chair went on to inform the membership of the list of the four candidates least likely to attract consensus, saying that "our assessment was the same whichever way the preferences were examined. It is also noteworthy that no candidate carried unanimous support from any region."

Ambassador Bashir also announced that both he and the facilitators intended to begin a second round of consultations based on a revised slate of five candidates as follows: Mari Elka Pangestu (Indonesia); Tim Groser (New Zealand); Herminio Blanco (Mexico); Taeho Bark (Republic of Korea); and Roberto Carvalho de Azevedo (Brazil).

These consultations would begin on 16 April and continue through 24 April midday.

The Chair said that "our aim continues to be to encourage and facilitate the building of consensus among Members, and to assist in moving from the revised slate of candidates to a final decision on appointment."

"With this in mind, we shall once again invite delegations to respond to the question: 'What are your preferences?'," the Chair said, adding that three candidates will be expected to withdraw in the second round to respect the clear preference of members for having only two candidates in the final round.

*(continued on page 5)*

# Rising unemployment, “ill-conceived” austerity measures

Painting a grim picture of the employment situation in Europe, the International Labour Organization is advocating a job-friendly strategy that encompasses macroeconomic and structural policy measures to arrest the crisis in the region.

by Kanaga Raja

GENEVA: The unemployment rate in the European Union stood at 10.9% as of February 2013, remaining 4.1 percentage points above the pre-crisis rate in the same month in 2008, the International Labour Organization (ILO) has said.

In a snapshot of the EU labour market released in advance of its ninth European Regional Meeting in Oslo on 8-11 April, the ILO further found that the unemployment rate in the eurozone increased even faster, reaching a historical high of 12% in February 2013.

According to the ILO, the EU employment rate (ages 15-74) stood at 57.6% in the third quarter of 2012, remaining 1.6 percentage points below the rate before the third quarter of 2008 when the global crisis erupted.

“This means that there is still a deficit of 5.9 million jobs to restore employment rates to their pre-crisis levels,” it noted.

From these trends, the ILO suggests that it is necessary to move to a job-friendly strategy.

“Much of the emphasis so far has been on reducing budget deficits and restoring external competitiveness through ‘internal devaluations’. While fiscal and competitiveness goals are important, it is crucial not to tackle them through ill-conceived austerity measures and structural reforms that do not address the root causes of the crisis,” it said.

Indeed, added the ILO, the above trends show that such an approach has failed so far. “Instead, moving to a job-friendly strategy could serve both macroeconomic and employment goals.”

## Deterioration of employment

According to the ILO snapshot of the EU labour market, despite some encouraging signs of recovery that started to materialize in 2010, only five EU countries out of 27 (Austria, Germany, Hungary, Luxembourg and Malta) have witnessed employment rates above pre-crisis levels. In some instances, employ-

ment rates have decreased by more than 3 percentage points in the last two years alone, notably in Cyprus, Greece, Portugal and Spain.

Over 26.3 million Europeans were unemployed in February 2013, or 10.2 million more than in 2008.

Importantly, said the ILO, while the deterioration of employment paused during 2010-11, it has gained momentum over the past year.

Given the limited number of jobs created in the present context, job-seekers find it increasingly difficult to obtain employment. As a result, long-term unemployment (job-seekers without work for more than one year) is on the rise, it noted.

As of the third quarter of 2012, there were 11 million long-term unemployed in the EU. This is 1.3 million more than the year before and 5.2 million more than in 2008.

“In most EU countries, more than 40% of the unemployed are without work for more than one year. Since 2008, Estonia, Ireland, Lithuania and Spain recorded the largest increases in long-term unemployment.”

As a result, many job-seekers have become discouraged and have stopped looking for work. In EU countries with available information, the number of discouraged workers – those who are “inactive” but would like to work – rose by 29%, on average, between 2008 and 2011.

The ILO also found that youth unemployment has reached alarming levels. As of February 2013, the youth unemployment rate in the EU stood at 23.5% – with rates as high as 58.4% and 55.7% in Greece and Spain, respectively. Only in Germany has youth unemployment declined since 2008. “Worryingly, almost 30% of youth in the EU were at risk of poverty or social exclusion in 2011.”

The ILO further noted that low-skilled workers too are disproportionately affected by unemployment. The unemployment rate among workers

with primary or low-secondary education is three times as high as in the case of workers with tertiary education. Employment among workers with tertiary education grew by 12.6% between 2008 and 2012, while employment among workers with primary and low-secondary education fell by close to 17% during the same period.

Since 2008, the incidence of temporary and part-time employment has increased in 19 and 22 EU countries, respectively. This is despite the fact that, when the crisis erupted, job losses tended to concentrate on those forms of employment, said the ILO.

