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Nairobi conference exposes North-South faultlines over UNCTAD

UNCTAD, the United Nations' leading economic development agency, emerged from its latest quadrennial conference, held in Nairobi on 17-22 July, with a renewed mandate for its work. However, the difficult negotiations leading up to the Nairobi outcome underscored the divisions between developed and developing countries surrounding the role of UNCTAD as the UN's focal point for the integrated treatment of trade, finance, investment and technology.

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UNCTAD's roles reaffirmed, but only after significant wrangling

The UN's leading development organization concluded its latest conference with the adoption of an outcome declaration, but the difficult process in attaining agreement reflected the shaky state of North-South relations.

by Martin Khor

PENANG: The United Nations' leading development organization UNCTAD recently obtained a renewed mandate for its work, but not without difficulty.

This is because the developed countries are now much more reluctant to give concessions to the developing countries, thus showing up the present shaky state of North-South relations and of development cooperation.

The 14th session of the United Nations Conference on Trade and Development (dubbed UNCTAD 14) concluded in Nairobi on 22 July with an agreed declaration on global economic issues. It also gave UNCTAD another four-year mandate for its activities of research, inter-governmental meetings and technical assistance.

Reaching this consensus was hailed as a success in multilateral cooperation on trade, development and related issues. However, an agreement was reached, on what should have been non-controversial issues, only after a lot of difficult wrangling between the developed and developing countries.

Formed in 1964, UNCTAD is the UN's premier economic development organization. In its heyday from the 1960s to the 1980s, it was the world's most important negotiating forum on trade issues, specializing in global commodity agreements. It helped lead the developing countries' initiative for a "new international economic order". It was also designated the UN's focal point for the integrated treatment of trade and development and with areas of finance, technology and investment.

For over half a century, UNCTAD has championed the cause of developing countries. But in recent decades, under the influence of developed countries, its role was downgraded. Many of its important issues were passed on to other organizations, over which the developed countries have more control, such as the Organization for Economic Cooperation and Development (OECD), World Trade Organization (WTO), International Mon-

etary Fund (IMF) and World Bank.

The developing countries have had to fight continuously to slow down or stop the decline of UNCTAD and the UN in general.

Contested points

At UNCTAD 14, the delegations spent hectic days and sleepless nights on thrashing out hundreds of disputed paragraphs of the conference declaration, which could not be agreed on even after many months of negotiations in Geneva.

Principles or even phrases that have long been agreed to as part of global cooperation are now challenged or even made taboo by the developed countries. They had previously been amenable to placing on record the need to transfer technology and provide financial resources and special treatment to developing countries. Now it is considered almost too sensitive to propose language on "additional financial resources" and "technology transfer", while big battles have to be waged to reaffirm the long-accepted principles of "common but differentiated responsibilities" and "special and differential treatment" for developing countries.

The developed countries have become less secure in their domination over the global economy and thus are no longer willing to recognize many of the rights of and concessions to the developing countries that are embedded in the global development system.

It was thus a big challenge for the developing countries, led by their umbrella group, the Group of 77 and China, to get their developed-country partners to reach a consensus at UNCTAD 14, as illustrated by the following examples.

First, the developing countries fought to reaffirm the need for countries to have "policy space". This concept, agreed to at an earlier UNCTAD conference, implies that developing countries should be given the right to make use of policies and instruments required for

their development. Many trade and investment agreements have been identified as containing provisions that restrict or even eliminate the ability of developing countries to pursue pro-development policies.

The developing countries proposed language on policy space in many parts of the declaration, but they faced resistance. Eventually only a mild and conditioned reference was accepted, as follows: "... and respecting each country's policy space while remaining consistent with relevant international rules and its commitments" (paragraph 3 of the declaration).

Second, the developing countries wanted an expanded mandate for UNCTAD's important work on external debt issues. UNCTAD has been the UN system's main organization on debt; it has championed debt relief for poor countries and the need for an international debt restructuring mechanism to resolve debt crises.

Developing countries wanted to stress that UNCTAD has a role in the prevention and resolution of debt crises and not just debt management, but this faced objections.

Further, language was introduced to narrow the scope of UNCTAD's debt work to one of complementing the work of the IMF and World Bank, which would have curbed its independence.

At the last minute, developing countries managed to add "as appropriate", implying that the "complementing" function would be used only at UNCTAD's own discretion.

Third, the developing countries wanted to mention the need to rapidly conclude the Doha Round of trade negotiations at the WTO. This is hardly a radical idea since the need to conclude the Doha talks has been a longstanding mantra for many years in international discussions and many declarations on development.

However, the developed countries have recently decided to give up on the Doha Round altogether, to the frustration of developing countries. Thus, at their insistence, work on the Round was not even mentioned in the UNCTAD 14 outcome.

Fourth, in many other fora, including the UN climate change negotiations, "technology transfer" has become a taboo phrase, with even its mention being opposed, especially by the US.

It is to the credit of developing coun-

tries that this term appears several times in the UNCTAD 14 declaration, including that UNCTAD should assist developing countries to identify ways to operationalize technology transfer [paragraph 40(f)].

Fifth, the need for international co-operation on tax issues (including how to deal with tax evasion, tax avoidance and tax havens) has become a hot topic recently.

Most developing countries have been excluded from the international discussions on these issues as they are mainly held at the OECD (the club of developed countries), of which they are not members.

They asked during the UNCTAD negotiations for the setting up of a UN committee on tax issues at which all countries could discuss and make decisions, but this was not acceptable to the developed countries.

However, the final document does mention taxation a number of times, thus providing UNCTAD a mandate, though a limited one, in pursuing the issue.

Reaffirmation

There were other positive elements too at UNCTAD 14.

The role of UNCTAD as the focal point in the UN system dealing in an integrated manner with trade and development and interrelated areas of finance, technology and investment was reaffirmed.

Also reaffirmed is the importance of UNCTAD's "independent development oriented analytical work". And the conference gave a fresh mandate for UNCTAD's work in the next four years.

These reaffirmations of UNCTAD's roles and mandates were hailed as a victory, for it had been uncertain until the last hours of the conference whether an overall agreement could be reached on the declaration.

This situation depicts the underlying conflicting positions, with the South desiring that UNCTAD expand its mission to champion the cause of development and the North attempting to restrict the role of UNCTAD to a bare minimum.

As UNCTAD 14 neared conclusion, UNCTAD Secretary-General Mukhisa Kituyi remarked: "I'm delighted that our 194 member states have been able to reach this consensus, giving a central role to UNCTAD in delivering the sustainable development goals."

It is to the credit of the developing countries and the G77 and China that they succeeded in having many of their main points, although in diluted form, included in the UNCTAD 14 outcome.

Although it may not have the same clout as during its high years some decades ago, UNCTAD lives on to fight another day. (IPS) □

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

UNCTAD 14 adopts Nairobi Azimio and Nairobi Maafikiano

UNCTAD 14 concluded after adopting a political declaration and a negotiated consensus outcome document which framed the agenda for UNCTAD's work over the next four years.

by Kanaga Raja

NAIROBI: The closing plenary of the 14th session of the United Nations Conference on Trade and Development (UNCTAD 14) on 22 July adopted both the Nairobi Azimio (political declaration) and the Nairobi Maafikiano (consensus outcome) that sets out the work of UNCTAD for the next four years.

The closing plenary was followed by a closing ceremony that brought to a close the six-day event that began on 17 July.

"I'm delighted that our 194 member states have been able to reach this consensus, giving a central role to UNCTAD in delivering the sustainable development goals," UNCTAD Secretary-General Mukhisa Kituyi said.

"With this document, we can get on with the business of cutting edge analysis, building political consensus, and providing the necessary technical assistance that will make globalization and trade work for billions of people in the global

South.”

Earlier, on 22 July morning, the UNCTAD 14 Committee of the Whole (COW) had adopted the consensus outcome after holding a long session over the previous night and into the morning to try and finalize the document. This resulted in the closing plenary being delayed by about five hours.

At a media briefing following the COW session and before the closing plenary, Amina Mohamed, Kenya's Foreign Affairs Cabinet Secretary and president of the UNCTAD 14 conference, said that two documents had been adopted (in the COW). The first was the Nairobi Azimio (or political declaration) that was done under the responsibility of the Kenyan government, hosts of the conference. The second document was the negotiated outcome, which had been given a Kenyan name as well – the Nairobi Maafikiano, which basically means the Nairobi Consensus – and which was adopted ad referendum (in the COW), she said.

“We are really, really happy that we have been able to get a deal done” amongst the 194 member states of UNCTAD, said Mohamed, who called it “a good day for Kenya, a good day for UNCTAD, a good day for the international community, a big win for multilateralism”.

Commitments secured

Speaking to the *South-North Development Monitor (SUNS)* following the end of the COW session, Ambassador Wayne McCook of Jamaica, chair of the developing-country Group of 77 and China, said that “the G77 and China have focussed on finding ways to ensure that the commitment to strengthening UNCTAD was achieved.”

“We wanted to do so both in terms of the traditional mandate of UNCTAD for trade and development and also with respect to the role that UNCTAD needs to play in the achievement of the Sustainable Development Goals,” he said.

“The themes and sub-themes that guided us in preparation of the outcome and the mandate were very clear and the work that we did was focussed on seeking to give effect to those themes and commitments.

“I think you will see that we have looked at strengthening the intergovernmental machinery, which of course has been one of the pillars of UNCTAD that has not really been given its full potential, and we've addressed a number of key areas,” McCook said.

The G77 and China chair said that

“we were able to secure commitments to work in the areas of debt and taxation in ways that were possible given, as you know, the context in which we now have to approach these questions in UNCTAD.”

“But I think by and large, when you look at the principles that we have secured, I think we have restored to the document all the key principles, one of which we had lost – policy space – and had to be made [the] focus of a particular commitment.

“And then of course to ensure that in all areas of the mandate, we secured continued commitments within the mandate, and in some areas, as we did in tax, we, in a rather limited but important way, ... have brought it into the picture,” said McCook.

Also speaking to *SUNS*, Ambassador Christopher Onyanga Aparr of Uganda said that “my impression is that at least we have done something” that, when properly utilized and implemented, should be useful for developing countries. “It has been hard but I am happy we were able to work through.”

Asked about UNCTAD's mandate, he said, “I think it has been whittled down a little bit. I would have loved it to increase but I think the mandate has been whittled down a bit.”

He said that the positive aspect of the outcome document was in accommodating “our feelings about how the de-

veloped world is going to interrelate with us as developing countries.”

The issue of policy space, while not well articulated, was also imbued (in the outcome document), he said.

One conference source, who spoke to *SUNS* on condition of anonymity, said that among the positives in the outcome document were on illicit trade flows, structural transformation of African economies and their integration into the world economy being undertaken by the African countries themselves, the issue of taxation, and the issue of coherence (national, regional and multilateral policies).

Speaking on the outcome document, other conference sources said that UNCTAD's mandate had been preserved or maintained rather than enhanced, and that it had been a tough fight to preserve the mandate.

Another source told *SUNS* on condition of anonymity that the Group B (developed countries), despite strong protests by civil society, had gone back on the outcomes of the International Conference on Financing for Development held in Addis Ababa last year. The European Union, in particular, was negotiating from a position of weakness, the source said.

Yet another source told *SUNS* that the EU's disengagement in Geneva had delayed the process. (*SUNS8289*) □

Nairobi Maafikiano sets UNCTAD's work for next four years

The 14th session of the United Nations Conference on Trade and Development (UNCTAD 14) ended on 22 July with the adoption of two documents, one of which is the Nairobi Maafikiano, or the Nairobi consensus document, which sets out the work programme for the organization for the next four years.

Some excerpts from the Nairobi Maafikiano (advance copy dated 22 July 2016), which is titled “From decision to action: Moving towards an inclusive and equitable global economic environment for trade and development”, are reproduced below.

Introduction

“4. The timing of UNCTAD XIV provides an invaluable opportunity to move from decisions to actions in moving towards an inclusive and equitable global economic environment for trade and de-

velopment, and thereby to be true to the commitment enshrined in the United Nations Charter to promote social progress and better standards of life in larger freedom. The aim is therefore to develop a consensus about the actions required to realize the global development agenda, including the sustainable development goals, through contributing to the establishment of a holistic trade and development agenda based on the principles enshrined in the United Nations Charter, and thus better address persistent and emerging economic challenges. It also requires the leadership of an adequately resourced, relevant, coherent, efficient and effective United Nations, stressing that UNCTAD has a distinct role to play in carrying forward the trade and development mission of the United Nations.”

"9. In an ever more complex and interdependent global economy, trade and interrelated issues in the areas of investment, finance and technology are key drivers of the inclusive, equitable global economic environment for sustainable development to which the 2030 Agenda aspires. As the focal point of the United Nations for the integrated treatment of those issues, and with its universal membership, UNCTAD thus has a critical role to play in advising on the policy dimensions of trade and sustainable development and supporting the actions which flow from recent global agreements and outcomes, while promoting the integrity and the complementarity of the three dimensions of sustainable development. The recent celebration of the fiftieth anniversary of UNCTAD is a reminder of how much the trade and development context has changed in this period and of the importance of the historical context and of the founding principles of UNCTAD and subsequent experience in plotting the course ahead. In moving forward to a new chapter, past achievements and failures and the lessons to be learned from those experiences should be reflected on."

"11. Reaffirming the Doha Mandate, this document provides updated policy analysis and policy responses, as well as guidelines to enhance the developmental role, impact, and institutional effectiveness of UNCTAD. In a manner that preserves its mandated role, UNCTAD should strategically position itself by translating into practice the following principal criteria: comparative advantage; differentiation of its work with respect to other organizations; and complementarity, so as to put the organization's strengths to the best use to address the needs and priorities of developing countries for sustainable development and strengthening their role in the global economy."

"12. The important role of UNCTAD will be strengthened as the focal point in the United Nations for the integrated treatment of trade and development and interrelated issues in the areas of finance, technology, investment and sustainable development."

"14. In strengthening the role of UNCTAD, and in carrying out its activities, in accordance with its mandate and through utilizing its available resources, the work of UNCTAD through its three pillars should give priority to issues of developing countries. It should effec-

tively contribute to achieving the Sustainable Development Goals and relevant targets set in the outcomes of other major United Nations conferences, continue to promote synergies and complementarities with other international organizations and work with relevant international economic cooperation forums where appropriate. ..."

Sub-theme 1: Challenges and opportunities in multilateralism for trade and development

"20. Global trade is identified by the Addis Ababa Action Agenda as an important engine for inclusive economic growth, sustainable development and poverty reduction, and the multilateral trading system as embodied by the WTO is the primary channel for its promotion. A strong, efficient and rules based multilateral trading system is also a key element in generating the significant opportunities that come with globalization, as well as in finding solutions to the challenges of globalization. These include fuller integration of developing countries into the global economy. To this end, a universal, rules-based, open, transparent, predictable, inclusive, non-discriminatory and equitable multilateral trading system under the WTO, as well as meaningful trade liberalization with appropriate supporting policies, are needed."

"24. ... Given growing concerns about external debt sustainability, public debt management to prevent and preempt financial and debt crises is important. The need for a central data registry including information on debt restructurings has also been recognized. In this regard, UNCTAD's longstanding work on debt issues within the UN – including through promotion of its principles on responsible sovereign lending and borrowing, is recognized. The work of the UN, IMF and World Bank remains important."

