

MC12 delivers unfavourable outcome for South

The WTO's 12th Ministerial Conference (MC12) on 12-17 June managed to yield tangible results despite protracted deadlocks at the negotiating table in the run-up to the meeting. But the agreements adopted either failed to realize or were detrimental to developing-country interests and were reached on the back of murky decision-making processes that sidelined most of the membership.

- **South suffers loss at MC12, EU and US biggest winners – p2**
 - **Exclusionary unrepresentative processes behind the MC12 outcome – p6**

..... ALSO IN THIS ISSUE

World on brink of most severe cost-of-living crisis in a generation

SWIFT dollar decline

Published by Third World Network
Bhd (198701004592 (163262-P))
131 Jalan Macalister
10400 Penang, Malaysia
Tel: (60-4) 2266728/2266159
Email: twn@twnetwork.org
Website: <https://twn.my>

CONTENTS

CURRENT REPORTS

South suffers loss at MC12, EU and US biggest winners — *p2*

Exclusionary unrepresentative processes behind the MC12 outcome — *p6*

World on brink of most severe cost-of-living crisis in a generation — *p10*

Global food import bill to reach all-time high in 2022, says FAO — *p11*

OPINION

SWIFT dollar decline — *p13*

THIRD WORLD ECONOMICS

is published fortnightly by the Third World Network (TWN), an independent non-profit international research and advocacy organization involved in bringing about a greater articulation of the needs, aspirations and rights of the peoples in the South and in promoting just, equitable and ecological development.

Founding Editors: Chakravarthi Raghavan (1925-2021); Martin Khor (1951-2020)

Editor: Lean Ka-Min

Editorial Advisor: T. Rajamoorthy

South suffers loss at MC12, EU and US biggest winners

Hailed as “very, very substantive”, the decisions adopted by the 12th WTO Ministerial Conference in fact do little to lift the lot of the developing countries and may instead hurt their interests in many respects.

by D. Ravi Kanth

GENEVA: As the World Trade Organization’s 12th Ministerial Conference (MC12) concluded in the early hours of 17 June, trade ministers of the developing countries seemed to have vacated the field on their core developmental concerns and allowed the European Union and other major developed countries to claim success, said people who asked not to be quoted.

In a way, by the time the developing countries “wake up” after the five intensely exhaustive days of negotiations at MC12, they may come to realize the incalculable damage done to their hopes, aspirations and demands, said several people who asked not to be quoted.

Notwithstanding the rather “positive” statements about the “success” of MC12 made by some developing countries, the writing on the wall seems pretty clear: “You (the developing countries) have little or no place in this 164-member, intergovernmental, rule-making trade body.”

The last chance for developing countries to “stay afloat” in the WTO begins now. Unless they act, they may end up almost dismembered with no rights and entitlements when they “wake up” after the 13th Ministerial Conference, whenever it takes place.

In the run-up to MC12, sufficient danger signals had been emitted with several articles in *Third World Economics* and the *South-North Development Monitor* (SUNS) cautioning about eleventh-hour deals being pushed through at the conference in a “pressure-cooker” atmosphere. The exclusion of a large number of developing countries from the “Green Room” negotiations where these deals are forged, as indeed transpired at MC12 (see following article), was repeatedly flagged in articles by this writer.

MC12 concluded in the early hours of 17 June with WTO Director-General (DG) Ngozi Okonjo-Iweala declaring it an “unprecedented” meeting with “very, very substantive outcomes”.

TRIPS decision

The much-touted TRIPS decision emerged at midnight of 16 June following consultations between the US and China over the controversial issue of the eligibility criteria. Initially, the agreement excluded China from availing of the flexibilities for developing countries due to its share of global COVID-19 vaccine exports exceeding 10%.

China said this criterion was a “red line” and made it known that, provided it was removed from the decision text, Beijing would opt out from availing of the flexibilities anyway.

The US had not been engaging with China on this issue but as the pressure mounted, the US negotiators in Geneva agreed on language that removed the criterion.

