

THIRD WORLD *Economics*

TRENDS & ANALYSIS

Published by the Third World Network KDN: PP 6946/07/2013(032707) ISSN: 0128-4134 Issue No 583 16 – 31 December 2014

WTO members discuss what lies ahead for Doha Round

Following the 27 November WTO General Council decision to draw up by next July a work programme for concluding the Doha Round negotiations, member states have been putting forward their positions on the subjects to be addressed in the work programme. Delegates deliberated on the way forward for the Doha Round at the yearend meeting of the General Council and at meetings of several issue-specific negotiating bodies held in December.

- WTO members voice their views on upcoming post-Bali work – *p2*
- Rules, NAMA and TRIPS negotiating bodies hold meetings – *p5*

Also in this issue:

Changes to World Bank safeguards risk “race to the bottom”

p8

\$2 lost for every \$1 gained: how the global financial system fails developing countries *p10*

Partnerships and corporate accountability in the context of financing for development *p12*

Contents

CURRENT REPORTS

- 2 WTO members voice their views on upcoming post-Bali work
- 5 Rules, NAMA and TRIPS negotiating bodies hold meetings
- 6 WTO members fail to reach deal on ITA expansion
- 8 Changes to World Bank safeguards risk "race to the bottom"

OPINION

- 10 \$2 lost for every \$1 gained: how the global financial system fails developing countries
- 11 "The end of (monetary) history"

FOR THE RECORD

- 12 Partnerships and corporate accountability in the context of financing for development
- 14 Trade and investment agreement reforms in the context of financing for development

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

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

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

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

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WTO members voice their views on upcoming post-Bali work

In the last WTO General Council meeting of the year, member states turned their attention towards the task of drawing up a work programme for concluding the Doha Round negotiations.

by Kanaga Raja

GENEVA: The end-of-year WTO General Council meeting on 10-11 December, amongst others, heard members voicing a range of views on what priority issues they would like to see incorporated into the post-Bali work programme for concluding the Doha Round.

The General Council decision of 27 November on the post-Bali work has set a deadline of July 2015 for agreeing on the work programme that was mandated in the Bali Declaration.

The views of delegations at the General Council meeting on 10 December came following a statement by WTO Director-General Roberto Azevedo under the agenda item of report by the Chairman of the Trade Negotiations Committee (TNC).

In their interventions, developing countries, amongst others, stressed on the development dimension of the Doha Round and on special and differential treatment (S&D) for developing countries. They also said that the Rev.4 draft agriculture modalities text of December 2008 and the Rev.3 draft NAMA modalities text also of December 2008 should be the basis for the negotiations.

The G20 developing-country grouping said that agriculture is the key and will be the benchmark for the landing zone in the other areas of the Doha Round negotiations.

Delivering on commitments

Speaking in his capacity as Chair of the TNC, the D-G recalled that the 27 November special General Council meeting had taken the decisions which broke the impasse on the implementation of the Bali package, and "the task before us now is to deliver on the commitments that we made there."

Azevedo also reported that the first valid instrument of acceptance for the Trade Facilitation Agreement Protocol had been deposited by Hong Kong-China on 8 December.

The new deadline of July 2015 for developing the work programme on the

remaining Doha Development Agenda (DDA) issues already looms large, he said. Consultations have restarted through the negotiating bodies, and he had met with the negotiating chairs twice already since then.

In a brief report on their work so far, he said members are beginning to re-engage and put the work back on track. By the end of December most of the chairs will have convened meetings on the way forward, and further meetings are being planned for January.

"We need to keep building on this momentum," said the D-G, highlighting some ingredients that will be needed if members want to be successful.

"One first ingredient will be to maintain a sense of urgency. Second, when it comes to the substance, I think we need to take an approach that is reasonable and pragmatic." He urged members to focus not only on "what is truly, truly important for you now – but also to think about what is doable."

Third is the need for a very high degree of engagement from all delegations, and to ensure that capitals are tuned in to the discussions. "Their engagement and readiness to make important political calls on how we move forward will be crucial."

Fourth, members' engagement will need to be deep, detailed and broad. An urgent, horizontal and reasonable but full engagement across the board is needed.

To this end, Azevedo said he plans to hold informal TNC meetings at the heads-of-delegation level starting on 21 January.

"2015 is going to be a big year for the WTO. We have important work to do and real deadlines to meet. We will hold our 10th Ministerial Conference. We will celebrate our 20th anniversary. So let's make sure that it's a year to remember," the D-G concluded.

Speaking following the report by the Chair of the TNC, Indonesia, on behalf of the developing-country G33 group, said the development agenda of the

Doha Round is critical and that S&D is vitally important.

According to trade officials, Indonesia also stressed on the importance of food security, livelihood security and rural development issues, as well as the implementation of all Bali issues, in particular, the issue pertaining to public stockholding for food security purposes. It urged members to engage on the basis of the July proposal made by the G33.

It said that Special Products (SP) and the Special Safeguard Mechanism (SSM) must be included. The Rev.4 draft agriculture modalities text should be the basis for the negotiations.

Weakest and most vulnerable

Uganda, on behalf of the least developed countries (LDCs), said that in 2013, the LDCs' share in world merchandise trade was notoriously stuck at 1%, with a staggering deficit of \$60 billion, and their participation in world services exports was not any better. It was a paltry 0.68%. "We had a widening trade balance of commercial services and registered a deficit of \$41 billion. There is limited diversification and most of our members are net importers. The biggest challenge remains how to integrate into world services trade."

It is no secret, Uganda said, that the LDCs remain the weakest and the most vulnerable members of the multilateral trading system. "It is also unfortunately clear that we have fallen short of meeting the development aspirations of the framers of the Doha Declaration," it said.

It recalled that on 21 July 2014, the LDCs had submitted a collective request to the WTO Council for Trade in Services. The ultimate objective of that collective request on the operationalization of the LDC services waiver is to help the LDCs increase their participation in services trade.

The LDCs had proposed 21 January 2015 as the date for the high-level meeting in line with the Ministerial Decision. However, in informal discussions held with members, the LDCs have tentatively agreed on 5-6 February 2015, taking into account some already scheduled calendar events.

Uganda said that the LDCs therefore look forward to the high-level meeting where non-LDC members in a position to do so shall indicate sectors and modes of supply where they intend to provide preferential treatment to LDC services

and service suppliers, which have commercial value and promote economic benefits to them.

On the work programme, Uganda said that while agriculture will set the level of ambition in the Doha Round negotiations, there should be balance between agriculture, NAMA and services. Development should be the centre of these negotiations and the principle of the "single undertaking" should be preserved in line with paragraph 47 (of the Doha Ministerial Declaration).

"We must focus on the conclusion of the DDA without introducing new issues. The draft modalities texts should be the basis of our negotiations. Language on special and differential treatment for LDCs and developing countries should be preserved. Further, we would be interested in discussions on domestic supports, especially those that distort the market, as well as export competition in line with the Hong Kong Ministerial Declaration," said Uganda.

On special and differential treatment, the LDCs believe that work should proceed along the lines of the mandate enshrined in paragraph 44 of the Doha Ministerial Declaration.

"People are always asking: what do LDCs want? Well, in response, we want to harvest legally binding and meaningful LDC-specific outcomes across the board," said Uganda.

According to trade officials, Chinese Taipei, on behalf of the recently acceded members (RAMs), said that the RAMs have already made extensive and deep commitments, much deeper than many previously acceding countries.

It said that the Rev.4 agriculture and Rev.3 NAMA texts should be the basis for future negotiations. The issues of agriculture, NAMA and services are interconnected and should be tackled together. There is a need to set objectives that are doable.

Lesotho, on behalf of the African Group, welcomed the adoption of the three General Council decisions (on 27 November), adding that these decisions have indeed set the work of the DDA in motion.

The African Group also welcomed the establishment of the dedicated website for the Trade Facilitation Agreement Facility and looked forward towards its full operation in order to assist in facilitating the implementation of the Trade Facilitation Agreement. The Group looked forward to engaging with

members in the weeks to come.

Brazil, on behalf of the G20, underlined the need to follow the Doha mandate and for S&D. Agriculture is the key, it said, and will be the benchmark for the landing zone in other areas. The Rev.4 agriculture text remains the basis for a successful outcome. Export subsidies should be eliminated in line with the Hong Kong Ministerial Declaration of 2005 and the 2013 Bali outcome, it said.