"25. Investment can be a powerful means to support the achievement of the sustainable development goals. Investment can bring innovative technology, can stimulate production and employment, and can enable access to international markets for better expertise and increased development opportunities. The international community should continue to cooperate and engage in dialogue with a view to maintaining a conducive policy environment for investment, and addressing shared investment policy challenges. Governments reaffirm

the right to regulate investment for legitimate public policy purposes."

"27. Effective taxation will be critical in the mobilization of resources for implementation of the SDGs and overall economic advancement of developing countries. This includes reducing opportunities for tax avoidance; as well as addressing illicit financial flows and the activities that underlie their occurrence, such as tax evasion, illegal exploitation of natural resources, corruption, embezzlement, and fraud. This is a global issue that requires further multilateral cooperation. Current initiatives should also be more inclusive with regards to the participation of developing countries."

"30. Trade liberalization can play a significant role in integrating developing countries positively into the global trading system especially when accompanied by balanced and sustainable policies at all levels in support of growth, stability, industrial development, infrastructure, employment and structural change and are essential for achieving global growth, job creation, poverty reduction, and sustainable development. In this regard and in line with the WTO's Nairobi MC-10 ministerial declaration, the WTO's work shall maintain development at its centre with provisions for special and differential treatment remaining integral. The elements included in the package reached at the Nairobi 10th Ministerial Conference, in particular those in favour of least developed countries, are therefore welcome. WTO Members have made significant progress towards the goal of providing duty-free and quota-free market access on a lasting basis for all products for all LDCs and further improvement in this direction would be welcome."

"31. Regional integration can be an important catalyst to reduce trade barriers, implement policy reforms, decrease trade costs, and increase developing country participation in regional and global value chains. There is a need to ensure that bilateral and regional trade agreements remain complementary to, not a substitute for, the multilateral trading system. These agreements should be consistent with, and should contribute toward a stronger multilateral trading system."

"35. The Agreement on Trade Facilitation of the World Trade Organization is expected to accelerate the flow of goods between countries, improve trans-

parency and reduce transaction costs. If implemented effectively, this should enhance mutual benefits to trading nations and thus promote global sustainable development, as well as generate welfare gains for consumers and businesses. In order to achieve the goals of the agreement, potential implementation challenges, particularly for LDCs, will need to be addressed. The delivery of effective technical, financial and other mutually agreed forms of assistance as well as capacity building support is critical in this regard."

"36. States are strongly urged to refrain from promulgating and applying any unilateral economic, financial or trade measures not in accordance with international law and the charter of the United Nations that impede the full achievement of economic and social development, particularly in developing countries, and that affect commercial interests. These actions hinder market access, investments and freedom of transit and the well-being of the populations of affected countries. Meaningful trade liberalization will also require addressing non-tariff measures including inter alia, unilateral measures, where they may act as unnecessary trade barriers."

"40. ... UNCTAD should: ...

"(b) Continue to provide a forum for the exchange of views and perspectives on trade and development and interrelated issues in the areas of finance, technology and investment as they affect the growth and development prospects of developing countries, in the context of the evolving global economic environment, to help promote policies and strategies at the national and international levels that are conducive to inclusive and sustainable development, and consistent with the priorities established by the 2030 Agenda for Sustainable Development;...

"(f) Continue to help developing countries to participate effectively in international discussions on technology transfer and knowledge sharing, and to identify policy options and best practices. UNCTAD should furthermore continue to assist developing countries in identifying ways and means to operationalize technology transfer and undertake research on the impact of transfer of technology on trade and development;...

"(h) Continue its analytical and policy work and technical assistance on debt issues, including the DMFAS pro-

gram, and to promote policies for responsible sovereign borrowing and lending, complementing the work done by the World Bank and the IMF and other stakeholders as appropriate;..."

"41. Continue to provide assistance to developing countries to design and implement policies and actions aimed at improving the efficiency of trade transactions as well as the management of transport operations. It should also continue to cooperate with member States in implementing Asycuda, the automated system for customs data. UNCTAD should also continue its work on taxation as it relates to investment policy;

"(a) Continue its work on private standards, including sustainability standards;

"(b) Address the trade and development impact of non-tariff barriers;

"(c) Assist LDCs in making use of existing initiatives and programmes such as duty free and quota free schemes, preferential rules of origin for those countries, the LDC services waiver, as well as targeted assistance in initiatives such as the Enhanced Integrated Framework and Aid for Trade;

"(d) Assist developing countries, through analytical work and policy design, in the development of regional mechanisms to facilitate the mobilization of financial resources for inclusive and sustainable development, including from international financial institutions and the private sector;

"(e) Contribute, as a member of the United Nations inter-agency task team on science, technology and innovation for the Sustainable Development Goals and as secretariat to the Commission on Science and Technology for Development, to the implementation of outcomes related to science, technology and innovation of the 2030 Agenda, including the Technology Facilitation Mechanism and operationalization of the technology bank for LDCs;

"(f) Continue and enhance its work programme on science, technology, innovation, including the STI policy review to support policy making in developing countries by assessing the effectiveness and identifying priorities for action leading to sustainable development;

"(g) Continue its work on the linkages between international trade, financial and macroeconomic issues, with a view to helping developing countries to integrate successfully into the global

economy;

"(h) Continue to provide and reinforce its technical assistance and capacity building to developing countries and countries with economies in transition before, during and in the follow up of the process of accession to the WTO;

"(i) Continue, as a contribution to the work of the United Nations, research and analysis on the prospects of, and impact on, developing countries in matters of trade and development, in light of the global economic and financial crisis;

"(j) Continue to provide technical assistance and capacity-building to developing countries and countries with economies in transition in the area of multilateral and regional trade negotiations, formulation of trade policy framework and services policy review and other related-trade policy aspects;

"(k) Assist developing countries, including through capacity-building, with the creation of methodologies, within its mandate, to measure the impact of national policy efforts towards achieving sustainable development, and with the maintenance of appropriate and updated national statistics in order to adhere to international standards."

Sub-theme 2: Promoting sustained, inclusive and sustainable economic growth through trade, investment, finance and technology to achieve prosperity for all

"47. International public finance plays an important role in complementing the efforts of countries to mobilize public resources domestically. Not all programmes and policies to end poverty in all its dimensions are able to access a wide range of finance and remain reliant on ODA [official development assistance] as a predictable source of finance for their implementation. Targeting the eradication of poverty in its multiple dimensions, including extreme poverty is particularly important for the achievement of the Sustainable Development Goals. In this regard, it is important that the access to cooperation and the measurement of development recognize the multi-dimensional nature of poverty and the challenge specificities and the need to address key structural vulnerabilities in developing countries. An important use of international public finance, including ODA, is to catalyze additional resource mobilization from other sources, public and private. Modernization of the ODA measurement and the proposed measure of 'total official sup-

port for sustainable development' should not dilute commitments already made."

"48. Technology and its financing are a key means of implementation and a component of achieving the sustainable development goals. However, for the majority of the developing countries, the potential of science, technology and innovation remains unfulfilled. Closing technological gaps is both essential for poverty eradication and a key instrument for reducing inequality within and among countries. The means of implementation of the Sustainable Development Goals includes the development, transfer, dissemination and diffusion of environmentally sound technologies, on favourable terms including on concessional and preferential terms as mutually agreed. Knowledge transfer from diasporas can also make an important contribution. FDI [foreign direct investment] and trade can play a key role in disseminating environmentally sound technologies to developing countries and in stimulating technology development. Technology diffusion to developing countries can be facilitated by various measures including through addressing potential barriers to technology transfer at all levels, access to finance, making technology more affordable, trade liberalization with appropriate supporting policies, investment in human capital and increasing the capacity of domestic industries and infrastructure to support technology attraction and absorption, recognizing the importance of adequate, balanced and effective protection of intellectual property rights in both developed and developing countries in line with nationally defined priorities and in full respect of international obligations. An effective domestic and international enabling environment is also needed to ensure the potential development benefits of technology."

"49. South-South cooperation as a complement not a substitute to North-South cooperation, and triangular cooperation have an important role in achieving inclusive and sustainable development, including in finance and technology. South-South cooperation should be seen as an expression of solidarity among peoples and countries of the South, based on their shared experiences and objectives. By assisting developing countries in establishing development paths that promote equity, openness, comprehensiveness and innovation, the increased

importance of South-South cooperation and triangular cooperation has been recognized as supporting the realization of the 2030 Agenda. Stronger economic ties among developing countries will also continue to have a positive impact on trade and financial flows, building of local technological capability and economic growth in developing countries."

"51. As highlighted by the 2030 Agenda and the AAAA [Addis Ababa Action Agenda], the fulfilment of all official development assistance commitments remains crucial. ODA providers reaffirmed their respective commitments, including the commitments by many developed countries to achieve the target of 0.7 per cent of gross national income for official development assistance (ODA/GNI) to developing countries and 0.15 to 0.20 per cent of ODA/GNI to LDCs."

"55. Information technology and the digital economy, including electronic commerce (e-commerce), have an increasing impact on global trade and development. Further research is needed on the trade and development aspects of these issues."

"58 ... UNCTAD should:

"(a) Identify specific needs and measures arising from the interdependence between trade, finance, investment, technology and macroeconomic policies from the point of view of its effect on development;

"(b) Undertake research and analysis and provide technical assistance on the changing international trade landscape, including identifying means of stimulating economic diversification, reducing trade costs, promoting value-added production, including in global value chains for goods and services, while addressing transparency, social and environmental responsibility and their potential development impacts; ...

"(g) Continue its work on issues related to South-South cooperation and integration, and triangular cooperation; ...

"(m) Continue and reinforce its work on trade in services, services data and statistics and analysis of trade and services for development; ...

"(q) Acknowledging that WIPO [World Intellectual Property Organization] has the lead in intellectual property right issues in the United Nations system, UNCTAD will continue its work on IPR as it relates to trade and development; ...

"(z) Reinforce its work on the links

between gender equality, women's and girls' empowerment and trade and development, and support member States in the design and implementation of policies and establishment of institutions that support women's economic empowerment, economic security and rights and enhance their economic opportunities."

"59. ... (a) Continue to assess the economic development prospects of the Palestinian Occupied territory and examine obstacles to trade and development, and should strengthen its programme of assistance to the Palestinian people with adequate resources and effective operational activities including relevant studies as part of international community's commitment to building an independent Palestinian State, and with a view to alleviating the adverse economic and social conditions imposed on the Palestinian people in line with the Accra Accord and the Doha mandate; ..."

Sub-theme 3: Advancing economic structural transformation and cooperation to build economic resilience and address trade and development challenges and opportunities, at all levels, within the UNCTAD mandate

"60. The global economy faces a series of persistent and emerging challenges to ensuring stable economic growth as well as achieving inclusive and sustainable development. These challenges include slow economic growth, challenges of climate change, response to growing energy demands. To this end, increasing resilience to these shocks is critical to achieving inclusive sustainable development. Key elements of such resilience are structural transformation, the development of productive capacities, economic diversification and industrialization, which all need an enabling environment at all levels. Poverty eradication and development efforts focused on stimulating sustainable long-term economic productivity and competitiveness can also play a role by generating domestic revenues to help build resilience, including through investment in physical and human infrastructure."

"61. Economic structural transformation through diversification into more modern sustainable and technologically advanced activities and the production of higher value products is very important for resilience-building and sustainable long-term growth. However, structural transformation has proved challenging, partly reflecting limited technological development, poor infrastructure,

in particular access to electricity, weak skills bases, domestic supply-side constraints, and challenging global economic environment in particular uncertainty in global financial and commodity markets. Those challenges have affected the required mobilization of resources from both domestic and external sources to finance the investment essential to promote economic structural transformation. It will also require sound social, environmental and economic policies, including countercyclical fiscal policies, adequate fiscal space, good governance and democratic and transparent institutions at all levels.”

“63. Diversification of production, and value addition together with increasing productivity in traditional sectors such as agriculture, is critical to increasing economic resilience and building the productive capacities needed to create jobs, generate sustainable livelihoods, contribute to food security, increase incomes and improve quality of life. It is also critical to the establishment of inclusive and sustainable development. Diversification and value addition are particularly important in commodity-dependent countries, given the current depressed prices for some raw materials to reduce exposure to volatile international commodity markets and facilitate movement up regional and global value chains. Infrastructure investments, environmentally sound technologies, capacity-building and training in transferable skills can increase value added from extractive trade activities along a value chain to allow countries to better take advantage of the opportunities and diffuse the benefits of resource rents to the wider economy, develop all stages of production and help local communities take advantage of the resulting opportunities.”

“64. Successful diversification requires an international enabling environment, including a trading regime, conducive to the achievement of inclusive and sustainable development and sustained growth. Cooperation with other relevant international fora, like the G20 and APEC, can make a contribution in this respect. A stable international financial and monetary system also contributes to that end. An international economic environment that fails to support diversification risks jeopardizing all efforts to meet the needs of the 2030 Agenda for Sustainable Development in particular in developing countries.”

“70. Some commonalities may nonetheless be identified in the policies and institutions needed for inclusive and sustainable development. The central role of the state in promoting equitable and sustainable development has long been recognized. This role extends beyond mitigating market failures and imperfections. A State that actively promotes development policies is also needed to bring about markets, to direct resources from low value added to higher productivity sectors and to promote sound investment policies. Open trade and free markets should be governed by prudent policy and sound regulation, avoiding the extremes of protectionism on the one hand and ungoverned markets on the other; and macroeconomic, environmental and social policies should focus on job creation, social inclusion, infrastructure investment and interconnectivity.”

“77. Women play a critical role in development and contribute to structural transformation. Therefore gender equality and empowerment of women and girls is essential to unlock this potential. Globally, women comprise more than 40 percent of the workforce, and 45 percent in LDCs, and play a critical role as producers and traders. Obstacles to women’s empowerment such as gender bias and income inequality remain important. Actions are required to address specific challenges to their equal and active participation in domestic, regional and international trade especially to foster women’s entrepreneurship and increase the participation of women-owned companies in international trade. These actions include enhancing access to education and finance, increasing skills and knowledge and securing an enabling environment at all levels. The role of the financial sector in promoting the entrepreneurship of both women and youth also merits particular attention.”

“80. ... UNCTAD should:

“(a) Provide statistics, analytical work and technical assistance to developing countries in the areas of trade, economic diversification, industrial policies and the effective mobilization of financial resources for structural transformation, to enhance growth and development and to integrate beneficially into the global economy, including through development of sectors and activities that generate greater value addition and effective exploitation of trade opportunities offered by multilateral and regional initiatives; ...

“(c) Develop statistics and conduct research on emerging and long-standing development challenges to LDCs and analyze national and international policy strategies and programmes aimed at their graduation and sustainable development to provide practical solutions and policy options, including through promotion of investment and entrepreneurship and building productive capacities;

“(d) Continue and strengthen technical cooperation activities in LDCs through training and capacity-building in accordance with the Istanbul Programme of Action;

“(e) Continue and further address the needs of LLDCs [landlocked developing countries] in formulating and implementing policies and strategies centred on fostering productive capacities and structural economic transformation, in accordance with the Vienna Programme of Action;

“(f) Continue to assist SIDS [small island developing states] in their efforts to address their physical and economic vulnerabilities, promote structural economic transformation, build resilience and productive capacities in accordance with the SAMOA Pathway;

“(g) Continue activities to disseminate research findings and policy analysis on LDCs and enhance policy dialogue with LDC policymakers;

“(h) Continue to address through its work on the integrated treatment of trade and development and the interrelated issues on areas of finance, technology, investment and sustainable development, the specific challenges faced by middle-income countries, according to their needs for structural transformation. These challenges may include the slow pace of diversification and the impact of premature deindustrialization; ...