In the final text issued late on 16 June, the compromise language on the eligibility criteria was announced. It now states: “For the purpose of this Decision, all developing country Members are eligible Members. Developing country Members with existing capacity to manufacture COVID-19 vaccines are encouraged to make a binding commitment not to avail themselves of this Decision. Such binding commitments include statements made by eligible Members to the General Council, such as those made at the General Council meeting on 10 May 2022, and will be recorded by the Council for TRIPS and will be compiled and published publicly on the WTO website.”

In short, the US quietly conceded to the removal of the 10% criterion

but apparently managed to tighten the language on opting out.

Other stringent conditions, introduced by the United Kingdom and Switzerland, have been retained in the decision. Even then, until 16 June evening, the UK delegation had blocked a final agreement, saying that it needed its capital to study the text, said people who asked not to be quoted.

US Trade Representative Katherine Tai, who left Geneva at around 9 am on 16 June, did not even mention the compromise the US had reached with China. In her press statement issued on 17 June, Tai merely said that through “difficult and protracted discussions, Members were able to bridge differences

and achieve a concrete and meaningful outcome to get more safe and effective vaccines to those who need it most.”

The TRIPS decision, which will be valid only for five years, also includes language that states: “No later than six months from the date of this Decision, Members will decide on its extension to cover the production and supply of COVID-19 diagnostics and therapeutics.”

However, the chances of any agreement on such extension seem to be slim, said one TRIPS interlocutor.

Civil society organizations have described the TRIPS decision as being “skewed” and “rigged” against the developing countries with stringent

conditions and burdensome requirements for implementation.

Max Lawson, Co-chair of the People’s Vaccine Alliance and Head of Inequality Policy at Oxfam, said “the conduct of rich countries at the WTO has been utterly shameful”. He suggested that “the EU has blocked anything that resembles a meaningful intellectual property waiver.”

“The UK and Switzerland have used negotiations to twist the knife and make any text worse”, while “the US has sat silently in negotiations with red lines designed to limit the impact of any agreement,” Lawson added.

(See box for more civil society reaction to the TRIPS decision.)

Governments must break Big Pharma-WTO stranglehold on access to medicine by taking immediate action to prioritize human lives over pharmaceutical monopolies

Given MC12’s failure to remove TRIPS restrictions on access to COVID-19 medical products, nearly 300 civil society groups from around the world issued the following statement on 16 June urging governments to “take every step necessary to save lives” and to “outright defy” WTO intellectual property constraints if needed.

More than two years into a pandemic that has killed 15 million people, World Trade Organization intellectual property (IP) barriers shamefully remain a deadly obstruction limiting global access to COVID-19 vaccines, tests and treatments. A few wealthy countries promoting pharmaceutical corporation interests have been able to block the use of the WTO’s waiver mechanism to temporarily suspend such barriers despite more than 100 WTO member countries supporting a waiver. The WTO’s notoriously exclusionary, oppressive processes have been deployed instead to force through a sham text that will not improve global access to COVID-19 medicines because it not only fails to remove IP obstacles but outrageously adds further constraints to existing WTO flexibilities for medicines production. This outrageous situation underscores that governments must take immediate actions to bypass the

WTO’s prioritization of pharmaceutical monopolies over human lives.

By acting on behalf of pharmaceutical interests and blocking WTO removal of IP barriers to global vaccines, tests, and treatment access, the European Union, Switzerland and United Kingdom have betrayed the billions of people worldwide who still need access to lifesaving vaccines, medications, and diagnostics. In failing to deliver on a vaccine waiver for which it announced support and blocking the inclusion of treatments and tests, the United States has also turned its back on a planet desperate for the COVID pandemic to end.

The failure to temporarily waive the WTO’s Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) as demanded by the vast majority of the world’s countries and by public health experts and health workers, generic medicine

manufacturers, human rights advocates, faith leaders, labour unions, community groups, scores of Nobel laureates and former heads of state, the World Health Organization Director-General and even the Pope spotlights just how broken and dangerously out-of-touch the WTO remains.