Speaking for itself, Brazil said that the multilateral approach is the way forward as far as it is concerned.

Restoring momentum

Kenya, on behalf of the African, Caribbean and Pacific (ACP) Group of countries, reiterated the Group's deep appreciation for the decisions taken on 27 November on food security, trade facilitation and on the post-Bali work programme. The decisions should help in restoring the momentum on the implementation of the Bali package, it said.

From the ACP perspective, some members of the Group already have public stockholding policies for food security purposes in place and a number of their schemes contain elements of price support. "While most ACP countries are well within their *de minimis* commitments, we should not completely discard any utility and certainty of the peace clause. On future schemes, ACP could benefit from a permanent solution that fully takes into account the situation and specific challenges facing ACP countries."

With respect to the Trade Facilitation Agreement Facility, the ACP Group said "we must now move quickly to fully operationalize it."

On the post-Bali work programme, Kenya said that the ACP Group has now moved to the next phase of preparing a modalities-type work programme as an input into the work of the TNC and the negotiating groups.

"Firstly, we must deliver the mandate on S&D and we are looking forward for constructive engagement. An outcome on S&D is critical in enhancing the development content of the DDA and to concluding the Doha Round. Secondly, on market access, we emphasize that our interests, in particular, the flexibilities, should be preserved based on Rev.3 for NAMA and Rev.4 for agriculture."

For services, the ACP Group emphasized the need for concrete commitments

in sectors and modes of supply of export interest to the members of the Group, including tourism, transport and travel, professional services and other business services; and Mode 4. In addition, "we must preserve the cardinal flexibilities for developing countries and LDCs inscribed in the General Agreement on Trade in Services (GATS) in any approach that may surface."

The ACP Group strongly urged members in a position to do so to participate in the LDC services waiver high-level meeting and provide meaningful preferences in response to the LDCs' collective request consistent with the timetable agreed by Ministers in Bali.

According to trade officials, Australia, on behalf of the Cairns Group of agricultural exporting countries, welcomed the resumption of work. It said that the work programme needs to focus on what is doable. There also needs to be a balanced outcome and balance in each of the three pillars in the agriculture negotiations (i.e., domestic support, export competition and market access).

Switzerland, for the G10, said that it is keen to engage. The three pillars in agriculture are clearly interconnected and must be seen from the point of view of the overall Doha Development Agenda.

Guatemala, on behalf of the small and vulnerable economies (SVEs), called for a transparent, inclusive and bottom-up approach that allows all members to participate. The development dimension is an objective that must be achieved. This is particularly important in agriculture, it said, adding that there needs to be focus on the Rev.4 agriculture text as the basis for the negotiations. The flexibilities in the Rev.3 NAMA text should be extended and maintained for SVEs.

Jordan, on behalf of the Arab Group, said that there should be no new issues until the Doha Round is concluded. The single undertaking is the only principle to ensure the right balance. It also stressed on S&D.

Shared responsibility

India (represented by Ambassador Anjali Prasad) associated itself with the G20 and G33 statements. It said that members are entering an important phase in the negotiations. "It is our shared responsibility to step up our efforts to prepare a clearly defined post-Bali work programme on the remaining

DDA issues central to the conclusion of the Round, as mandated in paragraph 1.11 of the Bali Ministerial Declaration, as well as advancing the discussion on all Bali Ministerial and related subsequent Decisions."

According to India, the ambition levels on the market access pillars – agriculture, NAMA and services – and in clarifying and improving disciplines in various negotiating areas would need coherence.

It is understood that the level of ambition across the negotiating areas would be governed by agriculture. A search for the right level of ambition is an important exercise which would require a frank exchange of views among members in the coming days and weeks. This will need to be done respecting the existing mandate and progress already achieved in the negotiations so far, it said.

India further said that "we have an opportunity in this Round to correct the inequities and imbalances in global trade rules, particularly in agriculture. Equally important would be to ensure outcomes that deliver on the promise of 'development' in the most effective manner and ensure that trade works as an engine of growth and development with substantial benefits for the weakest members of the WTO."

Members should seek equitable, balanced and development-oriented outcomes through an inclusive and transparent process, while respecting the spirit of paragraph 47 of the Doha Declaration, it said.

India said it has never been enthusiastic about selective segmentation of the negotiating mandate. "We should, therefore, desist from any temptation towards cherry-picking issues for early harvests. Instead we should work towards seeking balanced progress in all areas of the negotiations so as to arrive at an early conclusion of the Round."

According to trade officials, Cuba said that agriculture will determine the level of ambition and that the Rev.4 agriculture text should be the basis for the negotiations.

Zimbabwe supported the African Group and ACP Group statements.

China supported the G33, G20 and RAM statements. The Rev.4 agriculture and Rev.3 NAMA texts should be the basis for the negotiations, it said.

According to trade officials, the United States said that members need to work in a way that offers sensible ways

to move forward on the post-Bali work programme. It is fully engaged in evaluating agriculture, NAMA and services. Members need to start looking at a horizontal approach and to strike a balance between ambition and doability.

Argentina endorsed the G20 and Cairns Group statements. It stressed that agriculture is the most important element in the negotiations, the backbone of development in the Doha Round. Export subsidies must be eliminated, it added.

The European Union said that members need to move forward in the best possible conditions. It cited parallelism, simplification and proper respect for red lines.

Tenth Ministerial Conference

Under another agenda item, the General Council agreed that the Kenyan capital Nairobi will be the host city for the tenth session of the WTO Ministerial Conference (MC10), which is to take place on 15-18 December 2015.

According to trade officials, Amina C. Mohammed, Cabinet Secretary, Ministry of Foreign Affairs and International Trade of Kenya, who was present in Geneva for the General Council meeting, said that they are not only representing Kenya but have presented their candidacy on behalf of the whole of Africa – 42 WTO members and those in the process of accession. So, they are accepting this on behalf of the whole of the African continent.

As to what Africa and Kenya in particular would like to achieve at MC10, she said that Africa would like to see that at least two-thirds of WTO members, if not all, have ratified the Trade Facilitation Agreement so that it would be in force by that time.

Mohammed also said that Africa and Kenya would like to see a broad-based and balanced post-Bali work programme achieved by the target date of 31 July 2015. It needs to be something that responds to the current situation in the global economy.

According to trade officials, Turkey, which had earlier withdrawn its own candidacy to host MC10, thanked Mohammed, saying that her presence at the General Council meeting was a very encouraging and reassuring signal that there will be a successful organization of MC10. (SUNS7936) □

Rules, NAMA and TRIPS negotiating bodies hold meetings

In light of the July 2015 deadline for crafting the Doha Round work programme, WTO members have been meeting to kickstart talks in a number of areas under the Round's ambit.

by Kanaga Raja

GENEVA: The various negotiating bodies on the WTO Doha Round have begun to hold meetings following the adoption of the three General Council decisions on 27 November on trade facilitation, on public stockholding for food security purposes and on the post-Bali work.

The Negotiating Group on Rules (on 16 December), the Negotiating Group on Market Access for Non-Agricultural Products (NAMA, on 15 December) and the Special Session of the TRIPS Council (on 12 December) have held meetings at which members have been offering a range of views on their priorities for the post-Bali work.

The General Council decision of 27 November on the post-Bali work has set a deadline of July 2015 for agreeing on the work programme that was mandated in the 2013 Bali Declaration.

Anti-dumping and fisheries subsidies

An informal meeting of the WTO Negotiating Group on Rules on 16 December heard a number of members calling for the issues of anti-dumping and fisheries subsidies to be included in the post-Bali work programme for concluding the Doha Round.

At the meeting, several other members including the African Group said that clarity is needed on the issue of agriculture and the other core subjects in the Doha Round negotiations before detailed work in the Rules Group could begin.

According to trade officials, at the start of the meeting, the Chair of the Negotiating Group on Rules, Ambassador Wayne McCook of Jamaica, said that with the recent General Council decision that broke the Bali impasse, the negotiating bodies have been asked to meet on developing the post-Bali work programme. In this context, the Chair posed the following question to the members: "When do we begin working on substance, and what should this substance be?"

This elicited a range of views from the members. According to trade officials, New Zealand, speaking on behalf

of the "Friends of Fish" group, said that disciplines on fisheries subsidies should be central to the work of the Rules Group.

(The Friends of Fish group includes Argentina, Australia, Chile, Colombia, Costa Rica, Ecuador, Iceland, New Zealand, Norway, Pakistan, Peru, the Philippines and the United States.)