“(j) Continue its support to address the special concerns and needs of Africa including through provision of policy advice and analysis; ...

“(l) Assist LDCs to progress towards and prepare for graduation from the LDC category, including strategies for facilitating a smooth transition, a clear understanding of the post-graduation environment and challenges and of the need to build productive capacities, and promote structural transformation necessary for post-graduation sustainable development; ...”

Sub-theme 4: Contributing to the

effective implementation of and follow-up to the 2030 Agenda for Sustainable Development and relevant outcomes from global conferences and summits, as related to trade and development

"81. The 2030 Agenda for Sustainable Development is a historic agreement of unprecedented scope and significance that will shape the global economic and development agenda for the next 15 years and require the full engagement of the international community. The success of the new development agenda will depend on all members of the international community playing their respective roles and fulfilling their mandates in its implementation. The role of UNCTAD within this broader process will be determined primarily by its mandate but also its ability to ensure that its research and analysis and technical cooperation activities contribute to the implementation of the 2030 Agenda and by its capacity to strengthen synergies and coherence between the three pillars of UNCTAD."

"82. Sustainable development is about meeting the needs of today without compromising the ability of future generations to meet their needs. It includes improving living standards, while advancing long-term economic goals. The 2030 Agenda reaffirms the importance of the balance between the economic, social and environmental pillars of sustainable development and integrating them into policies and programmes, while taking into account different national realities, capacities, needs and levels of development and respecting national policies and priorities. It means protecting the environment including tackling climate change and its impacts and it requires actions at all levels by public sector, private sector and civil society to ensure that their decisions contribute to an excellent quality of life for both present and future generation. Such efforts can be enhanced by developing transparent measures of progress on sustainable development that go beyond per capita income to encompass the social, economic, and environmental aspects of domestic output and structural gaps at all levels, together with tools to mainstream sustainable development into national development strategies and to monitor its realization in different economic activities."

"93. UNCTAD has a unique and central role as a producer and provider of statistics across all areas of its work. In addition to the integrated treatment of

trade with other global and macroeconomic issues from a development perspective, UNCTAD should also continue to pursue its established mandate in the provision of technical assistance on trade and development and interrelated issues in the areas of finance, technology, investment and sustainable development."

"94. In focusing on its mandate across the three pillars of research, technical assistance and consensus building, UNCTAD should strengthen its role in addressing the needs and priorities of developing countries for sustainable development and strengthening their role in the global economy. Cooperation with civil society should also be strengthened, to enhance their advocacy for inclusive sustainable development, as should consultation with other private sector actors to identify key obstacles to investment, particularly in LDCs."

"96. The three pillars of consensus-building, research and analysis and technical assistance remain of equal strategic importance. Further efforts are needed to increase their linkages and complementarity to enhance the contribution of UNCTAD to the implementation of the 2030 Agenda. The intergovernmental machinery should determine the institution's direction and provide the political context for its research and analytical work, which in turn should inform and support consensus-building on development challenges."

"97. The role of the Trade and Development Board should be central to these efforts and should be strengthened. The Working Party on Strategic Framework and Programme Budget, and through it the Trade and Development Board, should be supplied in a concise and timely manner with the necessary aggregate information by the UNCTAD Secretariat to adequately fulfil this role."

"98. The existing intergovernmental machinery of UNCTAD should be revitalized, thus better supporting the implementation of the 2030 Agenda. The Geneva Dialogues should continue as a mechanism for the continued analytical and research-based discussion of the systemic impact of development policies at the global level on national policymaking and implementation. Areas of attention should include persistent and emerging economic challenges from a development perspective."

"100. Independent development oriented analytical work of UNCTAD is crucial to inform the deliberations of mem-

ber States. It should continue to provide regular analysis of the global trends in trade and development and interrelated issues with a particular focus on the implementation of the 2030 Agenda and the Sustainable Development Goals. It should encompass issues related to the sustainability and predictability of innovative and new sources of finance, the role of the private sector, the financing of micro, small and medium-sized enterprises, and trends related to investment."

"102. UNCTAD's technical assistance should be further improved throughout the project cycle. Technical assistance should seek to enhance the capacity of developing countries in understanding the nature and dynamics of the global economic system and alternatives for its reform in line with the 2030 Agenda for Sustainable Development. It should also promote and facilitate international cooperation for the development of productive capacities and industrial upgrading in developing countries, and advise countries on appropriate measures to this end. UNCTAD can also assist developing countries in achieving sustainable development, particularly in its economic dimension, as well as assist member States in monitoring progress towards the targets set out in the recent global agreements and outcomes as they relate to trade and development issues. Its technical cooperation and capacity-building, including at the ministerial level, should thus support member States, in areas encompassed by its mandate, in defining and coordinating national development strategies oriented towards sustainable development, incorporating the different approaches, visions and tools available."

"103. Results-based management should be continuously enhanced and applied as a flexible management tool, where it offers a cost effective means of advancing initiatives and development outcomes. This can contribute to improving the effectiveness, efficiency and impact on development outcomes of UNCTAD operations through sharing lessons, continuously improving the benefits of UNCTAD operations for recipients, and streamlining of reporting to donors."

"104. ... UNCTAD should:

"(a) Contribute, through its three pillars of work, to the implementation, monitoring and review of the 2030 Agenda especially the relevant targets in the areas of trade and development and

interrelated areas of finance, technology and investment across the Sustainable Development Goals, in particular Goal 17 on revitalizing the Global Partnership for Sustainable Development; ...

“(e) Assist, as appropriate, member States, in particular developing countries, in implementing and monitoring progress towards landmark outcomes of major United Nations summits and conferences as well as other relevant international conferences that have implications for trade and development and interrelated issues in the areas of finance, technology and investment; ...

“(g) Continue its research and analysis on prospects and impacts of global economic trends as well as developments in the policies of relevant international institutions on national trade and development policies deployed to attain sustainable development, in particular by developing countries; ...

“(k) Focus on the main challenges that all developing countries face in the areas of trade and development and in interrelated issues of finance, investment, technology and sustainable development in pursuing internationally agreed development goals, including the Sustainable Development Goals; in this regard, special attention should be paid to LDCs and commodity-dependent developing countries as well as net food importing developing countries; ...”

“106. In line with the structure of the intergovernmental machinery as laid out in the Accra Accord, the Trade and Development Board will operationalize the creation of two Inter-Governmental Expert Groups (IGEG). The topics to be considered will include inter alia: E-Commerce and the Digital Economy; and, Financing for Development as reflected in the Addis Ababa Action Agenda and within UNCTAD’s work.”

“107. The allocation of resources for the operationalization of the newly established IGEGs could be through utilizing resources and time allocations of the existing expert group meetings and the two Commissions, without impacting the delivery of the Commissions’ mandates. The UNCTAD Secretariat shall present options for the operationalization of the IGEGs, including their placement in the intergovernmental machinery, within existing resources to the Trade and Development Board for its consideration. The IGEG mandates will be reviewed in the next quadrennial conference. The topics of the

existing Multi-Year Experts Meetings shall remain the same unless the Trade and Development Board decides otherwise.”

“108. In cooperation with other relevant international organizations and other stakeholders, UNCTAD should support developing countries, in particular SIDS, in the advancement of Sustainable Development Goal 14 in the design and implementation of regional and/or national economic development strate-

gies for the conservation and sustainable use of oceans and their resources seeking to promote sustainable trade in ocean-based sectors including through analysis of fisheries subsidies that lead to overcapacity and overfishing and subsidies that contribute to illegal, unreported and unregulated fishing and the challenges they pose to developing countries, particularly in connection with the conservation of marine resources and food security.” (SUNS8290) □

UNCTAD’s integrated approach must be strengthened, say CSOs

Civil society organizations meeting on the eve of UNCTAD 14 underlined the need to strengthen UNCTAD’s integrated approach to trade, finance, investment and technology, declaring that the UN body “provides a critical institutional framework and a unique forum for taking up the challenges of equitable development”.

by Kanaga Raja

NAIROBI: It is absolutely critical to continue and strengthen the integrated approach of UNCTAD to the evolution and management of globalization and to the interdependence of trade, finance, investment and technology as they affect the growth and development prospects of developing countries.

This was among the key demands and recommendations of over 400 civil society organizations (CSOs) that participated in the Civil Society Forum of the UNCTAD 14 conference. The Forum took place here from 15-17 July, while UNCTAD 14 itself convened on 17-22 July.

In a Civil Society Declaration to UNCTAD 14, the CSOs said that with its focus on the interdependence of trade, finance, investment, macroeconomics and technology as they affect the growth and development prospects of developing countries, UNCTAD is uniquely positioned to contribute to the global achievement of the ambitious commitments made by all countries in 2015 in the Agenda 2030 for Sustainable Development, as well as the financing for development process (which the Third International Conference on Financing for Development in Addis Ababa continued in 2015), the Paris Agreement under the United Nations Framework Convention on Climate Change and the Tenth Ministerial Meeting of the World Trade Or-

ganization.

“However, to live up to its name and promises, UNCTAD’s role must remain development-centred, oriented by South priorities and not subordinated to the liberalization goals of other institutions,” they said.

Structural imbalances

The CSOs noted that the ramifications of the 2008 global financial and economic crisis, the worst in the postwar period, still haunt the world. “Economic performance remains sluggish in all regions, further reducing opportunities for addressing the material needs of the vast and growing majorities of the poor and vulnerable. The phenomenal levels of inequality among and within nations, linked to the very types of economic activity that led to the crisis, have grown even sharper in its aftermath and through the inequitable measures adopted by many Governments in response to the crisis.”

Added to these are the escalating climate-related and humanitarian crises, and natural disasters arising from global systems of production and patterns of consumption, which threaten the very survival of humanity.

In far too many developing countries, neoliberal policies have served to reinforce the structures that their econo-

mies inherited from colonialism: dependence on the export of (a narrow basket of hardly processed) primary commodities; little or no domestic manufacturing industrial capacity; stagnation of the rural economy; wanton extraction of natural resources; and reliance on fossil fuel and other harmful energy systems.

They remain vulnerable to external shocks while, internally, unremitting rural collapse continues to drive levels of urbanization unrelated to the expansion of economic opportunity and/or investment in social and economic infrastructure.

For the majority of people, especially for women and marginalized groups and communities, this has meant joblessness, precarious and degraded livelihoods, diminished opportunities for self-fulfilment, lack of access to essential services such as health and education, unsafe environments and damaged local ecosystems.

At the same time, fabulous wealth continues to concentrate in the hands of narrow circles of national elites and global corporate forces that together dominate political processes and exercise control over economic resources.

"The specific developmental challenges that UNCTAD sought to address are still with us, and in some cases (such as the African region) have become more acute," said the CSOs.

These are the challenges posed by the structural imbalances of the global order characterized at one pole by a concentration of highly industrialized economies, and at the other pole by a mass of primary commodity export-dependent economies feeding the needs of the industrial economies.

This system produces immense prosperity for some, while generating poverty, constraining the well-being of vast majorities in the developing world, and intensifying environmental and climate crises.

Foundational role

"UNCTAD provides a critical institutional framework and a unique forum for taking up the challenges of equitable development, thanks to its make-up and orientation, its rich history of policy interventions on behalf of developing countries and the abiding relevance of the issues for which it was founded," said the CSOs.

The organization's foundational vi-

sion is as critical today as it was 50 years ago, when it was established as a platform for thought and action on broad issues of trade and development explicitly formulated around the challenges and perspectives of the vulnerable and marginalized majority of nations within the international system, and the people in them.

"Its foundational principles continue to drive the work of UNCTAD. Its values, understandings, perspectives and accumulated outcomes of 50 years form the critical point of departure upon which to build the work of UNCTAD for the coming period – to enable the organization to support developing countries in meeting the challenges of today."

Yet the high-quality contributions that UNCTAD has made have gone beyond the developing world. Arguably, all countries can benefit from expanded support to the organization that was able to spot the last global financial crisis – which took its toll on the poor and vulnerable everywhere – before it happened, and that pushed issues such as inequality and sovereign debt restructuring onto the international development agenda.

"Indeed, who would not benefit from developing countries being on a better footing to face their development challenges and make their contribution to the global pledge of achieving the Sustainable Development Goals by 2030? Policy analysis, consensus-building and technical cooperation activities of UNCTAD are crucial to fulfilling this task."

Paradoxically, however, the advanced industrial countries seek the exact opposite agenda for the future of UNCTAD. As is clear from the positions they have taken in the negotiations towards UNCTAD 14, these countries continue with their project to curtail the ability of UNCTAD to provide independent and critical policy perspectives.

"If they succeed, UNCTAD will be undermined in its role of providing the much-needed corrective and balance to the chorus of positions that usually emanate from dominant players such as the International Monetary Fund, Organization for Economic Cooperation and Development, World Bank, World Trade Organization, and the like," the CSOs warned.

"Instead, UNCTAD might end up as a pale reflection of these dominant frameworks and policies, with its task reduced essentially to supporting poorer coun-

tries in Africa and other parts of the world to implement and live within this dominant paradigm as best as they can. The foundational mission and role of UNCTAD could be silenced at the very time when it is most needed in global affairs."

Strengthening UNCTAD

The CSOs went on to make a number of general recommendations.

"It is absolutely critical to continue and strengthen the integrated approach of UNCTAD to the evolution and management of globalization and to the interdependence of trade, finance, investment and technology as they affect the growth and development prospects of developing countries. The same applies to the linkages between international trade and financial and macroeconomic issues, with particular emphasis on issues related to crisis management," they said.

Quite pertinent to this focus will be to strengthen its research on the financialization of commodity markets, and the consequences of financialization for commodity prices, commodity export revenues, taxes on commodity extraction and processing, and the use of such revenues and taxes for economic diversification for developing-country members of UNCTAD.

"The United Nations would be failing its responsibility to the many countries that need this service if it does not take a more robust role in this regard."

Common but differentiated responsibilities and special and differential treatment are longstanding multilaterally negotiated principles that recognize that developed and developing countries cannot be treated in the same manner because of their differing development and economic circumstances. Thus they have different levels of responsibility with respect to environmental degradation, climate change and sustainable development. Failing to take this into account would undermine the aspiration to promote universal advances in development and trade.

"The UNCTAD XIV outcome document must give full support to the UNCTAD mandate on curbing tax evasion and avoidance, including in commodities markets and through investment policies. More broadly, the issue of changing international tax rules and closing loopholes that facilitate and enable

international tax evasion and avoidance cannot just be dealt with by the Organization for Economic Cooperation and Development, which excludes the vast majority of developing countries. It must be at the centre of a multilateral intergovernmental process under the auspices of the United Nations.

“As part of its contribution to curbing tax-dodging internationally, UNCTAD must play a vital role in the development of a normative definition of illicit financial flows, in developing guidelines and building global consensus towards public country-by-country reporting and in providing policy support and capacity-building to enhance the involvement and cooperation of developing countries in addressing base erosion and profit shifting to safeguard their taxing rights.”

According to the Civil Society Declaration, the mandate of UNCTAD to work on debt workout mechanisms and responsible lending and borrowing has been uniquely useful and its members should strengthen it, including by supporting further work on these issues at the level of the General Assembly of the United Nations.