Health needs cannot be subservient to pharmaceutical monopoly’s profits. In response to the ongoing failure to adopt a temporary waiver of pharmaceutical IP monopolies on COVID medical countermeasures, civil society organizations around the globe are calling on governments to:

1. Pledge not to use the WTO’s and other trade and investment agreements’ dispute mechanisms or other means in an attempt to stop or dissuade countries from producing, distributing or using medical technologies or from sharing information on how to do so regardless of WTO and free trade agreement IP rules;
2. Take every step necessary to save lives and end the pandemic, including by fully using the WTO’s existing, albeit limited, flexibilities;
3. Circumvent the WTO’s pharmaceutical monopoly rules when possible and outright defy those rules when needed.

This united call comes as the WTO concludes its most significant decision-making meeting since the start of the COVID-19 – the 12th WTO Ministerial Conference – without agreeing to

temporarily remove WTO IP rules that restrict the production and supply of COVID vaccines, diagnostics and therapeutics.

For roughly 20 months, the obstinance and bullying of a few very economically-powerful WTO member states was allowed to run roughshod over the wishes of more than 100 countries to waive WTO TRIPS obstacles to global access to COVID-19 medical tools. The TRIPS waiver text proposed in October 2020 by South Africa and India enjoyed cosponsorship from 65 WTO member countries, but outrageously negotiations on this text were never allowed. Under the WTO's unacceptable processes, a text written by the WTO Secretariat and supported only by the main waiver-blocker, the European Union, was pushed forward to be railroaded through the Ministerial. History will harshly record the WTO's contribution to COVID vaccine, treatment and test apartheid.

The WTO's threat to global access to medicines did not start with COVID-19.

For decades, the WTO has steadfastly refused to put shared global priorities like saving lives and ending pandemics ahead of the narrow profit and power-seeking interest of pharmaceutical monopolies. This was clear at the turn of the century during the peak of the HIV/AIDS crisis, and has only become even more clear with the WTO's unconscionable inaction during the COVID crisis today.

The WTO's draconian IP rules have already contributed to prolonging the current pandemic and, if countries can't get these rules out of the way, they will continue to contribute to massive public health, economic and social damage during future pandemics as well. And pandemics are not the only matters of concern. Billions of people lack access to lifesaving medicines that prevent, treat and cure illnesses because intellectual property regimes distort research priorities, create scarcity by artificially restricting supplies, and allow excessive pricing and inequitable distribution that affects the poor and people living in lower-

income countries. Countries that don't accept these rules are subjected to trade threats and repercussions, undermining their own sovereign processes and rules. This cannot continue.

The world must not allow the deadly vaccine apartheid that characterized the first generation of COVID vaccine manufacturing and distribution to be recreated when it comes to COVID diagnostics, treatments and second-generation vaccines. With the WTO process failing to suspend WTO IP rules to prevent this ongoing and disastrous injustice, governments who are also WTO member states must now act in good faith outside of the WTO's strictures.

The full list of signatories to this statement is available [here](#). An addendum to this statement listing the "actions governments can take now to help save lives and end the pandemic" is available [here](#).

Extension of e-commerce moratorium

The extension of the existing moratorium on customs duties on "electronic transmissions" was a big-ticket item for the US, the EU and other industrialized countries at MC12. They seemed alarmed that a group of developing countries, including India, South Africa and Indonesia, might secure the termination of a moratorium which has deprived developing countries of billions of dollars in revenue.

In fact, the US and several other members wanted a permanent moratorium, even though there is still no clarity on the definition and scope of "electronic transmissions", said people familiar with the discussions.

When the issue came up for discussion at a Green Room meeting in the DG's office, the US apparently suggested that there should be at least a nine-month extension before the termination of the moratorium. However, South Africa and Pakistan pressed for its termination. After considerable discussion, the two developing countries seemed open to considering a nine-month extension with an iron-clad guarantee decision, said

people who asked not to be quoted.

Apparently, at one point during the talks, the trade ministers of the EU and the UK went out of the room and came back with a proposal to extend the moratorium until December 2023 or till the 13th Ministerial Conference, with explicit language of "termination" at the end of the period.