“The increase in the incidence of involuntary temporary employment may reflect uncertainty among enterprises regarding future growth prospects – so employers may be reluctant to provide stable employment contracts given the prevailing uncertainty regarding future sales and production. The increase in the incidence of part-time work may be the result of flexible working time arrangements concluded between employers and workers in order to prevent layoffs.”

The worsening employment situation has intensified the risk of social unrest, the ILO underlined. According to the latest estimates prepared for the purposes of the European Regional Meeting, the risk of social unrest in the EU was 12 percentage points higher than before the start of the global crisis. Compared with other major regions, the EU has registered the most significant aggravation in the risk of social unrest.

Between 2010 and 2012, the countries that experienced the sharpest increases in the risk of social unrest were Cyprus, Czech Republic, Greece, Italy, Portugal, Slovenia and Spain. The risk of social unrest declined in Belgium, Finland, Germany, Slovak Republic and Sweden.

## Job-friendly strategy

Calling for a job-friendly strategy, the ILO said that this requires, first, addressing the structural vulnerabilities that really lie behind the crisis. One of these stems from the systemic issues in the financial sector, which were at the epicentre of the financial crisis but have not been resolved yet.

The percentage of small firms which face constraints to obtain credit from banks is growing alarmingly, according to a survey conducted by the European Central Bank. In January 2013, the volume of credit to all non-financial corporations (large and small) dropped by 1.5% compared to a year earlier.

Second, the renewed employment weaknesses in the EU mirror depressed aggregate demand conditions. More and more countries face downward pressures on wages and employment, thereby affecting domestic consumption and investment and eroding intra-EU trade.

"So it is increasingly difficult to count on faster exports in order to compensate for the loss of domestic demand. This highlights failure of strategies based solely on the combination of fiscal austerity and internal devaluations (i.e. improving competitiveness through decreasing real wages)."

The ILO said that evidence presented in earlier issues of its *World of Work Report*, also supported by recent International Monetary Fund (IMF) research, shows that there is scope for a smoother fiscal path, which would help achieve both employment and fiscal goals. This includes: (i) a more realistic path for reducing fiscal deficits; and (ii) a different mix of fiscal measures.

This includes a stronger emphasis on pro-employment programmes like well-designed active labour market programmes, a commitment to effective welfare entitlements, combined with an effort to reduce wasteful spending, to fight tax evasion and avoidance, and to raise new sources of government revenue that do not overly weigh on activity, work and business investment.

Third, said the ILO, the above structural and macroeconomic shifts may take some time to operate. Meanwhile, the situation continues to deteriorate, thereby justifying the adoption of emergency measures.

According to the ILO, the following are especially relevant:

- Basic employment guarantees for young people would be a major plus. This includes education placement, training opportunities targeted specifically to people in inactivity, participation in work programmes or intensified job-search support. In the case of individuals with low educational attainment (either employed or unemployed), initiatives that provide them with adequate life-long learning are essential.

However, preventive measures should be at the centre of efforts, e.g., tackling dropout from secondary education.

A recent ILO study shows that these youth employment measures would cost around €21 billion for eurozone countries as a whole – which compares favourably with the costs of other inter-

ventions, especially given the likely longer-term benefits.

- Further articulation of passive and active labour market policies across the eurozone countries would improve employability and provide income support and social protection to the unemployed. To achieve this, existing European funds could be mobilized.

- Increased coordination among public employment services of eurozone countries would contribute to improving mobility and reducing labour market mismatches as well as labour shortages in low-unemployment countries.

The ILO further emphasized that

social dialogue is instrumental for: (i) improving the design of the different policy instruments; (ii) gathering a constituency for pro-employment reforms; and (iii) ensuring that the strategy focuses on what is really important for people.

"The ILO can play a key role in accelerating the shift towards a job-friendly approach, including through the identification and exchange of good practices. It can provide technical support but also a new policymaking perspective that places the promotion of employment and decent work at the centre of the political agenda." (SUNS7561) □

## US banks too big to fail, or just too big?

The question of breaking up the big banks continues to be discussed in the US amid recognition of the threat these financial behemoths pose to economic stability.

by Katelyn Fossett

WASHINGTON: Following the recent approval of US Senate bills that critics say would weaken a major financial reform law known as Dodd-Frank, watchdog groups here are cautioning that banks deemed "too big to fail" still pose a risk to US and international economic security.

"Too big to fail" was a term associated with the 2008 Troubled Assets Relief Programme (TARP), which gave \$700 billion in taxpayer money to rescue large US-based banks whose collapse could have had a devastating impact on global economic security.

At a panel discussion here in Washington on 3 April, political leaders and regulators urged the break-up of big banks as the only viable solution to what they say is still a systemically dangerous concentration of power.