“UNCTAD should follow up on and further enrich its conceptual work and support the implementation of responsible lending and borrowing practices in member States and monitor progress. UNCTAD should develop an alternative and development-oriented methodology on debt sustainability analysis and support national vulture funds legislation in line with the Addis Ababa Action Agenda.”

The UNCTAD Road Map and Guide to Sovereign Debt Workouts should be made known to member states, in particular those in debt distress, and UNCTAD technical assistance should enable member states to conduct debt workouts in line with the application of the principles and steps explained in the Road Map.

Trade and investment for development

On the question of trade negotiations, the CSOs pointed out that while a multilateral system of trade rules is preferable to a fragmented system, the rules must be fair and balanced, taking into account the various levels of development across the United Nations membership, rather than focussed on trade liberalization or simply increasing trade

flows. As an institution with a long history of helping developing countries to use trade for their development, UNCTAD must play an active role in assisting developing countries to advocate for a fair multilateral trading system, and special and differential treatment for all developing countries, addressing the imbalances in the current trade regime, particularly in agriculture and cotton.

“It is not new approaches that are needed but the fulfilment of the development mandate of the Doha Development Agenda,” said the CSOs. “Yet we are concerned that UNCTAD may be transformed into solely an implementation mechanism for trade agreements concluded elsewhere. The further UNCTAD moves towards seeing developing countries mainly as engines to increase trade – thus deviating from its mission to support the use of trade for development – the more it risks redundancy and irrelevance.”

Trade and investment agreements do not support development without the right policy environment, which necessitates policy space, an effective and developmental state able to sustain its own resource base responsible for safeguarding people’s human rights, gender equality and a more coherent, inclusive and representative global architecture for sustainable development.

Likewise, UNCTAD must receive a strengthened mandate to ensure that the trading system enhances the integration of developing countries, especially the least developed countries, first on a regional level; the structural transformation of African economies and gender equality and women’s rights in relation to the structural and global issues in trade and finance; the promotion of sustainable development, centred on the promotion of a higher self-sufficiency in basic food staples; and the assurance of decent work, and peasant, indigenous and workers’ rights.

“These goals necessitate that UNCTAD undertake a review of proposed and existing trade agreements with a view to promoting sustainable industrialization and equitable transitions to a low-carbon economy, reversing the reductions of labour’s share of income, supporting the implementation of agreements regarding the least developed countries and strengthening the negotiating capacity of developing countries in trade negotiations.”

According to the CSO declaration,

given the long history of UNCTAD in encouraging developing countries to sign international investment agreements, and the negative impacts that developing countries have experienced, particularly due to investor-state dispute settlement mechanisms, the mandate of UNCTAD should be intensely invested in helping developing countries craft investment policies that will contribute to development, rather than just “balance the interests” of investors and development; as well as to unwind and reform these agreements with a view to ensuring a positive impact on national or regional development strategies. “UNCTAD members should strengthen its mandate to support not the attraction of investment as a goal in itself but rather its contribution to development. The establishment of an intergovernmental group of experts on trade and investment rules and policy reform would be helpful in this regard.”

UNCTAD should be involved in monitoring the role of the private sector, particularly foreign investors and their impacts (both positive and negative) on mobilization of domestic resources, fiscal and debt sustainability, development, human rights, the Sustainable Development Goals and climate goals. “In particular, we strongly caution about support and promotion of public-private partnerships or addressing them as ends in themselves – despite the unfortunate adoption of an indicator under Goal 17 that merely refers to the number of them,” said the CSOs.

“There is a lack of proof that public-private partnerships are actually delivering positive economic, social and environmental outcomes. Traditional public procurement that meets administrative efficiency and public accountability criteria and supports local private sectors should remain the preferred route for involving the private sector in infrastructure financing.”

The CSOs also said that technology transfer is essential to the enabling of sustainable development in developing countries, and UNCTAD should continue to take a lead role in supporting these efforts by developing countries rather than in enforcing intellectual property rules that benefit protectionist patent and copyright holders in developed countries.

The important role of UNCTAD in financing for development should be affirmed and expanded, said the civil so-

ciety groups, including through the creation of an intergovernmental group of experts on financing development, as well as monitoring the implementation of commitments on official development assistance. "Official development assistance is a longstanding but essentially unfulfilled commitment by the developed countries; it is central to North-South cooperation, and it must be differentiated from, and not substituted by, South-South cooperation and other sources of international public finance."

UNCTAD, said the CSOs, should ensure that in all of the above areas, the analyses, policy formulations and implementation processes include the sharp reflection and articulation of gender dimensions and impacts on women and future generations and ways to address these, and the empowerment and effective participation of women.

African structural transformation

On structural transformation in Africa, the Civil Society Declaration said that at UNCTAD 14 – which was taking place on African soil – African and other developing countries must ensure, and developed countries must support, the adoption of a work mandate that: (a) provides UNCTAD with the necessary space and means to articulate the policy requirements of Africa's structural economic transformation and work in support of their realization; (b) reflects the elements of the changing global trade and development agenda as it affects the positions and fortunes of African countries in meeting the challenges of this landscape; (c) addresses the specific constraints that African countries face in meeting their development challenges.

The CSOs called on UNCTAD to support African countries to:

(a) address the negative effects of the imbalances of the international trade regime, including World Trade Organization agreements, economic partnership agreements and bilateral and international investment agreements, and protecting the space for policy initiatives and South-South economic cooperation against further encroachment;

(b) push and adopt financial, fiscal and other relevant policies that stop the transfer of capital, illicit financial flows and other leakages of economic resources from Africa and enable African countries to retain the investible resources generated in their economies for domes-

tic investment and economic development;

(c) decisively address continuing debt burdens and the looming debt crisis and adopt policies that will prevent the re-accumulation of unsustainable and illegitimate debts;

(d) adopt policies to access technology (through adoption, diffusion and technology transfer) to support the development of productive capacities and domestic enterprise and to meet the needs of sustainable development;

(e) adopt gender-sensitive and responsive trade and development policies that promote equitable and rights-based development.

"Above all, it is important that African countries reimagine UNCTAD beyond the expectations of technical assis-

tance and capacity-building, and reclaim the role of UNCTAD to shape global policy frameworks that uphold developmental imperatives in line with their vision as expressed in Agenda 2063 of the African Union."

In concluding, the CSOs said that to further allow implementation of the calls made in their declaration, "there is a need to scale up the international financial and human resource support of member Governments towards UNCTAD and its overall mandate. As the organization becomes more dependent on project-based funding from developed countries, priorities shift in the direction of donor States rather than the agreed-upon mandate, a tendency that robust, renewed general support funding from member States could curb." (SUNS8287) □

Widespread misinvoicing in South's commodity exports

A study released at UNCTAD 14 on misinvoicing of commodity exports suggests that this practice constitutes a major channel of capital flight that is depriving developing countries of much-needed development resources.

by Chakravarthi Raghavan

GENEVA: Trade misinvoicing in the exports of developing countries, especially those heavily dependent on exporting a few primary commodities, appears to be widespread, according to a study prepared for UNCTAD.

Trade misinvoicing is thought to be one of the largest drivers of illicit financial flows from developing countries, with consequent loss of precious foreign exchange receipts, tax and income that might otherwise fill their resource gaps and could be spent on development.

The study, "Trade misinvoicing in primary commodities in developing countries: The cases of Chile, Cote d'Ivoire, Nigeria, South Africa and Zambia", was written by Professor Leonce Ndikumana of the University of Massachusetts, Amherst, and was released at UNCTAD's Global Commodities Forum held on 15-16 July as part of UNCTAD 14.

"This research provides new detail on the magnitude of this issue, made even worse by the fact that some developing countries depend on just a handful of commodities for their health and education budgets," UNCTAD's Secretary-General, Mukhisa Kituyi, said at the

Forum in releasing the study.

Commodity exports may account for up to 90% of a developing country's total export earnings, he said, adding that the study generated fresh lines of enquiry to understand the problem of illicit trade flows.

"Importing countries and companies, which want to protect their reputations, should get ahead of the transparency game and partner with us to further research these issues," Kituyi said.

Implications

The results from the study have important implications for research and policy, the paper says.

First, the fact that exports of primary commodities are concentrated by product and market could be a blessing in disguise. Export concentration implies that policy efforts could be focussed on a limited number of products and partners to increase the effectiveness of reforms. In each country, the government and its development partners should be able to identify which products and export destinations need to be scrutinized when investigating trade misinvoicing.

Second, the analysis in the study demonstrates a substantial need for improving trade statistics. In particular, improvements are urgently needed in data gathering at the product and partner levels, and there should be coordination between national statistics and international statistical databases such as the United Nations Commodity Trade Statistics (UN Comtrade) and the IMF's Direction of Trade Statistics (DOTS). This will require scaling up both financial and technical assistance to developing countries to help improve human capacity as well as the infrastructure for the compilation and management of trade statistics.

"Third, the results from this study highlight the need for an investigation into the role of TNCs [transnational corporations] involved in the exploitation, export and import of commodities, as well as the role of secrecy jurisdictions in facilitating trade misinvoicing.

"Such an investigation may shed light on the mechanisms of export overinvoicing and import smuggling. Enhanced transparency in global trade is indispensable, especially through coordinated enforcement of the rules on country-by-country reporting by TNCs at the global level."

Subject of interest

The study in its introduction notes that the problem of trade misinvoicing has generated increasing attention in the research and policy communities, gaining particular traction through the current debates on illicit financial flows, since trade misinvoicing continues to be used as a key mechanism of capital flight and illicit financial flows from developing countries.

The study provides empirical evidence on the magnitude of trade misinvoicing in the particular case of primary commodity exports from five natural-resource-rich developing countries: Chile, Cote d'Ivoire, Nigeria, South Africa and Zambia. This sample comprises four resource-dependent developing countries and a more diversified resource-rich middle-income country (South Africa). It covers a representative sample of products in the three main categories of primary commodities: oil and gas; minerals, ores and metals (copper, gold, iron ore, silver and platinum); and agricultural commodities (cocoa). The inclusion of two copper exporters in the sample makes it possible to compare and

contrast patterns of copper misinvoicing between two countries and over time.

Estimates of trade misinvoicing have been based, traditionally and primarily, on bilateral trade data published in the IMF's DOTS, which provides aggregate values of imports and exports between a country and its trading partners.

More recently, there has been growing interest in investigating trade misinvoicing at more disaggregated levels, at sector and product levels, and by trading partner. This interest is motivated by two major factors. The first is the presumption that some products may be more frequently smuggled and mispriced than others based on their idiosyncratic characteristics. Second, there may be variations among trading partners with regard to transparency and enforcement of trade recording rules that may generate differences in trade misinvoicing across partners. Analysis at the product and partner levels is made possible by the existence of disaggregated data published in the UN Comtrade database, which provides time series on imports and exports broken down by product, country and trading partner. Such an analysis produces valuable insights about the sources, directions and patterns of trade misinvoicing.

The data examined in the UNCTAD study show heavy concentration of exports both by product and by partner. With the exception of South Africa, the export baskets of the other countries in the study, Chile, Cote d'Ivoire, Nigeria and Zambia, exhibit a heavy dependence on two or three primary commodities; South Africa has a more diversified export basket, though it is also rich in natural resources. These stylized facts illustrate the relevance and appropriateness of the sample selected for the study on trade misinvoicing in primary commodities.

Findings of the study

The results from the analysis show substantial levels of trade misinvoicing in all five countries covered by the study, but the patterns vary substantially across countries, products and trading partners. Some interesting patterns and contrasts emerge.

At the product level, while trade in copper exhibits pervasive and large amounts of overinvoicing in Chile, the results for Zambia show substantial underinvoicing, as well as considerable

overinvoicing in trade with Switzerland and the United Kingdom. Iron ore and gold exports from South Africa exhibit systematic underinvoicing. Relatively little gold appears in South Africa's export data, although the country's trading partners record substantial amounts of gold imports from South Africa. Exports of oil from Nigeria and silver and platinum from South Africa show mixed results – both underinvoicing and overinvoicing.

At the partner level, the Netherlands presents the most peculiar case, with systematic export overinvoicing in trade with all the countries in the sample and for all the products. In other words, exports registered as going to the Netherlands cannot be traced in the bilateral trade data of the Netherlands. In contrast, the trade of Germany with all the countries and products in the sample exhibits export underinvoicing. The results generally show a close correlation between export concentration by destination and the extent of trade misinvoicing.

An UNCTAD press release on the findings of the study said:

- Between 2000 and 2014, underinvoicing of gold exports from South Africa amounted to \$78.2 billion, or 67% of total gold exports. Trade with the leading partners exhibited the highest amounts: India (\$40 billion), Germany (\$18.4 billion), Italy (\$15.5 billion) and the UK (\$13.7 billion).

- Between 1996 and 2014, underinvoicing of oil exports from Nigeria to the US was worth \$69.8 billion, or 24.9% of all oil exports to the US.

- Between 1995 and 2014, Zambia recorded \$28.9 billion of copper exports to Switzerland, more than half of all its copper exports, but these exports did not show up in Switzerland's books.

- Between 1990 and 2014, Chile recorded \$16.0 billion of copper exports to the Netherlands, but these exports did not show up in the Netherlands' books.

- Between 1995 and 2014, Cote d'Ivoire recorded \$17.2 billion of cocoa exports to the Netherlands, of which \$5.0 billion (31.3%) did not show up in the Netherlands' books.

- Between 2000 and 2014, underinvoicing of South Africa's iron ore exports to China was worth \$3 billion.

It is clear that export misinvoicing is an important channel of capital flight from these countries. At the product level, the puzzling case of gold exports from South Africa, where the country's

official statistics report very little gold exports while substantial amounts appear in its leading trading partners' records, needs further investigations at both ends. It does not appear to be a simple matter of undervaluation of the quantities of gold exported, but rather a case of pure smuggling of gold out of the country.

Second, similar products show different misinvoicing patterns across exporting countries, even with the same partners. In Chile, there is systematic and massive export overinvoicing of copper, while data for Zambia show both underinvoicing and overinvoicing of copper exports. It would be worth investigating the sources of these differences, in particular, whether these disparities arise from differences in trade regulation regimes, tax regimes or capital control regimes between the two countries.

Puzzling results also emerge at the trading partner level. Trade with the Netherlands presents a peculiar case, with systematic and substantial export overinvoicing. It appears that primary commodities exported to the Netherlands never dock in the Netherlands. The question is whether this is the outcome of smuggling or incorrect reporting of the residence of the buyers. Answering this question may require an investigation at the company level.

The results, the study says, provide strong reasons for investigating the motives of trade misinvoicing in primary commodities. Tax evasion is a possible motive for the large degree of export overinvoicing observed in most countries in the sample (except Chile). It is also possible that in some cases of export overinvoicing (as in trade with the Netherlands), products may end up in other destinations than the ones listed in official records, probably in tax havens for the purpose of tax evasion. Export overinvoicing could also be motivated by the attempt of exporters to take advantage of tax incentives aimed at promoting export-oriented activities. Tax evasion could be a motive for the observed substantial import smuggling, as in the case of oil in Nigeria, where oil seems to be entering the country illicitly. These conjectures need to be further investigated at country and product levels.

Foreign exchange and capital account controls could also be a motive for trade misinvoicing. However, the increasing volume of trade misinvoicing in recent years is puzzling, given the steady move towards capital account openness and liberalization of currency markets in

all the countries in the sample, as in most developing countries. The question remains whether these reforms have been effectively implemented and enforced to reduce the incentives for smuggling of foreign currency.