New Zealand cited a recent report from the UN Food and Agriculture Organization (FAO) which found that fish stocks continue to deteriorate in part due to fisheries subsidies that encourage overfishing and overcapacity. It said that "the time to act is now".

According to trade officials, Iceland, Colombia, Argentina, the Philippines and Australia voiced support for New Zealand's statement.

Dominica, speaking on behalf of the African, Caribbean and Pacific (ACP) Group of countries and the small and vulnerable economies (SVEs), voiced support for including fisheries subsidies in the work programme, with sufficient special and differential treatment being provided for small-scale fishing.

According to trade officials, Japan, on behalf of the "Friends of Anti-Dumping Negotiations" (FANs), said that the anti-dumping negotiations should be part of the post-Bali work programme.

(The Friends of Anti-Dumping Negotiations include Brazil, Chile, Colombia, Costa Rica, Hong Kong-China, Israel, Japan, Republic of Korea, Mexico, Norway, Singapore, Switzerland, Chinese Taipei, Thailand and Turkey.)

Japan proposed that the WTO secretariat organize a workshop on stocktaking of the anti-dumping negotiations, and that the Rules Group restart discussions on the non-controversial un-bracketed parts of the Chair's text.

Korea, Chinese Taipei, Norway, Colombia, Hong Kong-China, Switzerland, Singapore, Turkey, Thailand and Uruguay expressed support for Japan's statement.

According to trade officials, Brazil, India and Australia said that without clarity in agriculture and the other core issues, they would find it difficult to envisage starting work in the rules area.

Ghana, on behalf of the African

Group, said that clarity in the core subjects of agriculture, industrial goods and services is needed before detailed work in rules could begin. It cautioned members against "cherry-picking" issues from the rules mandate.

On fisheries subsidies, the African Group said that small-scale and artisanal fishing contributes to food security in developing countries.

According to trade officials, the European Union said that technical work in the Rules Group could resume in the near future. It called for further work on the transparency mechanism for regional trade agreements (RTAs). On fisheries subsidies, the EU noted that a number of members believe that the Group should not enter into discussions on this subject prematurely.

According to trade officials, China said that it supports strengthening disciplines and avoiding abuse in the use of anti-dumping measures. It said that the Rules Group could start discussions on the less controversial anti-dumping issues such as transparency, due process, expiry review and new shippers review. It said that it is open-minded regarding fisheries subsidies but stressed the need for taking into account the development dimension.

The US was of the view that members should focus first on the core issues of agriculture, industrial goods and services. With respect to anti-dumping, the US said that continuing the current discussions in the Technical Group is the best approach. It also strongly supported the Friends of Fish position. On regional trade agreements, the US said that there is nothing more to add, as the Group has fulfilled its mandate.

According to trade officials, in his concluding remarks, the Chair of the Rules Group said that many delegations have supported conducting a stocktaking of the negotiations, not only on anti-dumping but also on the other rules issues. However, a number of delegations are not convinced that this stocktaking is appropriate at this time, he added. He said that he will conduct consultations on this issue.

As to the views of a number of delegations that work in the Group could only begin once there is clarity on the core issues, the Chair said that he would like to know whether this is a flexible or an absolute position. According to trade officials, the Chair also asked what indicators from the core issues would be necessary to start work in the Rules Group.

In this context, he noted that some delegations have proposed adding fisheries subsidies to the work programme,

while some have suggested the issue of anti-dumping, with the initial focus on the easier aspects like the un-bracketed texts.

The Chair said that many delegations have emphasized the importance of the development dimension, including special and differential treatment for developing countries.

McCook informed the delegations that he would convene the next meeting of the Rules Group in late January or early February. He said that he sees an opportunity for work in the Group, but that this is in the hands of the members.

The development dimension

The NAMA Negotiating Group held its informal meeting on 15 December.

According to trade officials, many developing countries, including the African Group, the SVEs, the ACP Group and the least developed countries (LDCs), stressed the importance of the development dimension in the NAMA negotiations, including on elements such as non-reciprocity and special and differential treatment (S&D).

A number of them also expressed support for using the Rev.3 draft NAMA modalities text of December 2008 as the basis for the negotiations, in part because it contains these development provisions.

According to trade officials, a number of developing countries including South Africa, Venezuela and Mexico voiced objection to the use of the "Swiss formula" in cutting tariffs – as is contained in the Rev.3 text – because it does not provide sufficient flexibilities for developing countries.

The EU, Switzerland, Mexico, Uganda (on behalf of the LDCs) and Cameroon supported the inclusion of non-tariff barriers (NTBs) in the NAMA negotiations. Uganda said that for the LDCs, the main NAMA issue is not tariffs in the traditional sense, but NTBs such as rules of origin.

According to trade officials, many delegations including Ecuador, Australia, Brazil, Colombia, India, Canada and Russia stressed the importance of the agriculture negotiations, saying that progress in NAMA should be in parallel with that in agriculture.

Trade officials said that the US reiterated its opposition to using the Rev.3 text as the basis for the negotiations. The US also said that it could not see a way forward on NTBs.

Noting WTO Director-General Roberto Azevedo's recommendation for more involvement of officials from capi-

als, the US said that negotiating sessions on agriculture and NAMA should be scheduled in the same week.

According to trade officials, the Chair of the NAMA Group, Ambassador Remigi Winzap of Switzerland, said that it had been a useful first discussion.

With regard to the Rev.3 text, the Chair said that delegations must see what they want to get out of it, because as it stands, the text is not a recipe for success.

Winzap said that aside from thinking about what they need, delegations should also think about what would be acceptable to other delegations. The important thing, he said, is to get results. Thus, delegations must be as flexible as possible.

According to trade officials, the Chair invited delegations to consult with him individually in the days ahead on the NAMA issues.

Getting back to the substance

Meanwhile, the TRIPS Council in Special Session, where the negotiations on a multilateral register of geographical indications (GIs) for wines and spir-

its are taking place, met on 12 December.

According to trade officials, the Chair of the Special Session, Ambassador Dacio Castillo of Honduras, told members that "1 July 2015 is only 200 days away – we will have to think concretely about how to structure our work next year and how to get back to the substance of our mandate."

(The negotiations on the GI register have been inactive since early 2011 and only two meetings have been held since then, one in March 2012 and the other in April 2014.)

The Chair proposed starting with an informal information meeting, instead of a negotiating session, in February 2015. This would include a summary of what had taken place in the negotiations up to 2011, as a reminder to members on where the negotiations have reached.

According to trade officials, delegations did not offer any new ideas and said that the negotiations should not return to the substance until a clearer picture emerges in the negotiations on agriculture, NAMA and services. (SUNS7940) □

WTO members fail to reach deal on ITA expansion

The latest round of talks at the WTO to eliminate tariffs on a range of information technology products could not yield an agreement, reports Kanaga Raja.

GENEVA: A group of countries negotiating the expansion of product coverage under the Information Technology Agreement (ITA) failed to strike a deal at the WTO on 12 December.

The ITA, first negotiated among WTO members said to account for 90% of global trade in this sector and concluded in December 1996, brought about an agreement for tariffs to be reduced to zero by the participants in that accord, who then inscribed this concession in their schedules of commitments, thus multilateralizing it on an MFN basis.

According to information posted on the WTO website, the participants in the negotiations for expansion of the ITA are: Albania, Australia, Canada, China, Colombia, Costa Rica, Dominican Republic, El Salvador, the European Union (comprising 28 member states), Guatemala, Hong Kong-China, Iceland, Israel, Japan, Korea, Malaysia, Mauritius, Montenegro, New Zealand, Norway, the

Philippines, Singapore, Switzerland, Chinese Taipei, Thailand, Turkey and the United States.

After a suspension of more than three months, the negotiations on the expansion of the ITA resumed in the third week of October 2013 but broke down in late November of the same year over China's request to exclude a number of IT products from trade liberalization.

The talks picked up again in early December 2014 following a breakthrough between the US and China on the expansion of the ITA at the sidelines of the APEC summit in Beijing in November.

However, the latest round of the negotiations, currently being coordinated by the EU, broke down again on 12 December over the inclusion of some key high-tech items in the product coverage.

The breakdown was due to a stale-

mate between China and South Korea, with China refusing to go beyond items it had agreed with the US recently while South Korea insisted on the inclusion of, amongst others, LCD panels in the draft list of some 200 additional products that would have their tariffs reduced to zero.