"You're not going to win this tinkering with the rules," Neil Barofsky, former special inspector-general of TARP and author of a new book on the issue, *Bailout*, said at the headquarters of Public Citizen, a consumer rights advocacy group. "You have to go to the source of these corrupting influences ... You have to break up the banks."

The push against financial regulation flexed its muscle in the US Congress in the week of 25 March, as Senate bills watering down Title VII of Dodd-Frank, which deals with the especially risky derivatives markets, were approved. The bills now proceed to a floor vote.

That move has renewed a call from regulation proponents to curb the political power of financial institutions, which

some say is possible only by ending too-big-to-fail.

Supporters of this move point to the central problem in the too-big-to-fail philosophy: that protecting banks from the consequences of their own actions shields them from accountability and, ultimately, can encourage risky behaviour.

"I think as long as [the too-big-to-fail mentality] exists, the administration of justice is severely undermined in this country," said Brooksley Born, a former chairperson of the US Commodity Futures Trading Commission (CFTC), a government regulator.

Born is known for pushing for increased regulation of the derivatives market, an especially risky slice of trading activity, during the 1990s, calling this market the "hippopotamus under the rug". Her concerns were rebuffed at the time by Federal Reserve Chairman Alan Greenspan and, under pressure from the financial lobby, Congress eventually passed legislation prohibiting derivatives regulation. A decade later, Born's concerns were vindicated by events that played out in the 2008 collapse, which largely began in the derivatives market.

Regarding the extent to which too-big-to-fail shields banks from prosecution, Born cited comments made by US Attorney-General Eric Holder in March, especially his admission that "it does become difficult for us to prosecute [the banks] when we are hit with indications that if you do prosecute ... it will have a negative impact on the national

economy.”

She also revealed a less public example of the government protection she says she witnessed firsthand as a member of the Financial Crisis Inquiry Commission, an official task force appointed to investigate the causes of the 2008 financial crisis.

“The Financial Crisis Inquiry Commission was given a mandate to focus on causes of the financial crisis, but our statute also said that if we came across evidence of violations of US law, it was our obligation to report those violations to the Justice Department,” she said. “We made a number of such referrals ... and I have not seen anything happen on those.”

That failure, she suggests, was just one symptom of a broader illness. “I became convinced there was a philosophy in this administration of letting the banks earn their way out of the insolvency they were in,” she said, “that the banks had to be protected from the rule of law in order to preserve the financial system.”

### Strong regulation

For some, though, the prospect of breaking up the banks is both too abstract and too politically unviable to be discussed as a serious policy proposal.

Dennis Kelleher, CEO of Better Markets, a financial reform advocacy group, says that any move to break up the banks would come in one of two guises: either as a prohibition on banks dealing with more than a certain amount of gross domestic product, or government regulators using all the authority already vested in Dodd-Frank.

“The Federal Reserve could say banks with more than \$50 billion pose a significant threat to the financial stability, and they have to put up 50% of capital [in case of extreme losses],” Kelleher told Inter Press Service (IPS). “If they did that – which they have the power to do – that wouldn’t be ‘breaking up the banks’, but that would eliminate the too-big-to-fail threat.”

Under this approach, the key problem is ensuring that regulators are aggressive enough, and especially strong enough to counter Wall Street tropes that invoke the common citizen as the main victim of regulation.

“[Regulators] actually believe the spin that comes from Wall Street and its lobbyists,” Kelleher says, calling it “cognitive capture, reinforced by a culture that equates money with brains”.

Regulation proponents, though, seemed confident that shifting public

opinion was becoming a formidable opposition to these entrenched interests, even if the time is not yet ripe for putting a hard cap on the size of major banks.

“If there is another major mega-bank

blow-up, it could easily change the political dynamics,” Kelleher told IPS.

“While these too-big-to-fail banks have political support ... [that support] is broad but it’s not deep – it’s very fragile.” (IPS) □

## We are all Thatcherites now

*Roberto Savio examines the ruinous legacy of Margaret Thatcher.*

ROME: The flood of elegiac articles on former British Prime Minister Margaret Thatcher is in itself a good measure of how we have all become Thatcherites without realizing it. Only those who are not graced by a young age can see how the world and politics have changed so deeply since her days that it is correct to call her a “great revolutionary”.

Let us recall something that has been forgotten.

Soon after the end of World War II, two other major events took place. One was decolonization and the emergence of the Third World. The other was the creation of a powerful and strong socialist bloc, led by the Soviet Union but with offshoots in Africa, Latin America and Asia, from Angola to Cuba and China, for example.

Both events had a sobering effect on the political and philosophical sectors based on capitalism, and led to an era of social democracy. Those two events gave rise to the attempt to create an international order based on cooperation and social justice at national and international levels.