The persistence of trade misinvoicing implies that there are important structural and institutional factors that drive this practice. It cannot simply be that illegal trade persists under the cover of legal trade; in some cases,

trade misinvoicing constitutes too large a share of total trade to be disguised by legal trade. This is the case of gold exports from South Africa. The question is whether illegal gold trade is disguised behind legal trade of other products. Answering this question would require investigating whether gold exporters are also involved in exports of other major products so that gold smuggling takes place under the cover of legal trade in other products. (SUNS8286) □

South losing \$23 billion a year due to G20 NTMs

Non-tariff measures, which are becoming increasingly prevalent, are raising trade costs for developing countries and restricting their access to export markets, according to UNCTAD.

by Kanaga Raja

NAIROBI: The failure to comply with non-tariff measures (NTMs) imposed by the G20 major world economies has resulted in developing countries losing an estimated \$23 billion per year, about 10% of their exports to the G20, UNCTAD has said.

As tariffs have fallen to historic lows, UNCTAD said, NTMs have replaced them as a key brake on faster global trade growth. And the expansion of the middle classes in many countries is expected to increase demand for safer, cleaner products. This in turn may require governments to introduce more non-tariff measures.

At a media briefing on 20 July, Amina Mohamed, president of the UNCTAD 14 conference, said that during the past decade, tariff barriers in international trade have fallen significantly. The tariffs on trade in both agricultural goods and industrial products have declined on average from about 19.9% to 6.7%, she said. This decline has been due mostly to multilateral trade negotiations under the auspices of different organizations including UNCTAD, the WTO, as well as bilateral, regional and mega-regional arrangements.

She said that an UNCTAD 14 event on the issue the previous day raised the relative importance of NTMs as both protectionist and regulatory trade instruments. The common understanding from the discussion was that tariff liberalization alone has generally proven unsuccessful in providing genuine market access, drawing further attention to the role

that NTMs play as major determinants in restricting market access.

UNCTAD database

Mohamed underlined that UNCTAD has been actively involved in research and programmatic activities on NTM-related issues since the 1990s, when the UNCTAD secretariat began to document and classify NTMs according to a customized coding system. UNCTAD has now launched a single database on NTMs that is expected to enhance transparency on how countries actually trade. "It will help advance the agenda of eliminating trade barriers," she said.

She was referring to a database launched by UNCTAD on 19 July that aims to list the NTMs of some 56 countries covering 80% of world trade. According to an UNCTAD press release, this database will enable policymakers to search by country and product to find out quickly the relevant non-tariff requirements.

The press release quoted UNCTAD Deputy Secretary-General Joakim Reiter as saying: "These kinds of measures are becoming increasingly widespread. For example, measures on the cleanliness and pathogen-free status of food – known as sanitary and phytosanitary measures – cover more than 60% of agricultural trade."

"Such regulatory measures disproportionately increase trade costs for small and medium-sized enterprises and

developing countries, particularly the least developed. We estimate, for example, that the impact of the European Union's sanitary and phytosanitary measures comes to a loss of about \$3 billion for low-income country exports. That's equal to 14% of their agricultural trade with the European Union."

"We certainly don't expect G20 countries to drop all their non-tariff measures, which serve important policy objectives such as health and safety, but we do need to manage this issue better," said Reiter. "Non-tariff measures are the new frontier in our quest for greater global trade."

He added that better information would reduce the costs of NTMs. "It's all about transparency and harmonizing regulations."

According to the press release, policymakers can use the database to harmonize their regulations and accelerate the growth of regional trade. For example, the African Union has already requested UNCTAD to support them with the Continental Free Trade Area by setting up a similar database.

"The use of non-tariff measures in the world will increase but this should be done in a smart way, for example, by using international standards to a maximum extent," said Ralf Peters, Chief ad interim of UNCTAD's Trade Analysis Branch.

"Use non-tariff measures to protect your citizens, but don't let them compromise trade because that will block economic growth and job creation," he added.

Challenge for developing countries

Speaking to the *South-North Development Monitor (SUNS)* on 20 July, Peters said that there are two broad categories of NTMs. One comprises traditional trade policies like quotas, price measures and anti-dumping measures. The other category consists of technical requirements such as product requirements, sanitary and phytosanitary requirements, and TBT (technical barriers to trade) requirements, "which we all want to have because they regulate and they protect consumers, health and the environment."

Peters said that it is a challenge for developing countries to meet those requirements in all countries, particularly in developed countries that have very high standards. For example, mineral

(continued on page 28)

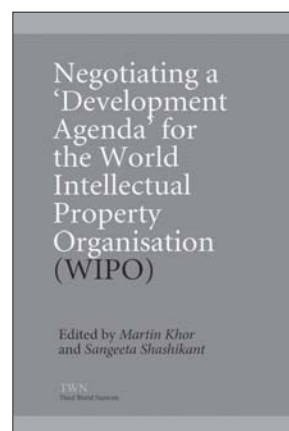
Negotiating a 'Development Agenda' for the World Intellectual Property Organisation (WIPO)

Edited by Martin Khor and Sangeeta Shashikant

The World Intellectual Property Organisation (WIPO), a UN agency that deals with issues of intellectual property rights, has been undergoing an interesting change in recent years. In 2004, many developing countries initiated a process of reform to make WIPO development-oriented, which they consider to be important for a UN agency. The initiative, which is known as the 'Development Agenda', has since snowballed into a movement to review the role of intellectual property rights in the process of development.

According to developing countries, NGOs and experts, WIPO has been too much oriented towards promoting IP at the expense of the wider development concerns and public interest. Whether the Development Agenda movement succeeds in reorienting WIPO remains to be seen especially since this initiative has been resisted by developed countries, that want to cling on to the status quo.

On the 'Development Agenda' initiative, this book is an eyewitness account of the twists and turns of the Development Agenda movement. It is indispensable for those who want to understand the origins, rationale and history of the Development Agenda at WIPO.



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Lack of progress on key issues for South at WTO

A 25 July meeting of heads of delegation at the WTO heard reports by the chairpersons of the various Doha Work Programme negotiating bodies which indicated that the talks had made scant headway on key issues of interest to developing countries.

by Kanaga Raja

GENEVA: There has been a lack of progress on key issues of crucial importance to developing countries in the WTO negotiating bodies, with positions on public stockholding for food security, the Special Safeguard Mechanism (SSM) and special and differential treatment (SDT) remaining basically unchanged from before or since the WTO's tenth Ministerial Conference (MC10) held in Nairobi last December.

This came out at an informal heads-of-delegation (HOD) meeting on 25 July at the WTO, when the chairs of the various Doha Work Programme negotiating bodies reported on their recent consultations on key issues.

The meeting was convened by WTO Director-General Roberto Azevedo.

In some remarks after the meeting (posted on the WTO website), the DG said he has been urging members to move from reflection to action, and noted that members have submitted a number of papers, including on the core Doha issues.

Members, he said, have undertaken a wide range of exchanges in different formats in recent weeks, raising a number of other issues, and he had heard "positive reports" on the nature and tone of all these exchanges. "We should welcome the very fact that a range of discussions is taking place – and that other constituencies are becoming more engaged, including the private sector."

"There is a lot to be positive about. But, if we really do want to deliver again, then members will need to be pragmatic, realistic and creative. We succeeded in Bali and Nairobi because we adhered to these principles," he added.

According to Azevedo, the most important thing needed now is specificity, in each and every area. "We need to change the pace of our engagement and dive into a real proposal-driven process immediately after the summer. If we want to have outcomes in the near future, then we will need to accelerate our work significantly in the autumn. In all

conversations we need to maintain and enhance our focus on development and LDC [least developed country] issues."

According to trade officials, Azevedo reported at the HOD meeting on the meetings that he had attended recently, including UNCTAD 14 in Nairobi, the APEC trade ministers' meeting in Peru, the OECD meeting, the ministerial meeting of the landlocked developing countries, and the G20 trade ministers' meeting in Shanghai. Increasing engagement has been reflected in all of these meetings but "we need to increase the specificity of our discussions here," Azevedo said.

He also mentioned the meeting he had with the negotiating group chairs on 6 July at which he urged them to prod members to be more specific.

He noted that seven papers on agriculture had been put forward. There has been movement in services but less so in non-agricultural market access (NAMA), while the issue of fisheries subsidies is drawing a lot of attention. There is a need to deepen the discussion in all of these areas if these Doha Development Agenda (DDA) issues are to move forward, he said.

There has been a lot of discussion and interaction among members on the question of micro, small and medium-sized enterprises and on electronic commerce (e-commerce), the DG noted.

"Inflection point"

The HOD meeting also saw the chairpersons of the various negotiating groups present reports on the state of play in the talks.

According to trade officials, the chair of the agriculture negotiations, Ambassador Vangelis Vitalis of New Zealand, said he is encouraged by the level of engagement. Since Nairobi, there has been evidence of movement from reflection to action. "We are now at an important inflection point."

For the first time since Nairobi,

members are engaging on substance. One clear objective that emerged is that agriculture should be part of any outcome from the WTO's eleventh Ministerial Conference (MC11), and that the process and outcome in agriculture should be driven by ministerial expectation.

There is a desire to see at MC11, which will be held next year, an agriculture programme that is basically shaped by the Doha agriculture issues.

Members, Vitalis said, are prepared to look at other approaches, but it is very important in terms of principles that there be parallelism, no prejudice to any outcomes, no presumption and that there should be a lot of transparency.

The chair of the agriculture talks said that domestic support is seen by the bulk of the membership as a priority, and most members want an outcome on domestic support at MC11. But what should this domestic support outcome be, he asked – should it be broad limits, should it be product-specific and should there be links to exports?

Vitalis said members were reminded that domestic support on cotton was an issue of priority at MC10. Members have stressed that they would like to see this issue resolved by MC11.

The chair said it is very disappointing that out of 163 members, only 29 are up to date with their domestic support notifications through 2014. Only four developed countries – Australia, New Zealand, Norway and Russia – have submitted notifications, and of all the others, only Brazil is a major agricultural exporter.

On agricultural market access, the chair said that tariff peaks, tariff escalation, tropical products and tariff rate quotas have all been topics of discussion. Some members have said they would like to see Special Products taken up as an issue as well.

On export competition, Ambassador Vitalis said that it was the least prioritized area, but there were delegations that have called for implementation of what was agreed in Nairobi.

On the issue of public stockholding for food security purposes, the chair said that there have been dedicated sessions on this issue. Members agree on the mandate and the deadlines, but on little else. The G33 country grouping sees its 2014 proposal as the basis for discussion but positions have not changed since Nairobi. Food security and poverty alleviation are key for the G33 but those who have difficulty with the public stockhold-

ing issue are worried of unintended consequences which could have impacts on their agricultural programmes, the chair said, adding that substantial differences remain.

On the SSM, the chair reported that there has been no change since before Nairobi. The G33 would like its 2014 proposal to be the basis, but while the G33 says there should be no link between the SSM and agricultural market access, those that have concerns about the SSM are saying the complete opposite. There has to be a discussion on market access if there is to be any meaningful discussion on the SSM, Vitalis added.

No fresh momentum

The chair of the NAMA negotiations, Ambassador Remigi Winzap of Switzerland, reported that there did not seem to be any convergence or movement on NAMA. There had been no fresh momentum since Nairobi. There could be a broader approach to dealing with this issue in terms of looking at market access or at least reducing policy space in agriculture, services and NAMA at the same time.

Pointing to this being his last HOD meeting as both NAMA chair and Swiss ambassador, Winzap offered some ideas, saying that perhaps for NAMA one thing that members could do is to start to address incomplete bindings (some countries do not have fully bound schedules of commitments) and the “water” in the schedules (difference between bound and applied tariffs).

There is some talk among some members for plurilateral discussions and the area where this is seemingly most prevalent is chemicals, he said.

Ambassador Gabriel Duque of Colombia, the chair of the services negotiations, said that there has been a clear message from members that they are keen to move forward, and that the progress in agriculture at MC10 has given some members the impression that there is less of a need for sequencing, that is, dealing with agriculture first. There is a common acknowledgement that services have lagged behind and equal recognition that services are extremely important to the economies of all WTO members.

The chair referred to a meeting held on 4 July with 25 delegations at which there was discussion about the need for new ideas and initiatives and less a repeating of common positions. There was

an in-depth discussion about domestic regulation. There is hope for more progress here and a need for more specific proposals to move those discussions ahead. On the question of market access in services, delegates said there has been little progress because of a lack of leadership.

According to the chair, many members have mentioned e-commerce as an important area of discussion for their economies. The notion of trade facilitation in services has also been mentioned by many delegates, and there is a need to put forward a concrete proposal.

On the objectives, the chair said one of the ideas in market access is that there needs to be some new thinking and that solid proposals are long overdue. One idea put forward would be to eliminate any difference between what a member applies in its market and what it has submitted as its offer in the WTO. Another idea would be to bring a member's WTO commitments up to the level of its commitments in regional trade agreements, he said. Yet another idea would be that commitments that had been made by recently acceded members (now called Article XII members) could be seen as a basis for the level of ambition for services offers.

Ambassador Wayne McCook of Jamaica, chair of the rules negotiations, reported that a paper had been put forward by some delegates on questions about fisheries subsidy schemes of governments. There were some questions about how to achieve Sustainable Development Goal 14.6. The chair said that there is a strong desire for an outcome by MC11. There is a gap among the proponents on how and where this issue should be taken up, but there is strong support for getting some kind of an outcome.

Others are concerned about imbalance in the negotiations and would like to see a balance between fisheries subsidies, anti-dumping and subsidies.

The chair of the Committee on Trade and Development in Special Session, Ambassador Yee Woan Tan of Singapore, reported that all delegates understand the importance of SDT but members have not moved from the positions that they had when the committee met before Nairobi.

Some have called for picking up where they left off, while others said that to pick up the 25 agreement-specific proposals in the current or the previous format would not lead to a positive out-

come. Some delegates said that there is a need to reorient the discussion, while others are opposed. Some wanted to talk about doing away with exemptions and carve-outs and look for better ways to integrate developing and least developed countries into the multilateral trading system, but others rejected this idea.

The chair also reported that the issue of differentiation between developing countries came up, with continuing strong disagreements on this.

While there has been some movement to action, by and large, there has been an absence of new approaches and the work in the committee is not moving well, said the chair.

WTO Deputy Director-General Yi Xiaozhun read out the report of the chair of the TRIPS Council in Special Session, Ambassador Dacio Castillo of Honduras, saying that the issue here concerns those delegations that call for the mandate to not just include the geographical indications register for wines and spirits but be extended to cover other products. There are also calls to ensure coherence between the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and the UN Convention on Biological Diversity (CBD).

The chair of the Committee on Trade and Environment in Special Session, Ambassador Syed Tauqir Shah of Pakistan, said that there has been very little progress. Members spoke on the importance of the Paris Agreement on climate change and the Agenda 2030 for Sustainable Development, but most of the discussions that he had in his consultations had been on work that is being done in fora other than the committee.

Deputy Director-General Karl Brauner reported on behalf of the chair of the Dispute Settlement Body in Special Session, saying that very little progress has been made on dispute settlement reform. There was some discussion about whether there can be deliverables at MC11. Some said that a target date should not be put on any outcome, while others said that this could focus the discussion. There were many who said that what is needed is an outcome that would favour an incremental approach to progress, said the chair.