The decision that was finally adopted states:

"We [the Ministerial Conference] agree to reinvigorate the work under the Work Programme on Electronic Commerce, based on the mandate as set out in WT/L/274 and particularly in line with its development dimension.

"We shall intensify discussions on the moratorium and instruct the General Council to hold periodic reviews based on the reports that may be submitted by relevant WTO bodies, including on scope, definition, and impact of the moratorium on customs duties on electronic transmissions.

"We agree to maintain the current practice of not imposing customs duties on electronic transmissions until MC13, which should ordinarily be held by 31 December 2023. Should MC13 be delayed beyond 31 March 2024, the moratorium

will expire on that date unless Ministers or the General Council take a decision to extend."

The "Pyrrhic victory" for the developing countries was to get the word "expire" into the decision for the first time, while the real victory went to the US, the EU and other industrialized countries which managed to stall the termination of the moratorium for two more years with a chance of further extending it, said people who asked not to be quoted.

Decisions on "WTO response to emergencies"

The TRIPS decision was part of what was called a "package on WTO response to emergencies". The other three texts in this "package" were: a Declaration on the Emergency Response to Food Insecurity; a Declaration on the WTO Response to the COVID-19 Pandemic and Preparedness for Future Pandemics; and a Decision on World Food Programme (WFP) Food Purchases Exemptions from Export Prohibitions or Restrictions.

The Declaration on the Emergency Response to Food Insecurity, which is couched in "vacuous" language of a "best endeavour" nature, maintains, among

others, that members are determined “to make progress towards the achievement of a fair and market-oriented agricultural trading system, ending hunger, achieving food security and improved nutrition, promoting sustainable agriculture and food systems, and implement resilient agricultural practices that enhance productivity and production in fulfilment of Sustainable Development Goal 2 of the United Nations, taking into account the interests of small-scale food producers in developing countries.”

There was little opposition to the declaration because it did not require anything from the members. It is like an ornament without much value in the overall package, said a person who asked not to be quoted.

The declaration on the WTO response to the pandemic is, after considerable squabbling over its provisions, another best-endeavour outcome, said many people who asked not to be quoted.

The declaration states: “We note that over the course of the COVID-19 pandemic, Members experienced supply constraints of COVID-19 vaccines, therapeutics, diagnostics, and other essential medical goods. These experiences were not shared equally during the pandemic, in particular due to Members’ differing levels of development, financial capabilities, and degrees of import dependence on those products.”

The declaration asks members “to understand and build upon the experience of the pandemic, as contemplated by this declaration, in order to support increased resilience for COVID-19 and future pandemics.”

It states that countries recognize “the importance of a stable and predictable trading environment for the provision of goods and services in accordance with WTO rules to facilitate manufacturing, and supply and distribution of COVID-19 vaccines, therapeutics, diagnostics, and other essential medical goods, including their inputs.”

It adds that “the pandemic has highlighted the importance of working towards enhancing timely, equitable and global access to safe, affordable and effective COVID-19 vaccines, therapeutics, diagnostics and other essential medical goods. We recognize the role of the multilateral trading system in supporting the expansion and diversification of production of essential goods and related services needed in

the fight against COVID-19 and future pandemics, including through identifying opportunities and addressing barriers. We underscore the critical role the WTO can play in promoting inclusive growth including industrialization, development, and resilience.”

The decision on the removal of export restrictions on food purchases made by WFP is as good as a contradictory one.

Initially, India and Tanzania had opposed it for the last two years, while a large majority of countries led by the US, the EU, Singapore and many others wanted the complete removal of export restrictions on WFP purchases.

WFP normally procures its food grains through mega agri-corporations involved in trading grains, edible oils and several other food items.

During the discussions, India apparently suggested government-to-government purchases instead of procurement by WFP, but the proposal did not get much traction, said people who preferred not to be quoted.

Meanwhile, under intense pressure from various quarters, Tanzania settled for protecting its right to take appropriate measures if there is a domestic food crisis.

The final decision contains two parts, each apparently undermining the other. The first part reads: “Members shall not impose export prohibitions or restrictions on foodstuffs purchased for non-commercial humanitarian purposes by the World Food Programme.”