This led the United Nations in 1974 to approve unanimously a plan of action for a new system of international relations aimed at permitting developing countries to regulate and control the activities of multinational corporations operating within their territory, measures to reduce the gap between North and South, and many other provisions that would be considered mere fantasy today.

International cooperation was to be the basis of relations between states. A parallel dialogue among heads of state led to the North-South Summit in Cancun in 1981, where a final plan of action was sought to be hammered out.

Thatcher came into power in 1979, and at Cancun she met Ronald Reagan, who had been elected US president a few months earlier. It was the first international test for Reagan, and he looked down with distaste on any talk about international cooperation and social justice.

Prodded and sustained by Thatcher, he simply said that the US had become

great not because of aid. It had been the work of thousands of individuals who built railways, factories and companies that had made his country the leader of the world. From now on, the US policy would be to go it alone, and do trade, not aid.

From that moment, the “Reagan revolution” changed the world. The United Nations was marginalized. The US accepted no international treaty. The communist bloc was to be challenged, not feared. And a permanent unrelenting campaign was waged against the concept of society and the state.

Thatcher famously declared: “There is no such thing as society. There are individual men and women, and there are families. And no government can do anything except through people, and people must look after themselves first.”

Reagan launched “soundbites” as a way of giving simple answers to complex questions. Pollution? “Trees pollute, not factories.”

And Thatcher? “Let us glory in our inequality,” she said, explaining that more inequality meant that more wealth was being created by savers at the top of the economic pyramid, presumably to trickle down via new direct investment. She called Nelson Mandela “a terrorist”, and later she would praise Chilean dictator Augusto Pinochet as a “champion of democracy”.

### Ideological tide

Slowly, the two conservative parties, the Republicans in the US and the Tories in Britain, underwent an anthropological metamorphosis.

Gone was “compassionate conservatism” or “social conservatism”, and an ideological tide swept in the glorification of wealth, the acceptance of injustice as a fact of life, the demonization of the state as a brake on the market and individual advancement, and the argument that welfare, trade unions and all other instruments of equity were instruments of support for the lost and unproductive elements of society.

Reagan fired the air controllers and

Thatcher dismantled the coal miners' unions. It was all summed up in Thatcher's words: "Marks and Spencer [the supermarket chain] have triumphed over Marx and Engels."

Reagan left the US saddled with a huge deficit and growing inequality. When she was elected, Thatcher found the poverty level at 9%; when she left, it stood at 24%.

Thatcher and Reagan opened the path of legitimizing the least social aspects of individuals and politics: selfishness, ostentation of power and status, money over culture, and the idea that those who win do so because they are better. The CEO of JP Morgan, Jamie Dimon, shut up a shareholder in a debate, saying: "I am right because I am richer than you."

This kind of culture was unknown before Thatcher and Reagan, and now has created the Madoffs, the Berlusconi, the Murdochs and many other new mutants. We have gone through a profound sociological, cultural and anthropological change.

Over time the tide has grown, leading to a loss of identity of the left, which has become neutered by the long drive to uncontrolled capitalism as the only solution.

The old values have lost legitimacy. The new values are profit, competition, wealth: countries act in "defence of their interest". Thatcher was able to effectively fight for special privileges in the European Community, sowing the seeds for the Eurosceptics that now condition the British government.

John Major, Tony Blair and now David Cameron embarked on a number of actions, from the war in Iraq to the present strict medicine of austerity, that would have been unthinkable without her legacy.

And the same happened in the US. Bill Clinton did not even try to revert to pre-Reagan policies and George W Bush just resumed the Reagan revolution. The Republican Party is prisoner of the extremists of the Tea Party, and Barack Obama has been obliged to make so many compromises that much of his action has lost real punch.

The dream of a united Europe is in serious jeopardy. There is no solidarity between Northern and Southern Europe. The fact is that there are no common values able to cement international cooperation.

Today, we have no international governance in the real sense of the word. The United Nations has been re-dimen-

sioned to the issue of development. The world is not even able to take concrete measures on climate change, which is a clear threat for humankind.

On the contrary, many companies are looking forward with enthusiasm to the melting of the Arctic, for the new avenues of traffic and mineral exploitation that this will open up. Finance is out of control and wealth has become obscene.

In 2012, the wealth of the world's 100 richest individuals grew by \$240 billion: enough to solve the problems of poverty in the world. Yet not a single voice is calling for redistribution. Those 100 were already the richest, so presumably they would not suffer too much if 75% of their added wealth was taken.

President Francois Hollande, who tried to present this idea in France, has become an object of shame. The disaster of finance has created 100 million new poor worldwide. The EU statistical office Eurostat says youth unemployment is 22.4%.

Why is there no real reaction? Because we have all become Thatcherites now. (IPS) □

*Roberto Savio is founder and president emeritus of the Inter Press Service (IPS) news agency.*

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