Chinese Taipei, which had also wanted some items to be included in the list, reportedly supported South Korea, according to media reports.

“Missed opportunity”

In a statement issued on 12 December, US Ambassador to the WTO Michael Punke said that the US was gratified that the US-China breakthrough in November “allowed us all to get back to the table and that so much of the US-China breakthrough agreement has been embraced by our plurilateral process.”

The US trade envoy recognized “the significant flexibility” shown by a number of participants, mentioning in particular the flexibility shown by Costa Rica, Malaysia, Israel, Guatemala and Korea.

“Through the consultations over the last few weeks, it became clear that certain Members had important interests that were not fully captured by the bilateral agreement. And those members came a long way toward accepting 99% of that agreement, but asked that small adjustments be made in order to be able to accept the deal,” said Punke.

“Like everyone in the room, we are disappointed not to be celebrating a deal this week. We missed a big opportunity. All of us will need to go back to our capitals and reflect hard on next steps,” he said.

Speaking to journalists after the 12 December meeting, EU Ambassador Angelos Pangratis said that there had been “a lot of progress in many areas”. “We covered a lot of the distance that needed to be covered”, with a lot of flexibility by many participants, he said.

“We brought down the negotiations to a few key issues that are up to capitals to decide whether they can make it or not ... So, we basically decided to leave a little bit more time,” he added.

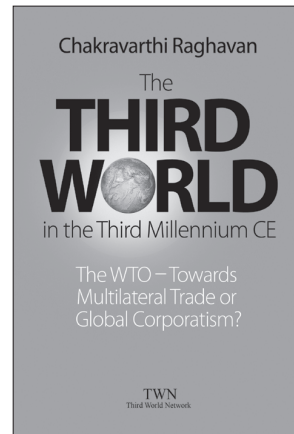
In a short statement issued on 12 December, WTO Director-General Roberto Azevedo said: “The participants have significantly reduced the gaps on expanding the coverage of the ITA in recent days but unfortunately it has not been possible to finalize the negotiations this week. I urge members to remain actively and constructively engaged as we try to bridge the gaps in these negotiations.” (SUNS7938) □

The Third World in the Third Millennium CE
The WTO – Towards Multilateral Trade or Global Corporatism?

By *Chakravarthi Raghavan*

THE second volume of *The Third World in the Third Millennium CE* looks at how the countries of the South have fared amidst the evolution of the multilateral trading system over the years. Even at the General Agreement on Tariffs and Trade (GATT) gave way to the World Trade Organization (WTO) as the institution governing international trade, this book reveals, the Third World nations have continued to see their developmental concerns sidelined in favour of the commercial interests of the industrial countries.

From the landmark Uruguay Round of talks which resulted in the WTO’s establishment to the ongoing Doha Round and its tortuous progress, the scenario facing the developing countries on the multilateral trade front has been one of broken promises, onerous obligations and manipulative manoeuvrings. In such a context, the need is for the countries of the Third World to push back by working together to bring about a more equitable trade order. All this is painstakingly documented by *Chakravarthi Raghavan* in the articles collected in this volume, which capture the complex and contentious dynamics of the trading system as seen through the eyes of a leading international affairs commentator.



ISBN: 978-967-0747-00-2 448 pages
14 cm x 21.5 cm Year: 2014

	Price	Postage
Malaysia	RM45.00	RM2.00
Third World countries	US\$18.00	US\$9.00 (air); US\$4.00 (sea)
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Changes to World Bank safeguards risk “race to the bottom”

The World Bank has come under fire from independent UN experts for allegedly seeking to dilute human rights considerations in its lending policies.

by Carey L. Biron

WASHINGTON: An unprecedented number of United Nations special rapporteurs and independent experts are raising pointed concerns over the World Bank's ongoing review of its pioneering environmental and social safeguards, particularly around the role that human rights will play in these revamped policies.

In a letter made public on 16 December, 28 UN experts raise fears that the Washington-based development funder could foster a “race to the bottom” if proposed changes go forward.

The document accuses the bank of selective interpretation of its own charter and its obligations under international law.

“[B]y contemporary standards the [safeguards revision] seems to go out of its way to avoid any meaningful references to human rights and international human rights law, except for passing references,” the letter, addressed to World Bank Group President Jim Yong Kim, states.

“[T]he Bank's proposed new Safeguards seem to view human rights in largely negative terms, as considerations that, if taken seriously, will only drive up the cost of lending rather than contributing to ensuring a positive outcome.”

The World Bank says its safeguards constitute a “cornerstone of its support to sustainable poverty reduction”, and the institution is currently updating these policies for the first time in two decades.

Yet when the bank released a draft revision of those changes in July, the proposal set off a firestorm of criticism across civil society.

Critics warn that the revisions would allow the World Bank to shift responsibility for adherence to certain social and environmental policies on to loan recipients, while prioritizing self-monitoring over upfront requirements. The new guidelines could also exempt

recipient governments from abiding by certain aspects of the policies.

The bank has since extended the period intended to gather response to the draft, which was supposed to end in December, through this coming spring.

Turning the clock back?

“The bank is not just any old actor in relation to these issues. It is the gorilla in the room,” Philip Alston, the UN Human Rights Council's special rapporteur on extreme poverty and human rights, told Inter Press Service (IPS). “What it does on safeguards, and what it doesn't do on human rights, makes a huge difference in terms of setting global standards.”

The letter, which Alston spearheaded, is a rarity in multiple ways. Not only are formal missives from the UN human rights system to the World Bank uncommon, but close observers say that no such previous letter has garnered the support of so many UN rights experts.

Those who signed the letter “are deeply concerned that the bank is planning to turn the clock back 20 years or more,” Alston says, “and replace its existing standards with a system that will simply pass the blame for ignoring human rights considerations on to others, thus letting the bank off the hook.”

Since the 1970s, the World Bank has been a pioneer in working to ensure that its development assistance does not lead to or exacerbate certain forms of discrimination or environmental degradation. Yet the institution has never mandated that the programmes it funds comply with international human rights standards, largely on the concern that politicizing the bank's lending could complicate its country-by-country anti-poverty focus.

(Others, including Alston, maintain that human rights can no longer be considered a political issue.)

Consensus is growing, however,

around the idea that sustainable development is impossible without a specific focus on human rights.

Other multilateral institutions, including the UN Development Programme, have explicitly brought their assistance guidelines in line with international human rights obligations.

At the same time, the World Bank is experiencing greater competitive pressure.

According to many analysts, including the UN experts' letter, this is due to the recent creation of several new multilateral development lenders, funded particularly by fast-rising economies including China, Russia and India. These entities are widely expected to put less emphasis on prescriptive and at times laborious requirements such as the World Bank's environmental and social safeguards.

In such a context, however, Alston and others say the bank has an added responsibility to focus on the results that, they suggest, only core respect for human rights can bring.

The bank's management counters that the institution has been a leader in highlighting the interdependence between respect for human rights and development outcomes for at least two decades.

Today, officials involved with the safeguard review maintain that both human rights and non-discrimination principles have been expanded upon in the new draft.

“Our draft proposal goes as far or further than any other multilateral development bank in the degree to which it protects the vulnerable and the marginalized,” Stefan Koeberle, the bank's director of operations risk, told IPS in a statement.

“We are currently engaged in extensive consultations on the draft, and we have received a variety of constructive proposals to strengthen the language further. We will continue to carry out our role as an organization charged with achieving poverty reduction and shared prosperity, through sound policies that achieve beneficial environmental, social and economic outcomes for all concerned.”

The concerns voiced by the UN experts come just after three US lawmakers told the Obama administration that the World Bank's safeguards revision was resulting in a “dilution of existing

protections”.

In a letter to US Treasury Secretary Jacob Lew, the lawmakers note that a November evaluation by an Asian Development Bank (ADB) auditor had “foreshadowed” some of these concerns. The trio urged US intervention.

“The Department of Treasury has a history of successfully leading coalitions that call upon regional and national development banks to implement strong safeguards,” the letter states. “We expect the Treasury to demonstrate similar leadership in this case, so that the World Bank’s safeguards are at least as strong as the strongest safeguards of the ADB and other multilateral financial institutions.”

The United States is the World Bank’s largest member, and watchdog groups say the new flurry of formal critical response is significant.