Perhaps this is the first time that an intergovernmental organization is forced to take a decision to protect the interests of a humanitarian organization.

The second part of the decision states: “This Decision shall not be construed to prevent the adoption by any Member of measures to ensure its domestic food security in accordance with the relevant provisions of the WTO agreements.”

According to several negotiators, however, developing countries are now saddled with an outcome that will gradually create a window for prohibiting export restrictions in other areas. This could adversely impact the ability of developing countries to address their domestic food needs, particularly during times of global food shortages.

The long-term implications of this decision do not bode well for developing countries, said a person who asked not to be quoted.

Agriculture

MC12 was the first major WTO ministerial meeting without a text on agriculture, with a decision on the mandated permanent solution for public stockholding programmes for food security being postponed while decisions on other agriculture issues were also not forthcoming.

Not only has the WTO’s Doha work programme on agriculture been effectively decimated, but the WTO may also never address the historical inequities of the results of the Uruguay Round in the area of agriculture. Those results are beneficial to the major developed-country providers of farm subsidies, which managed to secure special entitlements that they may never want to give up.

Apparently, “credit” goes to the US for allegedly undermining the agriculture negotiations at MC12 – Washington did the same at MC11 in 2017 – and it may never allow a permanent solution on public stockholding programmes.

MC12 outcome document

The overall MC12 outcome document, while appearing to be a compromise, has all the crucial provisions to pave the way for WTO reforms along the lines desired by developed countries.

Paragraph 3 of the document states: “We acknowledge the need to take advantage of available opportunities, address the challenges that the WTO is facing, and ensure the WTO’s proper functioning. We commit to work towards necessary reform of the WTO. While reaffirming the foundational principles of the WTO, we envision reforms to improve all its functions. The work shall be Member-driven, open, transparent, inclusive, and must address the interests of all Members, including development issues. The General Council and its subsidiary bodies will conduct the work, review progress, and consider decisions, as appropriate, to be submitted to the next Ministerial Conference.”

It comes with a footnote that states: “For greater certainty, in this context, this does not prevent groupings of WTO Members from meeting to discuss relevant matters or making submissions for consideration by the General Council or its subsidiary bodies.”

In effect, this allows all the plurilateral Joint Statement Initiative (JSI) groups to,

among others, ramp up their controversial proposals to do away with the principle of consensus-based decision making in the WTO.

It also opens the gates for a controversial environment agenda in the trade body. Paragraph 14 of the outcome document, though much narrowed down compared with the original EU proposal on the environment, states: “We recognize global environmental challenges including climate change and related natural disasters, loss of biodiversity and pollution. We note the importance of the contribution of the multilateral trading system to promote the UN 2030 Agenda and its Sustainable Development Goals in its economic, social, and environmental dimensions, in so far as they relate to WTO mandates and in a manner consistent with the respective needs and concerns of Members at different levels of economic development. In this regard, we reaffirm the importance of providing relevant support to developing country Members, especially LDCs, to achieve sustainable development, including through technological innovations. We note the role of the Committee on Trade and Environment as a standing forum dedicated to dialogue among Members on the relationship between trade measures and environmental measures.”

There is no mention of carbon border arrangements or the circular economy. But these issues will likely be sought to be

brought to centre stage by the EU, the US and their allies, said a developing-country trade envoy.

On the other JSIs like trade and gender, and disciplines for micro, small and medium enterprises (MSMEs), the outcome document states in paragraph 13: “We recognize women’s economic empowerment and the contribution of MSMEs to inclusive and sustainable economic growth, acknowledge their different context, challenges and capabilities in countries at different stages of development, and we take note of the WTO, UNCTAD and ITC’s work on these issues.”

Fisheries subsidies

There was a lot of intense activity on the issue of fisheries subsidies on 15 June at MC12, when the entire text worked on by the facilitator for this issue, New Zealand’s trade minister Damien O’Connor, was apparently dropped before afternoon.

That “truncated” text excluded the pillar on subsidies contributing to overcapacity and overfishing. It included disciplines only on illegal, unreported and unregulated (IUU) fishing and overfished stocks.