Development outcomes

Following the reports by the negotiating group chairs, a number of delegations spoke at the HOD meeting, with

developing countries highlighting the importance of obtaining development outcomes and that priority should be given to the Doha issues. They also underlined that the issues of public stockholding for food security purposes and the SSM must be delivered at MC11.

According to trade officials, Rwanda, speaking on behalf of the African, Caribbean and Pacific (ACP) Group, underlined that development outcomes at MC11 are crucial. There is a need to live up to the Sustainable Development Goals (SDGs) and to begin serious work immediately after the summer break if outcomes are expected by MC11, it said.

Rwanda stressed that paragraph 31 of the Nairobi Ministerial Declaration (NMD) gives priority to the Doha issues and these should be addressed as a priority.

The ACP Group would like to see an outcome on agricultural domestic support at MC11 as well as a permanent solution for public stockholding for food security purposes. It would also like to see the SSM made operational, and an agreement reached on fisheries subsidies. There must be special and differential treatment with respect to fisheries subsidies.

On services, the ACP Group said that the development dimension must be taken up.

On new issues, the ACP Group said it is closely following the discussions on e-commerce. While new issues can be discussed, progress in these areas should be linked to progress on the Doha issues, it stressed.

Peru highlighted fisheries subsidies and the contribution that the WTO can make to the SDGs. It wants to see a transparent and inclusive process moving forward.

Argentina said there was a good outcome at Nairobi especially on agricultural export competition. All those countries that have export subsidies need to eliminate them. Agriculture is a clear priority for the majority of members.

Argentina said it would like to see an agreement on fisheries subsidies as part of the WTO's contribution to the SDGs. It would also like to see an outcome on services by MC11, both in market access and in domestic regulation. Further, it would like to see discussions enhanced with deliverables on e-commerce by MC11.

Benin, on behalf of the LDCs, said it

is impressed by the movement to action from reflection and is very keen to see this continue.

Russia said that it is encouraged by the movement to greater action.

The European Union underlined the need to identify where deliverables can be achieved by MC11. There is a need for clear submissions; while there have been some submissions, more are needed.

The EU welcomed proposals on domestic support in agriculture. It said efforts on this need to be redoubled. There is also a need to increase the discussions on e-commerce and digital trade.

On fisheries subsidies, the EU said that it is ready to engage and to look for multilateral disciplines. On services, the EU said that there is an urgent need to advance on domestic regulation with text-based proposals.

Closing the gaps

South Africa said that all the reports of the negotiating group chairs indicate that, in one way or another, much more needs to be done to close the gaps between members. In its view, until there is some shared understanding on how to address the remaining Doha issues, deemed "the priority" at MC10, it will be difficult to get "buy-in" from all members to even discuss non-DDA issues, lest a new "imbalance" is created in the negotiating process.

Singapore said that the multilateral trading system is essential and needs to be preserved. Members must not fall into ideological debates and push action that should take place in the WTO out of the organization.

Costa Rica said that the issue of agricultural domestic support is crucial, and it also welcomed the discussion on e-commerce. The lack of progress in the WTO must be reversed as it is very bad for developing countries.

Japan noted that there have been many proposals put forward on domestic support. On services, there have been fruitful discussions on domestic regulation. Japan said it is prepared to be flexible and constructive in its approach.

Pakistan said that two successful Ministerial Conferences have put the WTO back on track. A step-by-step approach is needed. E-commerce is also key to development, and development must be central to the discussions here. MC11

can be an opportunity to make progress and achieve an outcome on e-commerce.

Agriculture is a core issue, Pakistan said, stressing the need to look at all three pillars of the agriculture negotiations. It said it is open to discussing the SSM and public stockholding, and it is also ready to work on finding an outcome on fisheries subsidies that is within the mandate of the SDGs.

Indonesia said that paragraph 31 of the NMD says that the Doha issues should have priority. The conversation should be guided by development considerations. On agriculture, the priority is public stockholding and the SSM.

Paraguay said it is open to discussions on a range of issues. Agriculture continues to be of crucial importance. Agriculture trade is still imbalanced and there is a need for more to be done.

Bangladesh said that the WTO must keep delivering. There were two issues in Nairobi that were important – agriculture and SDT. It got what it wanted on agriculture but not on SDT. There is a need to restart the discussions on SDT.

The US said it shares the view that it is important to implement the NMD. There is a need to avoid drifting back to the pre-Nairobi negotiating dynamic. It feels as though things have been fairly favourable so far in the discussions. There is a new spirit of openness in the WTO which is encouraging. It said it is ready to engage in many different formats provided that there are new approaches that are being taken up.

The US said most of the members seem prepared to engage on issues that may be important to the future relevance of the WTO. The G20 major economies have given impetus to discussions on trade and investment.

According to the US, there is some indication that some are still clinging to an old mandate even though there was a lack of consensus on the old mandates in Nairobi. New beginnings can only be achieved if we are prepared to move away from the past and approaches that did not work.

For the US, the WTO and the multilateral trading system are the bedrock. The multilateral framework, it said, is embedded in every bilateral and regional trade agreement that it has negotiated.

Colombia said that an incremental approach should be taken. Areas for short-term agreement should be identified while also plotting a longer-term

course. It called for progress in all three pillars of agriculture and on fisheries subsidies and services.

China said that it is committed to giving priority to all DDA issues. While it noted that there have been new proposals put on the table, there are no signs of consensus on these proposals and the prospect for gaining consensus at this point seems unfavourable. The Doha framework and mandates seem the best bet for delivery of the issues by MC11.

On agriculture, China said it sees that many members want agreement on domestic support. The success of MC10 was about levelling the playing field with respect to export competition, and MC11 can go further by eliminating the Aggregate Measurement of Support (AMS or Amber Box), especially as used by developed countries. Only 32 members use the Amber Box and it will be impossible to reach consensus if the AMS is left out to focus on *de minimis* support, particularly the *de minimis* programmes used by developing countries, let alone *de minimis* programmes used by Article XII countries.

China said there is a need to focus as well on agricultural market access, particularly tariff peaks and tariff escalation. These issues are candidates for deliverables by MC11.

The SSM and public stockholding are standalone issues where solutions must be delivered at MC11, it said. It also stressed on the development dimension.

It said it is favourably inclined on the new issues and would like to see a development-friendly outcome at MC11 on e-commerce.

Bolivia said that the NMD gives priority to the Doha issues, particularly SDT. There is a need to level the playing field and for more fair and balanced rules. There is also a need to eliminate domestic support in agriculture as well as the Green Box. Bolivia underlined the need for an SSM for the developing countries.

India said that members are now in an interesting phase of technical consultations which have enabled them to better understand each other's positions. Only through a member-driven transparent and inclusive process can progress be made.

The public stockholding and SSM provisions are crucial outcomes for India, it said. On services trade, advancing the DDA should be the priority. The

development dimension should be central. Members should not be looking at anything which would erode the development dimension through any part of these discussions, India said.

Ecuador stressed the importance of the DDA issues, in particular SDT. It also wants to use the Rev. 4 draft agriculture modalities text of 2008 as the basis for discussion on agriculture. It would like an agreement on market access in agriculture by MC11 as well as on the SSM and public stockholding.

Cuba said that the need for the Doha Round is as potent as ever because the

imbalances from the Uruguay Round should be addressed. New issues which could impinge on sovereign rights must not be taken up before the DDA issues are concluded. Cuba said it also favoured the use of the Rev. 4 text and supported the G33 proposals on the SSM and public stockholding.

Brazil said that it is pleased to see engagement at a faster pace. Members appear to be moving in the right direction. Agriculture is central, it said, noting that a great majority of members have identified trade-distorting domestic support as a central issue for progress. (SUNS8291/8292) □

US, EU and Australia want "hefty payment" for PSH and SSM

Member states of the WTO remain sharply divided over moves to better enable developing countries to hold public food stocks and to protect their farm sectors from drastic market fluctuations.

by D. Ravi Kanth

GENEVA: The Cairns Group of farm exporting countries led by Australia, along with the United States and the European Union, seem determined to seek a hefty payment from the G33 group of developing countries for a permanent solution for public stockholding programmes for food security (PSH) and the Special Safeguard Mechanism (SSM) for developing countries, several negotiators told the *South-North Development Monitor* (SUNS).

The Nairobi Ministerial Conference of 2015 has mandated the WTO's eleventh ministerial meeting to reach a solution on PSH in developing countries and an SSM that developing countries could use.

During dedicated negotiating sessions on PSH and SSM on 19 and 21 July at the WTO, members of the Cairns Group as well as the US and the EU, among others, raised several questions and mooted conditions that would make it difficult for the G33 to secure credible outcomes on these two issues.

The two separate dedicated sessions were convened by the chair of the Doha agriculture negotiations, Ambassador Vangelis Vitalis.

No change

At the session on PSH on 19 July, the

chair informed members that he has held 49 bilateral sessions and 15 meetings with group coordinators until now. There is no change in the fundamental positions on PSH among the G33 proponents led by Indonesia on the one side, and the non-proponents led by Australia, Brazil, Argentina, the US and the EU on the other, the chair suggested.

The G33 members made a strong case that the permanent solution for PSH is linked to addressing the problem of poverty in their countries. Indonesia on behalf of the G33 demanded that the permanent solution should be a standalone outcome for the WTO's eleventh Ministerial Conference, the chair said, according to negotiators who attended the meeting.

Vangelis maintained that the non-proponents such as Australia, Brazil, Argentina, the US, the EU and Norway, among others, expressed their concern over the G33's demand to create a special annex in the Green Box to exempt market price support programmes from commitments, on the ground that this would create unintended consequences and systemic implications, the negotiators said.

The chair suggested four principles – parallelism, transparency, no presumption and no prejudice – for members to follow during the negotiations on all is-

sues in the Doha agriculture negotiating body.

On behalf of the Cairns Group, Australia had circulated a set of questions for the G33 to answer on PSH over two months ago. The questions include:

- How do you see the way forward?
- How do you see the basis for taking the issue forward?
- What are the elements you consider should be part of a permanent solution?
- How can any outcome address the unintended consequences on trade and food security of other members?
- What, if any, safeguards are currently in place to assure that “stocks procured under such programmes do not distort trade or adversely affect the food security of other members”?
- How much production procured under these programmes has been exported in practice?

In response to the questions, Indonesia, which is the coordinator for the G33, emphasized the importance of PSH for the G33 and developing countries. It said a permanent solution for PSH must be negotiated in an accelerated timeframe. Indonesia said it had already submitted a detailed proposal on how to arrive at the permanent solution by creating a separate annex in the Green Box to cover market price support programmes that would be exempt from any commitments.

Indonesia maintained that the WTO Agreement on Agriculture (AoA) does not provide any policy space for addressing food security challenges. It maintained that the G33 is ready to answer questions on the unintended consequences, including safeguard provisions, with any members.

The Philippines emphasized the importance of PSH for developing countries to implement poverty alleviation programmes.

China said PSH is important for all developing countries to sustain the livelihood of poor farmers. It urged all members to make a sustained effort to arrive at the proposed permanent solution by the time trade ministers meet for the eleventh Ministerial Conference next year. China said the G33 members are ready to answer questions on how to prevent stocks procured for PSH from entering into the export market.

Korea said it is important to take the concerns of domestic constituents into consideration for addressing the permanent solution.

India made a detailed statement on the importance of the permanent solution for the G33 and other developing countries to address growing poverty and rural development concerns. It spoke about the need to rectify the shortcomings of the AoA, particularly for including PSH programmes in the Green Box measures.

In sharp contrast, the Cairns Group members – Chile, Australia, Pakistan, Colombia, Argentina, Canada, Thailand and Brazil, among others – ruled out any inclusion of market price support programmes in the Green Box. Australia said it is surprised that the interim solution which was concluded at the ninth Ministerial Conference in Bali in 2013 is not working.

Australia said several issues such as transparency, safeguards to protect international markets and methodologies must be discussed before considering the permanent solution. It also raised several issues concerning India's exports of wheat procured from alleged public stockholding stocks.

Brazil and Argentina emphasized the importance of safeguards to ensure there are no slippages from the PSH programmes into exports. Pakistan said it concurred with the concerns raised by Australia on wheat and rice that were released from public stockholding programmes into the international market.

The US said while it remains committed to the Nairobi ministerial decision for working on the permanent solution for PSH, it is concerned about unintended consequences. The US said it is important to ensure that governmental actions for PSH do not result in increasing trade-distorting support. It supported a suggestion from Canada under which PSH programmes should focus only on small emergencies, income support and other difficulties.

Canada argued that the permanent solution can create a broad outcome which will be vulnerable to abuse.

The EU said the permanent solution cannot be based on the Green Box programmes. It also called for adequate safeguards as well as a monitoring framework for PSH.

Norway said it is not proper to include PSH programmes in the Green Box.

In his concluding remarks, the chair admitted that there are diverging views on how to arrive at the permanent solution for PSH. He suggested that while the G33 stuck to its proposal circulated in 2014, the non-proponents are not comfortable with that proposal. “We are stuck and we need to be constructive,” said Vangelis.

Market access linkage

During the meeting on the SSM on 21 July, the G33 members led by Indonesia argued that the SSM cannot be linked with market access negotiations, as per the July 2004 framework and the 2005 Hong Kong Ministerial Declaration. The G33 maintained that it had circulated proposals for a simple and effective SSM based on price and volume triggers.

The Philippines said the SSM cannot be based on the special safeguards which are availed of by the developed countries. China said the G33 proposal offered a simple solution as to how the SSM can be constructed on the basis of price and volume triggers.

In sharp opposition, Argentina, Australia, Brazil, New Zealand and Japan, among others, said the SSM can only be discussed in the context of market access because of the inherent linkage between the two issues.

The chair said that while members are not opposed to any discussion on the SSM as per the Nairobi Ministerial Declaration, some members want to discuss the issue in isolation and other members want a link to market access. Vangelis said the SSM issue is not a North-South issue but one that centres around South-South trade.

He said there is no fundamental change in the positions on the SSM, adding that market access linkage is a divide between members.

In a nutshell, the discussions on PSH and SSM clearly revealed that the G33 members face an uphill battle to secure credible outcomes at the eleventh Ministerial Conference next year. Major developed and several developing countries are not prepared to adhere to the previous Doha ministerial mandates and agree to any outcomes on these two issues without payment, several negotiators said. (SUNS8289) □

Brazil derided at G20 meet on domestic support proposal

A proposal co-sponsored by Brazil, a leading member of the developing-country G20 grouping in the WTO, on dealing with trade-distorting farm subsidies has failed to gain traction among some of its fellow G20 members.

by D. Ravi Kanth

GENEVA: India, China, Cuba and Ecuador derided Brazil at a G20 developing-country meeting on 11 July for Brasilia's volte-face on the 2008 revised draft modalities of the Doha agriculture work programme, and denounced a joint proposal circulated by Brazil, Argentina and Paraguay on domestic support as it went against the G20's fundamental objectives for reforming global trade in agricultural products, several agricultural negotiators told the *South-North Development Monitor (SUNS)*.

Consequently, Brazil's move to test the waters on the joint proposal failed to take off, said a South American negotiator who asked not to be quoted.

[The G20 coalition was brought together in August 2003 when, just before the WTO's Cancun Ministerial Conference, the US and the EU – who had been ranged against each other over the EU's Common Agricultural Policy and subsidized agriculture from the time the Uruguay Round was launched in 1986 – suddenly agreed to accommodate each other's interests and formed a common front against the developing world, presenting a framework paper at an informal heads-of-delegation (HOD) meeting.