“UN human rights experts and the US Congress have joined the chorus of voices trying to shake the World Bank into finally recognizing that human rights should be central to all that it does, and particularly in safeguarding against harm,” Jessica Evans, a senior advocate with Human Rights Watch, told IPS.

If the bank refuses to institutionalize “rigorous human rights due diligence,” Evans continues, “the only conclusion that can be drawn is that the World Bank wants to retain an ability to finance violations of international human rights law while complying with its own policies.”

Bank officials say the next draft of the safeguards revision should be made public by mid-2015. (IPS) □

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

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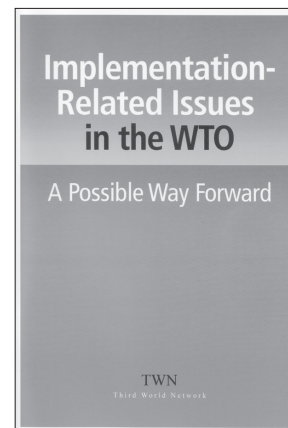
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Implementation-Related Issues in the WTO: A Possible Way Forward

The set of multilateral agreements under the jurisdiction of the World Trade Organization (WTO) governs the conduct of international trade. Implementation of the commitments imposed by these agreements has, however, given rise to a host of problems for the WTO’s developing-country members, ranging from non-realization of anticipated benefits to imbalances in the rules.

These implementation-related issues have been on the WTO agenda for over a decade, yet meaningful resolution is still proving elusive. This paper documents the progress – or, more appropriately, lack thereof – in the treatment of the implementation issues over the years. It looks at the various decisions adopted, to little effect thus far, by the WTO in this area, including the 2001 Doha Declaration which incorporates the implementation issues into the remit of the ongoing Doha round trade talks.

The paper exhorts the developing countries to draw upon the Doha mandate to bring the implementation issues back to the centrestage of negotiations. As a practical measure given the resource constraints developing-country negotiators face in the WTO, it is proposed that the implementation issues be taken up according to a suggested order of priority. Prioritization notwithstanding, the paper stresses that developing countries have every right to seek solutions to each of these longstanding, long-neglected issues.



ISBN: 978-967-5412-03-5 64 pp

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\$2 lost for every \$1 gained: how the global financial system fails developing countries

It's time to do something about a resource drain that sees over twice as much money flow out of developing countries as they receive in funding.

by Jesse Griffiths

This will make you angry. After six months crunching all the best data from international institutions, here's what we at the European Network on Debt and Development (Eurodad) found: for every dollar developing countries have earned since 2008, they have lost \$2.07. In fact, lost resources have averaged over 10% of their Gross Domestic Product (GDP).

We're not talking about all flows of money out of developing countries, just the lost resources: money that should have been invested to support their development, but instead was drained out. Twice as much is leaking – or rather flooding – out than the combined inflows of aid, investment, charitable donations and migrant remittances.

The graphic below shows the proportionate losses of resources compared to a dollar of inflows. The figures are in US cents, and are based on the average inflows and losses between 2008 and 2011. The four main lost resources shown in the graphic point to the problems, but also the solutions.

Loss one: corporate tax dodging

The biggest loss was illicit financial

flows – money that was illegally earned, transferred or used – which cost developing countries 4.3% of their GDP (\$634 billion) in 2011. Most of this involved illegal corporate tax evasion. As there is currently no way of estimating how much more is lost through aggressive tax avoidance, the real figure lost to corporate tax dodging may be much higher.

Part of the solution is corporate transparency. Companies: tell us who owns you, how you're structured, and where you make your money and employ your staff so the public – and tax authorities – can check you're paying your fair share. The European Union made some initial progress in 2013, forcing banks to open up their books, but much remains to be done. Another solution is to stop the "race to the bottom" that sees governments giving up on taxing corporations – corporate tax rates have been on the slide for years. The UN should take a lead and tackle all these issues head-on in a new global body.

Loss two: foreign investors making a killing

The second biggest loss is the profits extracted from developing countries

by foreign investors, totalling 2.3% of their GDP (\$486 billion) in 2012. In fact, since 2008, foreign investors have been taking more profits out of developing countries than new investments have been coming in. Foreign investment can provide major benefits to the countries that receive it, but only if it is carefully managed, so that it brings with it skills training and new ideas, and doesn't push out domestic investment (which, by the way, is several times larger than foreign investment in developing countries). The scale of the outflows suggests something is seriously wrong.

That's why we've called for a focus on the *quality* of foreign investment. We need to support developing countries to insist that investors obey social, environmental and human rights standards, to push investors to go where investment is really needed, and to prevent chaos when investors pull money out too rapidly.

Loss three: lending to rich countries (yes, really)

The third biggest loss is the money that developing countries are lending rich countries – mainly the US – which totalled 1.2% of their GDP (\$276 billion) in 2012 (though it has been much higher in previous years, which is why it comes out as a bigger loss in the accompanying graphic). Developing countries have been building very large reserves to protect their economies from external shocks. These reserves take the form of dependable assets, largely the bonds of rich countries. Every time a developing country buys a US Treasury bond it is lending money – at a low interest rate – to the US.

In theory, developing countries could borrow from the International Monetary Fund (IMF) in times of crisis, but the IMF remains dominated by Western countries and continues to insist on damaging austerity as a condition of lending.

Again, there are solutions on the table. In addition to allowing developing countries to regulate foreign money more tightly, the UN has proposed a form of global quantitative easing, issuing \$250 billion new reserve assets every year, with the majority going to developing countries.

Loss four: Paying interest on debts rather than receiving aid

The fourth biggest loss for develop-



ing countries is interest repayments on foreign debt, totalling 0.8% of their GDP (\$188 billion) in 2012. Let's leave aside the fact that developing countries would not have had to borrow so much if rich countries had met their promise to devote 0.7% of national income as foreign aid (only five countries have).

The central problem is that there is no mechanism to deal with unsustainable, unfair or unpayable debts of developing countries. The solution is elegant and currently on the table at the United Nations: an independent insolvency regime for states to help reduce their debts in a rapid, orderly and fair manner.

A call to action

It's clear that the global economic system has been failing developing countries, and the evidence could not be clearer: lost resources are double new inflows, and have been for some years. Many of the solutions are on the table: it's time to put them into action. □

Jesse Griffiths is Director of the European Network on Debt and Development (Eurodad). This article is reproduced from eurodad.org. The findings in the article are from the Eurodad report The State of Finance for Developing Countries, 2014.

whole century has been estimated at 1.6%.)

The conditions that created the Golden Age were exhausted by the late 1960s, however, as industrial profit rates started to decline in the US and continental Europe due to increased competition, particularly from the Asian "tigers" or "dragons" (Republic of Korea, Taiwan, Hong Kong and Singapore). In the meantime, Western banks were severely constrained in their ability to recycle the massive petro-dollar funds and the domestic savings of the newly emerging baby-boomer generation. Trumpets to "end financial repression" intensified with the so-called McKinnon-Shaw-Fama hypotheses of financial deregulation and efficient markets. A global process of financialization was commenced, lifting its logic of short-termism, liquidity, flexibility and immense capital mobility over objectives of long-term industrialization, sustainable development and poverty alleviation with social-welfare-driven states.

A number of researchers (e.g., Acemoglu 2009; Stiglitz 2011; Epstein 2005) and a series of reports from the United Nations Conference on Trade and Development (UNCTAD) have long warned against the dangers of excessive financialization and deregulation.