But the African, Caribbean and Pacific (ACP) Group blocked the decision to drop the text on these items and called for the restoration of the text

in the afternoon. The issue was resolved at around 10 pm on 15 June night.

It is not clear whether the US or the EU allegedly played a major role behind the ACP Group. The US has all along wanted only IUU disciplines to be addressed, said a negotiator from West Africa.

The US however failed to secure textual language on the issue of forced labour.

The “truncated” agreement that was finally adopted contains disciplines on IUU fishing and overfished stocks, while the disciplines in the crucial overcapacity and overfishing pillar have all gone.

The pared-down agreement will stand terminated in four years if comprehensive disciplines are not adopted, unless otherwise decided by the WTO General Council.

Meanwhile, absent from the package of agreements approved at MC12 was any decision on issues specific to the least-developed countries. The LDCs are upset that their issues have been brushed aside because of opposition from the US, which did not negotiate with the LDCs despite repeated appeals, said an LDC minister.

In conclusion, the developing countries and LDCs seem to have suffered a significant loss at MC12, while the EU and the US appear to be the biggest winners, said people who asked not to be quoted. (SUNS9599)

Exclusionary unrepresentative processes behind the MC12 outcome

The ‘real’ negotiations at MC12 took place in meetings from which most delegations were excluded, continuing a controversial practice from past WTO conferences.

by Kinda Mohamadieh

Behind the WTO MC12’s “Geneva Package” deal was a highly orchestrated process privileging exclusive small-group negotiation settings and keeping the

majority of the WTO members outside negotiation rooms.

Small-group configurations, or what are sometimes referred to as

“Green Rooms”, dominated negotiation processes in the run-up to and during the Ministerial meeting.¹ They were the privileged format in which all negotiations took place, including those on the Ministerial outcome document (i.e., the main Ministerial Declaration), on items on agriculture and food security, on fisheries subsidies, as well as those on the TRIPS Agreement decision and the e-commerce moratorium.

This meant that MC12 kept with previous controversial experiences at the WTO² and took them to a new extreme, making it highly challenging for developing countries and least-developed countries (LDCs) to effectively take part in the negotiations on key documents that would shape the future of the organization and the multilateral trading system.³

Negotiations in small groups are often promoted by personnel of the WTO secretariat as facilitative of multilateral negotiations and delivering agreed outcomes. Some claim that small-group meetings are unavoidable for any agreement to be struck at the WTO.⁴ However, in reality, and as the MC12 experience clearly exposed, such processes effectively undermine the member-driven multilateral inclusive process.

The conference had been extended by one day from 15 June as initially planned,⁵ and the extension was supposed to be until 3 pm of 16 June. Yet, 3 pm of the 16th passed with no clarity about where the negotiations stood and when the closing of the conference would take place. Negotiations continued in small-group configurations all through the night until an informal heads-of-delegation (HoD) meeting was convened at around 4 am in the early morning of 17 June.

The informal HoD meeting format was supposed to be the main multilateral space at the Ministerial that would allow delegations not involved in the small-group negotiations to study any text arising from the negotiations and assess the extent to which it meets their country's concerns. Yet, this 17 June HoD meeting together with the formal closing ceremony⁶ did not last more than an hour. The gavel was heard in the closing ceremony at around 5 am. No delegation took the floor during these two meetings.

Members had in their hands copies of four declarations and decisions (which came up to around 11 pages of legal text) that were supposed to be considered for adoption.⁷ However, they did not have with them the latest copies of the draft Ministerial decision on the TRIPS Agreement, the draft Ministerial decision on the work programme on electronic commerce as well as the draft Ministerial decision on the agreement on fisheries subsidies. These had been among the most contentious negotiation areas until the last minute of the Ministerial. According to a participant who attended the informal HoD meeting, the text on fisheries subsidies and the changes that had been introduced in it as a result of small-group negotiations were presented verbally during the meeting. The text was not even projected on the screen.⁸ Similarly, not all delegates had the latest text on the TRIPS Agreement decision at that point.