[At that time, Brazil, India, China and South Africa, among others, joined hands to put forward their own proposal, which was initially co-sponsored by 17 developing countries although this figure quickly rose to 20 (with some more varying supporters). This was how the group came to be called the G20. Brazil's then envoy to the WTO, Ambassador Luiz Felipe de Seixas Correa, was the prime mover, with close support from the Indian and Chinese envoys, and Brazil became the coordinator of this group.

[This move infuriated the EU in particular. Its negotiator Peter Carl attacked the G20 paper at an HOD meet convened by the chair of the WTO General Council and used some angry and unusually non-diplomatic tones, accusing the sponsors of provocation and introducing a North-South confrontation into the WTO. Carl claimed the paper repre-

sented a "Manichean approach to international cooperation", and that the proponents were aiming at the stars in hopes of getting the moon.

[This prompted a response from de Seixas Correa, who said that it was not the moon that the co-sponsors wanted but down-to-earth markets in Europe and elsewhere for their products through reforms to the unfair agricultural system. – *SUNS*]

Joint proposal

After lying dormant for many months, Brazil convened a G20 meeting of technical experts on 11 July to discuss a joint proposal prepared by Brazil, Argentina and Paraguay on domestic support. The proposal had earlier been issued as a restricted job document at the WTO's Committee on Agriculture Special Session (which serves as the Doha agriculture negotiating body) on 17 June. It was also co-signed by Colombia, which is not a G20 member.

The joint proposal emphasized that "the reform process in Agriculture should aim at concrete multilateral outcomes to be achieved by MC11 [the WTO's eleventh Ministerial Conference, due to be held next year] and beyond."

The four sponsors raised several questions "to guide discussions on trade-distorting domestic support". "Our objective is to contribute to a more targeted reflection on the possibilities open to Members for addressing this important systemic pillar of agriculture reform," they said.

Members, the sponsors argued, "should focus their attention on four approaches potentially open as options for tackling" the outstanding issues in domestic support.

Under Option 1, the sponsors asked: "Should Members pursue a comprehensive limit for trade-distorting domestic support? If so, what should constitute the architecture for such overall limit?"

They suggested that "in the past, Members worked with the concept of an

Overall Trade-Distorting Domestic Support (OTDS). OTDS would constitute a new commitment in the AoA [WTO Agreement on Agriculture].

"Such overall limit would be scheduled and work in conjunction with other limiting components. Combined with anti-concentration disciplines, an overall limit would provide a good basis for trade-distortive support reduction commitments while balancing out the need for policy space."

Further, they said that "OTDS was conceived as a fixed monetary value to be established on a country by country basis. The OTDS base limit was made up of: AMS entitlements (where relevant); a percentage of the value of production (VoP); and where relevant support provided or an additional VoP percentage. The construction of Base OTDS reflected past levels of subsidization and could raise questions related to equity of treatment as well as catering to differences in the intensity of subsidization."

The sponsors sought to know whether there were "other ways to think about a comprehensive limit for trade-distorting support of Members? Do Members consider possible and desirable to explore other avenues in order to address a limit for the overall trade-distorting support, perhaps a cap somehow linked to the VoP?"

The second option put forward by the four countries asked whether members should "take advantage of the existing structural elements of trade-distorting domestic support pursuant to Article 6 of the AoA and aim at reduction commitments for each or some of those elements".

The sponsors maintained that the second option is relatively simple and straightforward, under which trade-distorting domestic support under the AMS, *de minimis* and Blue Box would be reduced by an agreed percentage.

This option comes close to what was suggested by the US last year, under which Article 6.2 of the AoA would be jettisoned. Under Article 6.2, developing countries are allowed to provide investment subsidies that are exempted from domestic support reduction commitments.

The third option proposed by the four countries centred on "new structural elements for disciplining trade-distorting domestic support, such as product-specific AMS limits".

Without mentioning the 2008 Rev. 4 draft agriculture modalities text, the

sponsors argued that “product-specific AMS limits were part of the discussions in the past. Caps per product would avoid concentration of expenditures and therefore limit the potential for distortion. Product-specific caps can be even more relevant in the context of overall limits.”

They sought to know whether there should be product-specific caps for *de minimis* in which China, India and other developing countries have taken commitments.

The last option involved developing “alternative ideas for addressing trade-distorting domestic support with the introduction of new variables (e.g. exports of domestically subsidized products)”. The sponsors sought to know whether members must consider “commitments linking limitations to trade-distorting domestic support and exports ... Should market share and the potential to affect international prices be defining features of such option?”

In addition to the above four options, the sponsors also raised the following questions:

(i) How should special and differential treatment be addressed?

(ii) How should balance in leveling the playing field be achieved, recognizing past and future trends in trade-distorting domestic support?

(iii) How would cotton be dealt with?

Common strategy

During the meeting, India thanked Brazil for convening the meeting but regretted that the G20 could not even issue a communique at the Nairobi Ministerial Conference despite a meeting of the G20 trade ministers.

Before addressing this paper, India said, the G20 must finalize its strategy and what it intends to accomplish and which ought to be the issues that must be pursued in the run-up to the eleventh Ministerial Conference next year.

India said it is not correct to cherry-pick issues when there are so many outstanding areas of concern such as the permanent solution for public stockholding programmes for food security, the Special Safeguard Mechanism for developing countries, and export credits. Therefore, the G20 must have a clear path on all issues so as to adopt a common strategy for the eleventh Ministerial Conference. The G20, India said, worked on

export competition and tariff rate quotas at the Bali Ministerial Conference in 2013 but remained silent on export competition at Nairobi.

China said the G20’s position has all along been that outstanding issues in agriculture must be addressed on the basis of the Rev. 4 text.

The former Brazilian ambassador to the WTO Roberto Azevedo, who is now the WTO’s Director-General, had maintained that “the December 2008 [Rev. 4] draft modalities are the basis for negotiations and represent the endgame in terms of the landing zones of ambition. Any marginal adjustments in the level of ambition of those texts may be assessed only in the context of the overall balance of trade-offs, bearing in mind that agriculture is the engine of the [Doha] Round.

“The draft modalities embody a delicate balance achieved after ten years of negotiations. This equilibrium cannot be ignored or upset, or we will need readjustments of the entire package with horizontal repercussions. Such adjustments cannot entail additional unilateral concessions from developing countries,” Azevedo as Brazilian envoy had said at

that time.

China asked Brazil pointedly how it could move away from Rev. 4 without discussing with other members of the group. China said there is a need to have a strategy.

Ecuador said that Rev. 4 remains the basis for the negotiations, arguing that it would not go beyond those modalities.

Cuba concurred with India and China, maintaining that the joint proposal will not fly in the G20 when the group has had a clear position.

Argentina supported the joint proposal, saying that domestic support is the fundamental issue. Chile and Mexico also supported the joint proposal.

Brazil said the proposal is only for technical discussion, suggesting that the group can consider other ideas.

However, the “technical discussion” resulted in what other members viewed as Brazil’s “unabashed attempt” to test the waters at the G20 meeting on its controversial proposal which went against Rev. 4, and it failed to take off. It remains to be seen what Brazil’s next move is going to be, said a South American negotiator who asked not be quoted. (SUNS8281) □

Concerted move by EU, US and allies to rewrite e-commerce work programme

A number of proposals have been presented seeking to push forward the WTO’s work on electronic commerce, but several developing countries are urging caution over any expansion of activities in this area.

by D. Ravi Kanth

GENEVA: The European Union, the United States, Japan and Canada along with their allies launched a concerted effort on 25 July at the WTO to rewrite the work programme on electronic commerce and prepare the ground for negotiated outcomes at the WTO’s eleventh Ministerial Conference next year, several participants told the *South-North Development Monitor* (SUNS).

In an unusual alliance, Brazil, Argentina, Paraguay, Cote d’Ivoire, Nigeria and Pakistan, among others, signalled their intention to pursue a mapping/scoping exercise along with the developed countries.

Brazil, which has championed reform of global agriculture over the years, circulated a non-negotiating paper on e-commerce and how to carry out the scoping exercise in joint meetings of the

four WTO councils on trade in goods, trade in services, trade-related aspects of intellectual property rights, and trade and development.

With the eleventh Ministerial Conference scheduled to take place next year, an all-out effort is being made either to secure concrete outcomes on e-commerce/digital trade or to launch a new round of negotiations after permanently burying the Doha Work Programme, several participants maintained.

However, this move has met with resistance from several developing countries, including South Africa, China, Uganda, Tanzania, Zimbabwe, Egypt, Indonesia, India and Bolivia, which are insisting that work on e-commerce must continue on the basis of the 1998 work programme and the 2015 Nairobi Ministerial Declaration (NMD).

At a dedicated session on e-commerce on 25 July, the chair, Ambassador Alfredo Suescum from Panama, referred to several papers starting from 1994 and urged members to provide their preliminary comments on the recent slew of proposals.

Close on the heels of a recent proposal from the US, which proposed an e-commerce work programme based on the outcomes in the Trans-Pacific Partnership Agreement, nine countries – the EU, Canada, Chile, Colombia, Cote d'Ivoire, Korea, Mexico, Paraguay and Singapore – issued a joint paper on 22 July for starting a discussion on a tentative list of all trade-related elements that are relevant for e-commerce.

In their joint proposal, the proponents have grouped elements around clusters pertaining to: (a) regulatory frameworks, (b) open markets, (c) initiatives facilitating the development of e-commerce, and (d) transparency of the multilateral trading system.

The list of issues, according to the proponents, “is not a proposal for negotiations, and is presented without prejudice to which elements the co-sponsors would seek to pursue.” They, however, maintained that it is worth considering the elements of trade policy that relate to e-commerce, taking into account policy developments over the past two decades.

Although the e-commerce negotiations were started in 1998, members remain divided on a range of issues starting with the definition and the implications in different areas. Members are also unable to resolve differences over specific classification issues.

But the nine countries maintain that, given the understanding that trade in the digital economy has evolved, e-commerce would cover the production, distribution, marketing, sale or delivery of goods and services by electronic means.

“The breadth of this mandate convinced Members that the General Council should oversee the work programme, and that four WTO Committees would contribute to the programme – the Council for Trade in Services, the TRIPS Council, the Council for Trade in Goods and the Committee on Trade and Development,” the proponents argued.

Separate proposal

In a separate proposal on e-commerce and development, another group

of nine countries – Colombia, Costa Rica, Hong Kong, Israel, Malaysia, Mexico, Nigeria, Qatar and Singapore – called for kickstarting discussion on e-commerce issues that are relevant to developing countries.

These nine countries suggested issues in four areas such as trade facilitation and e-commerce, infrastructure gaps to enable e-commerce, access to payment solutions, and online security. They posed the following questions:

(i) Trade facilitation and e-commerce: Cross-border e-commerce often involves low-value shipments and/or digital transmissions over the Internet. Once within the borders, logistics players also play a big part in ensuring smooth delivery of products. What can be done to further empower smaller business using e-commerce and lower their cost of conducting trade?

(ii) Infrastructure gaps to enable e-commerce: Infrastructure gaps in developing countries have posed challenges (e.g., access to broadband) but also provided innovative opportunities for businesses (e.g., rise of local payment solutions). Is there a way to better target technical assistance towards plugging the critical gaps?

(iii) Access to payment solutions: Being able to find payment solutions is key to whether a business will go online. In the absence of secure online payment services, payment via mobile phones and cash-on-delivery option have been used. How can we improve businesses' and consumers' access to more payment options to better enable them to conduct and access cross-border e-commerce?

(iv) Online security: Trust is a key factor in determining whether consumers are willing to engage in e-commerce. This includes trust in online payment services, the reputation of the online merchant and even in whether there is enough legal protection to provide recourse should a transaction go awry. What can be done to build trust in online transactions and e-commerce and improve consumer protection? Is there scope for improved cooperation between countries on cyber-crime?

In yet another proposal on e-commerce, Brazil stressed the importance of key concepts/policy choices related to e-commerce. Brazil said the Internet “should remain free and open for all legitimate commercial and development purposes, including by allowing increased access to information, knowl-

edge and new technologies.”

“As a general rule,” Brazil argued, “rights and obligations should be the same and apply equally offline and online. At the same time, it would also be necessary to discuss guarantees to the right of governments to adopt public policies with legitimate objectives, if necessary through exceptions to eventual new rules.”

Differing views

During the 25 July meeting, the proponents of e-commerce/digital trade such as Japan, Pakistan, Russia, Chinese Taipei, Singapore, Hong Kong, the EU, Canada, Cote d'Ivoire, Chile, Paraguay, Mexico, Korea, Australia, Colombia, Costa Rica, Israel, Malaysia, New Zealand, Norway, Switzerland, the US, Brazil, Argentina and Paraguay demanded sustained work in all four councils under the guidance of the General Council.

In nuanced statements, these countries emphasized issues such as a permanent moratorium for not levying customs duties, open Internet, development, disciplines on small and medium enterprises and other related issues.

The EU, for example, called for identifying elements of trade policy relating to e-commerce while pursuing work on “liberalization commitments and rule-making,” according to participants familiar with the meeting.

The US said it is not interested in “abstract debates” while emphasizing the need to be comprehensive on e-commerce and digital trade. The US said e-commerce must be approached from different perspectives.

In sharp contrast to the demands for an open, liberal and expansive mandate on e-commerce/digital trade, many developing and least developed countries maintained that they will adhere to the NMD.

South Africa, for example, said e-commerce is a cross-cutting issue in which some countries have made extraordinary progress while other countries are grappling with several issues that are still in an infant stage. It pointed to the infrastructural deficiencies in many developing countries and cited a 2013 UNCTAD background note which spoke about the unintended consequences on economic development stemming from the expansion of e-commerce. Further, the impact of e-commerce on

physical movement of goods in Africa could be significant, South Africa suggested.

China concurred with South Africa that e-commerce is a cross-cutting issue in which the development dimension should be the central theme. China demanded that rule-making in e-commerce should be based on consensus.

China also raised several questions such as what would constitute electronic means and digital means as indicated in the US proposal; scope of digital trade, digital economy and e-commerce; and the development dimension of e-commerce as suggested by Singapore.

Uganda said African countries would need time to examine all issues in e-commerce given the varying levels of development. Uganda said the developing and poorest countries cannot be burdened with the same commitments as the developed countries in e-commerce. The Doha Round issues must be addressed first before commencing work on e-commerce, Uganda maintained.

Tanzania said while it recognizes the importance of e-commerce, members must acknowledge the huge gap on e-commerce among countries. The work programme on e-commerce must be dedicated to closing the existing gaps.

Zimbabwe said e-commerce is not a Doha issue and argued that the current mandate should not go beyond what was proposed in the NMD. It argued that e-commerce is a new issue.

India said the work programme on e-commerce must be as per the NMD. The NMD decided that members will continue work "under the Work Programme on Electronic Commerce since our last session, based on the existing mandate and guidelines and on the basis of proposals submitted by Members in the relevant WTO bodies."

The NMD suggested that the General Council will hold periodic reviews in its sessions of July and December 2016 and July 2017 based on the reports that may be submitted by the WTO bodies entrusted with the implementation of the work programme and report to the next session of the Ministerial Conference.

Finally, the NMD maintained that "Members will maintain the current practice of not imposing customs duties on electronic transmissions until our next [Ministerial Conference] session which we have decided to hold in 2017."