Under the new financialized capitalism, loanable funds are increasingly diverted away from the real sphere of economic activity and towards speculative finance. The global economy has grown too slowly and allocated too small a portion of its scarce savings into physical fixed investments that would enhance employment and generate incomes for the working poor. An ever-increasing portion of global profits is now generated from speculative finance, rather than productive activities. According to International Labour Organization (ILO) estimates in the *World of Work Reports*, financial profits currently constitute almost 50% of aggregate profits. This ratio was only a quarter in the early 1980s. As accumulation patterns diverged away from industry towards speculative finance, employment faltered

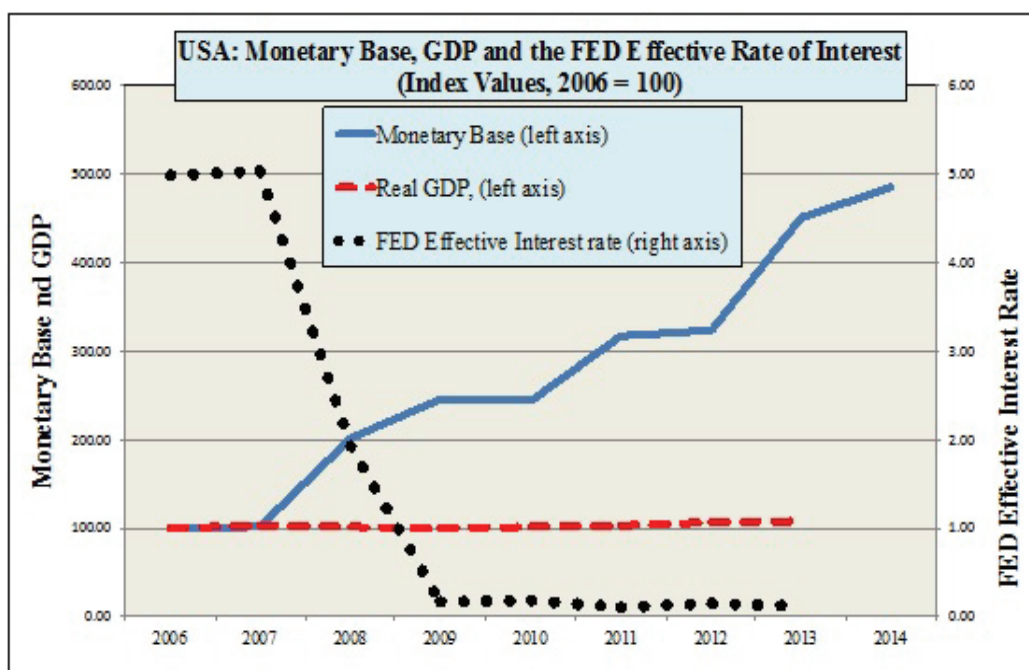
"The end of (monetary) history"

Seventy years after the historic Bretton Woods conference ushered in a new international monetary order, has monetary policy lost its effectiveness?

by Erinc Yeldan

2014 marked the 70th anniversary of one of the most innovative and exciting episodes of *homo economicus*: the Bretton Woods Monetary Conference. Convened in 1944 at the Mount Washington Hotel in New Hampshire in the United States, the conference established the World Bank and the International Monetary Fund (IMF) (later referred to as the Bretton Woods institutions) and set the gold standard at \$35.00 an ounce with fixed rates of exchange to the US dollar.

Based on John Maynard Keynes's famous dictum, "let finance be a national matter," and on the productivity advances of Fordist technology and institutional structures, the global economy expanded at a fast rate over the postwar era, from 1950 to the mid-1970s. Per capita global output increased by 2.9% per year over this period, which later came to be referred to as the "Golden Age of capitalism." (In contrast, the average rate of per capita growth over the



Source: US Bureau of Economic Analysis

(continued on page 16)

The second informal discussion on the third UN Financing for Development (FfD) Conference took place on 9-12 December at UN headquarters in New York. The Conference will be held in Addis Ababa in July 2015. The December preparatory meeting covered various topics related to the enabling international environment for development, trade and investment, technology, partnerships, governance, data and follow-up mechanisms for FfD. We reproduce below the Third World Network's inputs at the meeting on: (1) partnerships and (2) trade and investment agreements.

Partnerships and corporate accountability in the context of financing for development

In the context of the post-2015 development agenda, which includes the Financing for Development conference, the United Nations is witnessing the rise of a powerful multi-stakeholder partnerships paradigm. This particular governance model, which embraces a voluntary (rather than legally binding) and responsibility-based (rather than commitment-based) "partnership" approach with the private sector, has been influencing the content and debates of the Rio+20 sustainable development conference, the Open Working Group on the Sustainable Development Goals and, currently, the Financing for Development process.

This trend, which is in large part upheld by large transnational corporations and the governments invested in it, can be witnessed across almost every international institution in global governance, including the World Trade Organization, the World Bank and other multilateral and national development banks, as well as forums like the G20 and the World Economic Forum.

In the Sustainable Development Goals final text, partnerships are referred to in Goal 17, within targets 17.1 and 17.2 which are titled "multi-stakeholder partnerships." Both targets allude to only a bare-bones formulation of what these partnerships will entail, such as "mobilize and share knowledge, expertise, technologies and financial resources to support the achievement of sustainable development goals in all countries, particularly developing countries" and "encourage and promote effective public, public-private, and civil society partnerships, building on the experience and resourcing strategies of partnerships." There is virtually nothing with regard to accountability, oversight and governance over the said partnerships.

The UN must ensure that multi-stakeholder partnerships in the post-2015 context will be held accountable to delivering development results that are equitable and rights-based, are aligned to national and local needs, and uphold an enabling international environment for development, as well as sustainable development, through an enhanced and strengthened global partnership for development.

In this spirit, multi-stakeholder partnerships should not replace the singular partnership which is articulated in both the Monterrey Consensus outcome document as well as in the Millennium Development Goals. Indeed, the global partnership for development incorporates key elements under an international development cooperation framework that recognizes the critical importance of North-South cooperation and the global drivers and determinants that shape national policy space for development.

Some key elements of a global partnership for development are:

1. a development-oriented trade regime;
2. facilitating external debt sustainability;
3. regulating financial markets, including food and com-

modity price markets;

4. affordable access to technology and medicines for developing countries;

5. reforming the international monetary system; and

6. democratizing global economic governance, particularly in the international financial institutions.

The partnerships discourse in the Financing for Development conference must make due reference to the global partnership for development with a recognition that such a partnership is one that is principally between governments of developed and developing countries, with the developed countries taking the lead in providing resources and the means of implementation. It is imperative to recapture the term with its original meaning and not allow it to be isolated only as partnerships with the private sector and other external stakeholders.

Human Rights Council resolution for an international legally binding instrument on transnational corporations

A historic and significant resolution to start a process for an international legally binding instrument on transnational corporations (TNCs) was adopted by the UN Human Rights Council in Geneva on 26 June 2014. A result of mass mobilizations by civil society coalitions, resolution A/HRC/26/L.22, "Elaboration of an international legally binding instrument on transnational corporations and other business enterprises with respect to human rights," is a revival of previous efforts starting in the 1970s with discussions about a Code of Conduct for Transnational Corporations, and continuing into the late 1990s with the attempt to adopt the UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights.

All these efforts met with vigorous opposition from TNCs and their business associations, and thus all of the initiatives to hold corporations legally accountable ultimately failed. At the same time, many corporate actors have been successful in implementing public relations strategies that have helped to present business enterprises as good corporate citizens seeking dialogue with governments, the UN and decent concerned "stakeholders", and able to implement environment, social and human rights standards through voluntary corporate social responsibility (CSR) initiatives. The UN Global Compact and the UN Guiding Principles on Business and Human Rights are prime examples of an allegedly pragmatic approach based on consensus, dialogue and partnership with the corporate sector.

The resolution adopted by the Human Rights Council in June was co-sponsored by Ecuador and South Africa, and also supported by Bolivia, Cuba and Venezuela. In the vote on the resolution, 20 member states of the Council supported the resolution, while 13 members abstained and 14 members voted

against it. The delegation of Ecuador noted its conviction that the United Nations should continue to work on the issue of establishing binding international standards on the activities of TNCs. Ecuador's statement underlined that the existing Guiding Principles are "not binding standards", "are just a guide", and thus "are not mandatory".

The delegation of South Africa noted that its government holds a strong view that these entities, which are the primary drivers of globalization, cannot operate in a void. TNCs and other business enterprises often operate in an environment where appropriate national legislation to effectively regulate their operations, or mitigate the propensity for their violation of human rights, is either absent or very weak.

Experience shows that in countries of the North, where there are strong binding laws and regulations promulgated by national parliaments, violations of human rights by corporations are significantly minimized. A universal regulatory framework in the form of a binding instrument to provide legal protections, effective remedies, as well as a range of other measures in quest for protection of victims, is desirable and imperative.

The future success and operationalization of this treaty should be supported by the Financing for Development process here in New York.

Key concerns with the partnerships governance model

- The multi-stakeholder partnership model relies on the willingness of large corporations to report on their impact and voluntary commitments. This approach evades, or even subverts, the possibility of effective regulation of corporations by states, and instead reduces governments, especially in developing countries, to creators of an "enabling environment" for business (for example, through incentives and subsidies).