Taking small-group configurations to a new extreme

Negotiations on the Ministerial outcome document took place in small groups – with most of the WTO membership kept outside the process – instead of being deliberated in a setting involving the entire membership. It is particularly important that all WTO members have a proper opportunity to effectively participate in negotiating such a text that will set the political guidance for the WTO's future work. Yet, this was not the case at MC12.

Meanwhile the TRIPS Agreement decision was negotiated in a small-group configuration based on the text that emerged from the process set up and facilitated by the WTO Director-General (DG) and her team. The latter process had involved only four countries. One of the most contentious elements of the text, the eligibility criteria, was ultimately negotiated among only two members, the United States and China. The rest of the small group involved in negotiating the decision finished their work on 16 June but were waiting for a bilateral resolution on the issue of the eligibility criteria, which was only concluded at the latest hour of the conference.⁹

These are only two examples from among many that could be cited. To a large extent, small-group meetings replaced the multilateral process at MC12, and by default undermined full effective participation by many members and the possibility of a meaningful inclusive process driven by the entire membership.

At the beginning of the Ministerial Conference, some delegates had complained that they spent a significant amount of time just to identify the multiple meetings that were ongoing so as to be able to gather needed information and update their delegations. Some small-group meetings were organized with a seeming intention to put pressure on certain developing countries active on a particular issue under negotiation, for example by bringing one developing-country delegation into a late-night meeting that was attended only by other developed countries with opposing views on that issue. According to one observer, there were cases where a number of developing countries had raised concerns collectively or raised similar concerns but only one or two were brought into the small-group meeting while others

were taken into bilateral meetings. Such orchestrated small groups seemed to follow the tactic of “divide and conquer” in order to undermine or dilute the positions of developing countries trying to reflect common national positions and interests in the negotiations.

These opaque small-group processes, where what happens – positions taken or pressures exerted – is not fully known to members that are not present in the room or to the broader public, enable a game of blame shifting to be played. On this point, civil society organizations present at MC12 highlighted that “the undemocratic, exclusionary ‘Green Rooms’, in which most developed countries are invited but from which most developing countries are excluded, have resulted in proposed texts for MC12 that are highly biased towards the proposals of rich countries ...”¹⁰

In one briefing with civil society organizations, the WTO DG was asked about the abundance of Green Rooms or small-group negotiation meetings and its implications for the meaningful and effective participation of developing countries and LDCs. The DG claimed that such style of work was dictated by the war in Ukraine, as some states did not want to be present with others in one room. This answer did not convince those posing the question.

It could be argued that small meetings could enable negotiations to be undertaken in parallel on multiple issues and allow delegations to choose where to participate. However, if that were the case, then the participants in the small meetings should not be pre-selected and those meetings should not be closed to members interested in participation. Instead, the meetings ought to be announced to the whole membership and members should be given the opportunity to choose where they want to participate. This was not the case in the context of MC12.

(It is to be noted that the United Nations practice in negotiations is that small groups are open to all Parties and no decision is accepted until a plenary of all Parties agree. There is also conscious effort to ensure that there are not too many parallel small-group negotiations scheduled in view of the small delegation size of most developing countries and LDCs.¹¹)

Who selected the participants in each small meeting was not clear; was

it the DG, was it the DG's staff in the WTO secretariat, was it the facilitators assigned to handle different issue areas on the agenda of the Ministerial, or was it a combination of those?

It was often repeated that the small meetings included representatives from the core member groups¹² and countries with specific positions or interests in the matter being deliberated. Yet, this did not apply to all meetings. For example, negotiations on parts of the Ministerial outcome document did not always involve representatives from the LDC group. It has also been revealed that at least two small developing-country delegations who asked to participate in small-group meetings in the run-up towards MC12 on issues of interest to them were not let into the room.

Furthermore, the idea that including group coordinators in the small-group meetings is enough to guarantee an inclusive and transparent process involves multiple over-assumptions. First, it over-assumes the capacity of group coordinators to effectively follow the different and often simultaneous tracks of negotiations and to relay them back to their group members properly and with the needed details. Second, it assumes that the group operates homogeneously on all issues. By doing so, this practice could end up further undermining the possibility for a member to raise concerns particular to it, especially where these concerns may not coincide with the overall group position or how that position is presented in small-group meetings.