India emphasized that the "mandate of the work programme on e-commerce

is a non-negotiating one and any decision to widen the mandate should be a conscious one and not be slipped in or automatically assumed."

India urged members to be cautious about the scope of issues in the work programme. It said issues such as tariff elimination, conformity assessments, development of market-driven standardization, e-procurement and e-auctions are not discussed in the mandate. Most developing countries, India said, are still

grappling with basic access and connectivity issues. Developing countries must have policy space for further regulatory development, India suggested.

In short, major developed countries are determined to pursue e-commerce/digital trade while pushing the Doha Work Programme issues under the carpet. After the summer break, they will make a renewed push towards giving life to e-commerce, participants told *SUNS*. (*SUNS8291*) □

Brazil rebuffed on effort to wind up CTS subordinate bodies

Brazil has been unable to secure sufficient backing for a proposal to suspend the subsidiary bodies of the WTO's Council for Trade in Services, reports D. Ravi Kanth.

GENEVA: An attempt by Brazil, supported by the United States, to wind up the subsidiary bodies now functioning under the WTO Council for Trade in Services (CTS) and effectively focus all discussions on trade in services and negotiations at the CTS itself, has failed, inflicting a major setback to Brazil and its new-found ally, several trade negotiators told the *South-North Development Monitor* (*SUNS*).

These negotiators see Brazil and the US in an alliance on services and the e-commerce talks that the two appear to be promoting.

The failed Brazilian move to wind up the subordinate bodies of the CTS was made on 26 July at the CTS.

Brazil along with the US, the EU, Australia and several other countries also failed at the meeting to get support for a proposal to update the GATS 1998 mandate on e-commerce.

On the issue of e-commerce, the US for its part blocked an attempt to prepare a compilation of all proposals that have been submitted by members on the issue, arguing that it would prefer its non-paper on the e-commerce work programme to remain a "standalone" document.

Restructuring

At the 26 July CTS meeting, Brazil pressed members to "brainstorm" on restructuring the subsidiary bodies of the CTS. It did not table any written proposal but made an "invitation to brainstorm" on the basis of an oral statement. It had made the request for "brainstorming" the issue at the June cluster meeting of the CTS.

Brazil said it wanted to suspend the subsidiary bodies of the CTS. Any issue arising from these bodies can be put onto the CTS agenda and discussed there, Brazil suggested.

Currently, there are six subordinate bodies under the CTS.

Negotiations on market access in services in terms of the Doha Work Programme (DWP) take place at the Special Session of the CTS, which functions under the Trade Negotiations Committee of the DWP.

The CTS regular session comes under the purview of the WTO General Council.

There are four subsidiary bodies that function under the CTS regular session. They include the Working Party on Domestic Regulation and the Working Party on GATS Rules. These two bodies have been established as per the in-built agenda in the WTO's General Agreement on Trade in Services (GATS) and have specific negotiating mandates to develop disciplines on domestic regulation, subsidies, emergency safeguard measures and government procurement. Once these bodies achieve these objectives, they will no longer serve a purpose and are therefore temporary in that sense.

There are two other subsidiary bodies: the Committee on Trade in Financial Services and the Committee on Specific Commitments. The two are permanent bodies established as per the Decision on Institutional Arrangements for the GATS. They serve specific roles and are mandated to keep under continuous review and surveillance the application of the GATS in relation to financial services and oversee the implementation of specific commitments in all modes of ser-

vices supply.

Brazil said at the 26 July meeting that it was merely throwing up some ideas for brainstorming which must not be considered as a proposal. It maintained that its "invitation to brainstorm" on the restructuring of the subsidiary bodies stemmed from factual analysis of reality over the last several years, and that it is difficult to identify substantive discussions that have taken place in these bodies.

Brazil argued that the Committee on Specific Commitments without market access cannot proceed on scheduling commitments.

The Working Party on Domestic Regulation, Brazil maintained, is at a crossroads unless there are text-based discussions in the body.

The four committees – Working Party on Domestic Regulation, Working Party on GATS Rules, Committee on Trade in Financial Services and Committee on Specific Commitments – must suspend their activities, suggested Brazil, and the chair must decide if and when activities should resume, according to participants at the meeting.

Brazil said it is open to considering standing items on the agenda of the CTS but added that it doesn't want to put it in writing.

It maintained that there could be ways of tackling the issue but does not want to defend the suggestions. It said it is merely inviting members to a collective brainstorming on the issues it raised.

Turkey said that while it was ready to brainstorm, it will not do so without a written submission.

The African, Caribbean and Pacific (ACP) Group, the African Group, Australia, Canada, New Zealand and Paraguay said they will not agree to suspend the subsidiary bodies of the CTS. The ACP Group said the Committee on Trade in Financial Services is of specific interest to it.

Canada, Australia and New Zealand, among others, informed Brazil that it would be better to convene meetings when there are substantive proposals on the table demanding such a discussion.

The EU said Brazil's proposal would be tantamount to drastic surgery which is not warranted.

Brazil can, however, claim credit for support from its new ally, the US, said a developing-country services negotiator.

The US said Brazil's ideas are useful for a conversation on the subsidiary bodies and are an important point of departure. It welcomed Brasilia's ideas underscoring the need to reflect on whether or not the structure has over-

taken substance. It argued that there is no problem whether the Brazilian suggestion is made orally or otherwise.

If Brazil's proposal is successful, it would effectively move negotiating mandates on domestic regulation and rules to the CTS regular session, argued a developing-country negotiator. Further, issues concerning e-commerce are already discussed in the CTS, the negotiator said. Therefore, if domestic regulation and rules move there too, the question will then arise as to where market access negotiations should take place. That would make it easier for those members calling for the end of the Doha Round to have all their issues discussed in the CTS and do away with the Special Session.

It is similar to what Brazil is doing in the DWP rules negotiations, the negotiator maintained.

When a WTO secretariat official suggested the next cluster of meetings after the summer break, Brazil said its proposal might seem too radical but there is a need for another meeting on demand.

Turkey flatly rejected Brazil's demand-driven meetings, while South Africa maintained that the next cluster of meetings must be done according to past practices. If Brazil still has concerns, an assessment can be made at the formal CTS meeting at the next cluster, South Africa argued.

China echoed South Africa's position, suggesting that suspension of any bodies is up to the political will of members on what and when to speak. The value of having subsidiary bodies on every cluster is to compel members to think hard, China argued.

The chair of the CTS, Ambassador Gustavo Miguel Vaneiro Balbela of Uruguay, suggested that there is no consensus on the Brazilian ideas.

Update

Brazil also suffered a setback on another demand in which it asked the WTO secretariat to update the GATS 1998 mandate on e-commerce since there have been dramatic developments.

Brazil said that it is trying to see how it is possible to address its concerns and how the discussion on e-commerce can be approached. It said there has been an upsurge of e-commerce proposals in the General Council, arguing that the issues are getting more complicated. The secretariat can update on cloud computing. Brazil maintained that it is not asking for rewriting of the document but that some bits should be updated.

Brazil said it was ready to look into some suggestions on developmental as-

pects. It argued that there is a serious question at the dedicated session whether e-commerce should be discussed as a cross-cutting issue or bit by bit.

This update, Brazil said, is exactly the sort of discussion to understand what is happening in services. Such an update should be reproduced not only in the CTS but also in the Council for Trade in Goods, Brazil maintained.

The chair Vaneiro said that several delegations are not convinced on the need to update the 1998 document. He agreed that it is a complicated issue but e-commerce and the digital economy is a moving target in some ways. He urged members to continue with more consultations.

In a separate development, the chair for the dedicated session on e-commerce, Ambassador Alfredo Suescum from Panama, said the WTO secretariat must prepare for the next meeting a compilation of elements presented in papers by several delegations.

The US, which has tabled a non-paper on the e-commerce work programme based on the outcomes in the Trans-Pacific Partnership Agreement, said it does not understand the need for a compilation of elements. It said its proposals must sit on their own for the time being before there can be agreement to whatever it is. It said it doesn't want its paper to be picked apart and put somewhere it's not intended.

Concurring with the US opposition to a compilation of elements, Australia asked whether there will be value in the secretariat work, and whether there is a role for the secretariat or if that should be more member-driven.

India maintained that the proponents must present their proposals post-summer. The EU also called for a discussion on the proposals.

The chair said he will clarify the notion behind the compilation but Japan requested compiling the elements.

In the face of lack of consensus, the chair merely concluded by saying that the issue will be kept on hold.

Meanwhile, at the General Council on 27 July, the outgoing Brazilian ambassador Marcos Galvao declared that Brazil is now an aggressive demandeur on e-commerce as it is in agriculture.

It is difficult to know how this change in Brazil's trade policy and its emphasis on e-commerce has come about, said a South American negotiator. "More important, Brazil is now a strategic partner of the United States in e-commerce and other issues at the WTO," the negotiator added. (SUNS8293) □

The UN and global economic stagnation

Marginalization of the UN system in global economic governance is threatening the very future of economic multilateralism, writes *Jomo Kwame Sundaram*.

When the financial crisis preceding the Great Recession broke out in late 2008, attention to the previously ignored UN Secretariat's analytical work was greatly enhanced.

This happened as the UN and the Bank for International Settlements (BIS) had been almost alone in warning, for some years, of the macroeconomic dangers posed by poorly regulated financial sector developments.

In contrast, most other international organizations – the International Monetary Fund (IMF), World Bank and Organization for Economic Cooperation and Development (OECD) – which monitor developments in the world economy had failed to see the crisis coming. Until the third quarter of 2008, they were still predicting continued robust growth of the world economy and “soft landings” in the unlikely event of financial turmoil, including in the US.

Thus, the UN was in a strong position to lead the global response to the crisis. However, although “second opinions” were offered to member states upon request, in practice, it largely remained business as usual. Each part of the international system carried on with their own work programmes with obligatory references to the crisis and its impacts. There was no coherent response or sustained attempt to seriously address fundamental issues.

Meanwhile, although there have been some occasional signs of recovery, economic stagnation in most developed economies continues, with high joblessness and underemployment. The signs of recovery have been uneven and easily reversible.

Early withdrawal of stimulus measures in 2009 pushed the global economy into stagnation, especially as private consumption and investment spending remained weak.

Most developing countries have remained vulnerable, with little fiscal space to be able to respond to shocks. Their policy space remains restricted, especially following the collapse of mineral and other primary commodity prices, and continued denial of the need for counter-cyclical macroeconomic policies

by most influential policymakers.

The poorest countries and communities also face the prospect of a resurgence of poverty and hunger. In recent years, the push to cut social security institutions and spending has threatened to eliminate the main remaining forms of social protection.

Meanwhile, efforts to strengthen prudential regulations in developed countries have been indefinitely postponed since 2009 with the first signs of recovery, in response to financial market pressures once the financial sector had been rescued. Since then, there has been little serious discussion of reforms in the international financial system.

UN initiatives impeded

In 2009, the UN Secretary-General called for a Global Green New Deal, seeking internationally coordinated fiscal stimuli involving major investments in renewable energy and other long-neglected global public goods.

At its April 2009 meeting, the G20 major world economies successfully mobilized over \$1 trillion, but this mainly enhanced IMF resources and thus further empowered the Washington-based international financial system.

The UN emphasized the promotion of sustainable energy to address the looming climate change challenge. In the face of limited private investments, it argued that public investments had to take the lead to help quickly bring down the unit costs of renewable energy sources. But the proposal was then rejected as inappropriate owing to the higher costs of renewable energy.

In fact, subsequent developments have shown that the UN was too cautious, as the costs of renewable energy have fallen much faster than it anticipated although the recent oil price collapse has limited its competitiveness once again.

Another element in the UN-proposed New Deal involved strengthening world food security by encouraging investment in food agriculture by small farmers, again with public investment leading, supplemented by official devel-

opment assistance.

In addition, there was growing recognition of the need to completely eradicate poverty and hunger with extraordinary measures under the rubric of “social protection”.

In so far as such measures would also enable beneficiaries to enhance their productive assets and capacities, they would also ensure higher incomes and more investments, thus accelerating economic recovery, greater resilience and self-reliance in the medium term.

Recognizing the critical role of the 1944 Bretton Woods conference and the institutions it created for postwar recovery and post-colonial development, the UN also called for reforms to the international financial system to better address new circumstances and challenges.

The 2008 second UN Financing for Development conference in Doha reiterated the Monterrey conference's call to mobilize the international community for accelerated debt relief, improve international tax cooperation, better developing countries' access to developed-country markets, and enhance developing-country access to technology, especially for life-saving drugs and renewable energy.

If UN initiatives had not been blocked by some OECD countries, it is likely that the world would have developed a debt management framework to address the Icelandic, Greek and other debt crises as well as greater international tax cooperation to better address massive and still growing tax evasion and fiscal constraints faced by so many governments today.

The June 2009 UN Conference on the World Financial and Economic Crisis made specific proposals for urgent actions, many of which were later elaborated by the Stiglitz Commission Report's recommendations.

But some hints of recovery provided the pretext for the U-turn to fiscal austerity in Europe once the commanding heights of most powerful financial interests had been rescued.

In early 2009, the UN system committed to supporting member states to reorient their macroeconomic policy frameworks to include full employment as an explicit target for both developed and developing countries. But without resources and facilities to support the provision of appropriate policy advice, few countries have sought UN assistance for counter-cyclical macroeconomic management since.

Thus, despite its longstanding mandate and better track record than most

other international financial institutions, a greater proactive role of the rest of the UN system has been denied by a coalition of powerful countries.

Sadly for the world, this marginalization threatens the very future of economic multilateralism, as has long been evident from the continued hegemony of the Washington Consensus, and at the Addis Ababa third UN Financing for Development conference last July and the World Trade Organization ministerial conference in Nairobi in December. (IPS)

Jomo Kwame Sundaram was the Assistant Secretary-General for Economic and Social Development in the United Nations system during 2005-15, and received the 2007 Wassily Leontief Prize for Advancing the Frontiers of Economic Thought.

(continued from page 16)

water is required to be free from pesticides and to comply with labelling standards, and meeting the requirements of ten entails a fixed cost.

"If you are a large producer from a large country that has all the accredited laboratories, it is relatively easy for you to export to the other markets, but when you come from an LDC [least developed country], there is no accredited laboratory to certify that you meet all the requirements and it is immensely costly to comply with the requirements in the other markets."

Peters said that such requirements present a particular challenge for the LDCs though the requirements are the same for all.

Speaking about the UNCTAD database, Peters said it gives a comprehensive overview of all the NTMs in one particular country.

Citing the US as an example, Peters said that there are around 10,000 measures in the country – "we read hundreds of thousands of pages of legal texts in the US."

"And you can go by product. For example, [if] you are an exporter of ... cut flowers, you can then look for all the regulations that you have to comply with in the US market for cut flowers. We have this now for 56 countries in the world that account for around 80% of world trade."

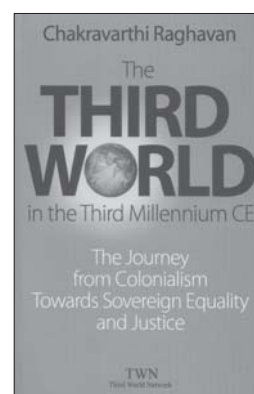
"The database uses the same approach worldwide so you can also compare what are the regulations in the US, the EU, Kenya and Cambodia and so on. We can also look into how different the regulations are in these markets," said Peters. (SUNS8288)

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

By Chakravarthi Raghavan

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

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