- An imbalance is also established where states are the sole duty bearers to guarantee human rights in a vacuum where corporations have only a vague and voluntary responsibility. This allows corporations to avoid sanctions for corporate abuses, which should be addressed by establishing a binding system of regulations, norms and a strong system of accountability for partnerships with private actors.

- The promotion of voluntary corporate social responsibility initiatives ignores structural drivers of inequality and the need for redistributive policies in order to facilitate a genuine sustainable development trajectory.

- There is a lack of clarity regarding the label "stakeholders" – which includes corporations and many "non-governmental organizations" that represent corporate interests. The very term "stakeholders" obscures the sharp power imbalances between various sectors and groups and the vast differences between their agendas. It also promotes a depoliticized model of governance that negates the different interests and power structures inherent in the global economic system.

- Armed with the investor-state dispute settlement clause in bilateral investment treaties as well as bilateral and plurilateral trade agreements, many multinational corporations have sued governments in closed-door arbitration tribunals for introducing or amending regulations and policies that reduce their profits or potential profits, even if the state regulations are intended to secure economic and social rights and prevent environmental harm. Multi-stakeholder partnerships in the post-2015 development agenda need to urgently address the threats posed by trade agreements and bilateral investment treaties to government regulations related to national devel-

opment priorities, such as health and the environment.

- The role of transnational corporations in the post-2015 agenda also needs to confront the controversial and much-publicized issue of tax evasion and avoidance, including the use of offshore tax havens, transfer mispricing and illicit financial flows from the South to the North.

Some recommendations for a way forward

- *An intergovernmental governance framework for multi-stakeholder partnerships, rooted in the international human rights framework and existing obligations in all three dimensions of sustainable development (economic, social, environment).*

The central objective of the framework would be to ensure accountability and ex ante assessment of partnerships. For this, there would need to be clear criteria, applied ex ante, to determine whether a specific private sector actor is fit for a partnership in pursuit of the post-2015 goals. UN member states would be at the helm of formulating the framework, including the criteria, the oversight and monitoring process based on due diligence reporting and independent third-party evaluations.

As outlined in the statement of the Righting Finance Initiative, such criteria should examine, at the least:

- (1) whether the private actor has an evidence-based history or current status of abusing human rights or the environment, including in its cross-border activities;

- (2) whether the private actor has a proven track record (or the potential) to deliver on sustainable development, as articulated by the UN outcome by 2015;

- (3) whether the private actor has previous involvement in acts of corruption with government officials;

- (4) whether the private actor is fully transparent in its financial reporting and ensures that it is respecting existing tax responsibilities in all countries it operates, and not undermining sustainable development through tax avoidance; and

- (5) implement a conflict of interest and public disclosure policy system-wide within the UN. This would entail systematic impact assessments and independent evaluations of the UN's relationships with businesses.

One key objective would be to eliminate potential private donors whose activities are antithetical or contradictory to the UN Charter, the Universal Declaration of Human Rights, and the Sustainable Development Goals framework.

Such a framework could be situated within the High Level Political Forum (HLPF), which would restructure the HLPF into a meaningful locus for accountability and governance in the post-2015 development agenda over the next 15 years.

- *The incorporation of partnerships in the Financing for Development conference must address the legal power of private investors and corporations in investor-state dispute settlement mechanisms under trade and investment treaties.*

While private investors and corporations have legally binding power over states, states currently only have recourse to voluntary and responsibility-based guidelines, such as the UN Business-Human Rights Guidelines, where all legally binding and accountable measures of governance over the private sector are precluded.

While several states have already taken measures to review their bilateral investment treaties in order to restore a balance in the role of foreign investors, more efforts are required. Without a development-oriented regulatory framework and national sustainable development policies, the role of big corporations, whether in or out of partnerships, will

not be a positive one.

Concerns on public-private partnerships

Public-private partnerships (PPPs) must not be endorsed at face value. Key concerns and risks must first be addressed through open and participatory intergovernmental discussion, not behind closed doors. Poorly designed PPPs can place disproportionate risks on the public partner and are less well suited to contribute to basic development needs that do not offer an economic return.

Private sector financing is profit-oriented and not required to invest in social needs and global public goods. The public sector, whose crucial roles are to finance social needs towards poverty eradication and finance global public goods, thus remains the lynchpin of a global strategy for sustainable development financing. Private finance is undeniably a part of the strategy, but should not be the core foundation.

Two central concerns of infrastructure-related PPPs are:

- costs and risks, particularly in the form of contingent explicit and implicit liabilities; and
- socialization of costs while privatizing the benefits – thus exacerbating inequality in income and access to the very infrastructure services.

The developmental role of the state is critical. This means that the state needs to be able to play a proactive developmental role in the governance of the economy, the regulation of the market and in ensuring that economic growth creates decent work and translates into equality, opportunity and well-being through ensuring the economic and social rights of people, including women's rights.

The following are 10 recommendations on PPPs (particularly in infrastructure project financing):

(1) Fiscal and public debt risks of PPPs should be properly accounted for and placed under public scrutiny through mechanisms for participation and accountability.

(2) Institutional and capacity pre-requirements for the success and effective functioning of PPPs should be in place before they are undertaken. Building competent and effective institutions for governance takes time and skills training, which are often incompatible with the need to deliver quick public-private partnership deals.

(3) Equity concerns should be addressed in distribution, access and affordability of infrastructure and services. Providing access alone has proven to be insufficient; it is equitable and affordable access that is an essential dimension to fight poverty.

(4) Regulation and enforcement in infrastructure projects is necessary, particularly of laws, policies and safeguards to

ensure the economic and social rights of people, including women's rights, as well as environmental protection and sustainability. Regulations include rules against tax evasion and tax loopholes. For example, all firms involved should be required to disclose annual information related to taxes paid, profits made, sales, and information regarding beneficial ownership, including trusts, foundations and bank accounts.

(5) Align private sector financing with developing countries' investment and development priorities. Developing-country ownership should be respected by aligning investments with national development strategies, including national industrial and agricultural policies and strategic priorities for scaling up the domestic private sector. A coherent framework that sets clear guidelines for alignment and ownership, and regular reporting on results have been recommended by many actors as a first step forward;

(6) Make development outcomes the overriding criteria for project selection and evaluation. One possible requirement could be that development outcomes be disclosed at the project, not the aggregate, level, which could improve accountability of public-private projects to affected communities.

(7) Prioritize domestic micro, small and medium enterprises (MSMEs) and companies over foreign companies. This is essential for private investments to actually support the development of competitive and locally owned private industry.

(8) Compliance with international human, social and environmental standards. Adherence to rights and standards must be ensured through regulatory systems and governance institutions, through third-party and independent monitoring, among other mechanisms.

(9) Set higher standards for transparency of financial intermediary investments and review their use of investments. Besides improved reporting by financial intermediaries to both governments and the public, criteria can be developed whereby public agencies only channel financing to intermediary institutions if the investment flows can be tracked and investigated.

(10) A broad range of financing forms from the public to the private exists, including a diversity of forms of association and partnership that are available for building and financing infrastructure. These various financing forms should be openly discussed with the participation of affected communities and groups, where their distributional consequences are debated in transparent and open ways. □

This statement was drafted by Bhumika Muchhala on behalf of the Third World Network, using TWN materials and analyses as well as those of TWN's partners.

Trade and investment agreement reforms in the context of financing for development

An enabling international environment for development is one that allows every country to pursue development objectives according to its own priorities with policies of its own choice. To have this policy space, it is necessary to reform multilateral and bilateral arrangements to allow developing countries to use as many economic policies as developed countries used during their own economic growth, social development and industrialization.

The WTO and bilateral and plurilateral trade and invest-

ment agreements are adversely affecting people's rights, including the national right to development, through various means: tariff cuts in key sectors like agriculture, infant industries and essential services; unfair agricultural subsidy rules; requiring financial investments in natural resources, sensitive goods and services; and a longstanding refusal to grant full special and differential treatment to developing and least developed countries.

Agricultural subsidies disbursed by developed countries

have negatively affected food producers across the developing world, particularly sensitive sectors such as cotton farmers, and have threatened productivity and agricultural growth, especially for small farmers.

Recently in the WTO, a tense dispute on the provision of essential subsidies to small producers for supporting a public food distribution programme has challenged the right to food of the people in India. The struggle to defend this food security provision highlights the importance of government purchase and public stockholding of food in safeguarding domestic food security in developing countries as well as in providing a buffer against global food price volatility. If food security and long-term agricultural production growth is to be ensured across the developing world, there is a need to provide a permanent solution for public stockholding by developing countries for food security along the lines of the G33 proposal in the WTO.

Ensuring adequate policy space for industrial development

Particular policy tools have proven to be historically indispensable to the autonomous and domestic industrialization process by facilitating diversified, employment-creating and value-added economies where industries and sectors are connected through backward and forward linkages, create positive synergies and spillovers, and stimulate a virtuous cycle of economic growth and investment, and consumption and production.

All industrialized economies except Hong Kong used infant-industry protection to industrialize. The possibility of using infant-industry protection should be recognized in any WTO negotiations on non-agricultural market access (NAMA), including negotiations on sectorals, on the Information Technology Agreement (ITA) and on environmental goods.

Implementation-issue discussions at the WTO have included a demand for a permanent exception to the prohibition in the Agreement on Trade-Related Investment Measures (TRIMs) of local-content requirements for developing countries, as these were widely used by developed countries when they were industrializing.

One way of achieving value addition which has been widely used by developed countries such as the UK and developing countries is export taxes on raw materials. Indonesia's successful transformation from exporting raw logs into the largest plywood exporter in the world (from a 4% market share to 80%) in a few years is due to a combination of export taxes, export restrictions and government procurement of domestic plywood. India and Kenya have both boosted their leather industries by imposing export taxes on raw leather. However, a 2011 text by the Chair of the NAMA negotiations in the WTO contains a European Union proposal to bind export taxes at a level to be negotiated (except for LDCs). This would be damaging for value addition in developing countries. In fact, this is already the case in free trade agreements (FTAs) with developed countries, which often ban export taxes.

Bilateral investment treaties block key tools for economic stability

The International Monetary Fund, the Commission of

Experts of the President of the UN General Assembly and other experts recognize the role of capital controls on hot money inflows and outflows in reducing the likelihood of financial crisis and preventing quicker and easier exit of such volatile short-term capital flows. Yet some bilateral investment treaties (BITs) and investment chapters under FTAs prevent capital controls, even under financial crises.

The severity of development challenges imposed by BITs and FTAs is acutely highlighted by the investor-state dispute settlement mechanism. The investor-state dispute settlement clause in many such agreements allows transnational corporations to sue governments in closed-door international arbitration cases for extraordinary financial sums. This phenomenon is freezing public interest policy regulation worldwide. Most developing-country governments lose these cases due to lack of adequate financial resources to fight. More than 50% of these cases are in the area of natural resources, threatening access to clear water and air, land, and preventing environmental sustainability and conservation. They also disproportionately punish women and children, indigenous and local communities, and the elderly.

In fact the majority of the known outstanding investor-state dispute cases under the US' FTAs and BITs (totaling \$11 billion in claims) relate to natural resource policies. Nearly half of the 129 cases pending before the World Bank's investment dispute facility relate to natural resources. Threats to natural resources and access to water also have a disproportionate impact on marginalized groups such as indigenous peoples, women and children.

In a growing number of cases, transnational corporations have sued governments for implementing regulations, often those related to health or environmental concerns, that could harm their current or future potential corporate profits. For example, several Latin American governments have been facing a proliferation of lawsuits brought by transnational corporations due to BITs that were signed back in the 1990s.

This includes, most prominently, a legal battle between the government of Ecuador and the oil company Chevron. In November 2013, Ecuador's highest court upheld a ruling against Chevron that found the US oil company responsible for the contamination of large parts of Ecuador's Amazon region. The court ordered Chevron to pay \$9.5 billion. Chevron turned the tables and instead is seeking to evade this ruling by asking an investor-state tribunal to second-guess the decision. Chevron claimed that the ruling issued in the Ecuadorian legal process was a violation of extraordinary investor privileges enshrined in a US-Ecuador BIT.

In similar cases, tobacco companies such as Philip Morris have sued Uruguay and Australia for introducing compulsory health warnings on cigarette packets. 2012 saw the highest number of international claims filed against states by foreign companies, with 66% filed against developing countries.

In addition, the "TRIPS-plus" provisions in BITs and FTAs include such measures as data exclusivity, patent term extension, evergreening and enforcement measures. These measures are used to raise intellectual property standards, which push smaller and lower-cost producers in developing countries out of production while also raising costs of essential medicines and healthcare, agricultural inputs and therefore food prices.

Even the use of flexibilities allowed by the WTO's TRIPS (Trade-Related Aspects of Intellectual Property Rights) Agree-

ment to protect public health or the environment is being challenged. The definition of "investment" in BITs and in FTA investment chapters now includes intellectual property rights, which automatically gives rights holders a high level of protection.

While BITs and FTAs are supposed to both protect foreign investors and benefit recipient countries, the World Bank and others have found that there is little correlation between having an investment treaty and increased investment.

Recommendations in the area of trade and investment agreements

- A comprehensive review of all trade agreements and investment treaties, in particular the investor-state dispute settlement mechanism, to identify all areas where they may limit developing countries' sovereign right to carry out key regulations, including the ability to prevent and manage crises, regulate capital flows, protect the right to livelihoods and decent jobs, enforce fair taxation, deliver essential public services and ensure sustainable economic and social development.

- A review of all intellectual property rights regimes that have been introduced in developing countries through FTAs, to identify adverse impacts on public health, the environment and technology development, among other areas.

- Governments must undertake mandatory human rights impact assessments of multilateral, plurilateral and bilateral trade and investment agreements, especially North-South agreements, focusing especially on the right to development and the specific rights to food, health and livelihood, taking into account the impact on marginalized groups.

- Address the longstanding problem of agricultural subsidies in developed countries that threaten the stability of agricultural growth and productivity in developing countries, especially for small farmers.

- Provide a permanent solution for public stockholding for food security by developing countries along the lines of the G33 proposal in the WTO in order to ensure food security and long-term agricultural production growth across the developing world.

- Recognize the use of infant-industry protection in any WTO negotiations on NAMA, including negotiations on sectorals, on the Information Technology Agreement and on environmental goods.

- Establish a permanent exception to the prohibition of local-content requirements for developing countries in the TRIMs Agreement, as local-content requirements are a key tool for the domestic industrialization process.

- Reverse the ban on export taxes on raw materials in FTAs and protect the use of export taxes in the WTO, as such taxes are a fundamental tool to achieve value addition in domestic economies and thereby spur economic and social development.

It is obvious that a serious rethink of global trade and investment rules is needed if they are to move in tandem with the world's development needs. If the global leadership is serious about delivering on a global development agenda, development-centred changes in trade-related rules and institutions are a prerequisite. □

This statement was drafted by Bhumika Muchhala on behalf of the Third World Network, using TWN materials and analyses as well as those of TWN's partners.

(continued from page 11)

and the global economy entered a phase of "casino capitalism" with international productivity gaps being maintained due to structurally persistent differences in physical infrastructure and human capital.

We know where this story led. As the speculative bubbles of finance erupted in 2008, a real-sector crisis developed that would lead to what has been called the Great Recession. Output declined in 2009 for the world as a whole, for the first time since the 1930 crash. Some 20 million people were added to the reserve army of the unemployed, bringing the total to above 200 million, or 7% of the global labour force.

The main policy intervention in response to the crisis – monetary expansion – was again based on the conventional recipes of the Bretton Woods system. Under a policy referred to for public relations reasons by the esoteric name of "quantitative easing," the US Federal

Reserve (the "Fed") amassed a total of \$3 trillion worth of assets from the financial markets. This equalled roughly 20% of US GDP. In turn, interest rates fell all around the globe to virtually zero; yet unemployment barely fell to the pre-recession levels despite the fact that the labour-force participation rate was reduced sharply to its 1970s level.

These large monetary interventions barely made a dent in the real sector, with GDP in the US and elsewhere remaining stagnant throughout the Great Recession. The accompanying figure summarizes these developments.

The figure illustrates, vividly, the most decisive example of the "end of history" – monetary history, that is. The dramatic expansion of the monetary base and the equally dramatic collapse of interest rates are clear. Everything works in textbook fashion up to that point. But the effect in terms of real output is overwhelmed by the conditions of the Great Recession. In the absence of an effective real rise of investment demand, the ex-

pansion of the monetary base and the collapse of interest rates have had a negligible effect on GDP. That means that the instruments of monetary policy are virtually powerless.

What a nightmare for a central banker!

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