It is often at a late stage of the negotiation process that a text emerges from a small-group process and is presented to the rest of the WTO membership. At that stage, the political stakes are usually very high, and the text is often presented as agreed by the “big players”. So, for any member to stand up in the room where all other members are present and ask to reopen the text, present an objection or request an addition or adjustment, carries significant political implications, which by itself creates a barrier. Thus, by default, the processes described here result in texts that are akin to “take-it-or-leave-it” texts, although rejecting the text might not even be an option. Any member who is considering taking the floor at such a late stage could be blamed for undermining the “delicate balance” that the text reflects, might face a line-up of defenders of the text (often

from bigger, richer countries), or might be accused of delaying or jeopardizing the deal.

This is exactly what the DG, the chair of MC12 and the chair of the WTO General Council warned in their letter to delegations circulated at around 1.30 am in the morning of 17 June, where they said to members: “... we appeal to you to take into account the delicate balance struck within and across the four-plus pillars ... this unprecedented package is the result of compromises based on tough negotiations...”¹³

HoD meetings more of a cosmetic arrangement

Open HoD meetings were held at the end of almost every day of MC12. According to the WTO secretariat, these kinds of meetings are “[o]ne step away from the formal meetings ... that still include the full membership”.¹⁴ In principle, such HoD meetings are supposed to be the space where all WTO members collectively consider what emerged out of small-group deliberations, thus allowing all the members to substantively review those results and reveal their positions in that regard.

But during MC12, the HoD meetings organized at the end of the day did not present a real opportunity for members not invited to the small negotiation groups to effectively take part in the negotiations. They lasted for only a short time and mainly consisted of updates from the facilitators of various negotiation tracks. Generally, members did not take the floor during these meetings.

It is worth asking whether these meetings presented a genuine space for members to effectively intervene and reflect their country's concerns or whether they were a mere cosmetic addition to the agenda of the Ministerial for the sake of allowing some to claim that everyone had an opportunity to intervene.

Longstanding concerns for developing countries

Developing countries have repeatedly raised serious concerns and objections on the ways in which the process in the lead-up to and during WTO Ministerial Conferences has been handled, which they see as undermining their participation in the negotiations. They have also sought to clarify the principles that ought to guide

such processes.

For example, in November 2017, after the Ministerial Conference held in Buenos Aires, the African Group, Bolivia, Cuba and Venezuela presented a submission in which they stressed the “importance of creating a transparent, democratic, bottom-up, all-inclusive and consultative decision-making process in the WTO, as this is vital to preserving the credibility of the WTO and the multilateral trading system”.¹⁵

They also stressed that “the Ministerial Conference is the forum for decision-making. All meetings in this configuration should be open to all Members”. They added that “there should be sufficient time for delegations to consider documents to facilitate proper consideration by, and consultation with the capital. Any documents to be presented for decision-making shall be shared with all Members at least 12 hours before the Session as to enable sufficient consultations...”.

In an earlier submission in 2002, a number of developing countries had submitted similar propositions on the process, and also stressed that “consultations by chairperson/facilitator [who conducts consultations and meetings on a specific subject at the Ministerial Conference] should be at open-ended meetings only. The chairperson/facilitator could convene meetings of proponents and opponents on the subject assigned and any other interested Member should be free to join such meetings. For this to be achieved, the schedule of each meeting shall be announced at least a few hours before the meeting”.¹⁶

Processes characterized by exclusion, which often keep most delegations in the dark till the last minute, were a determining factor of the level of engagement of delegations in shaping the outcomes of MC12. The experience of this last Ministerial Conference, as with previous ones, has made it clear that one of the main issues that need to be addressed in the functioning of the WTO is the lack of meaningful transparency and the dominance of exclusive processes that end up keeping the overwhelming majority of the membership outside the decision-making processes.

Notes

1. According to Peter Ungphakorn, “Green Rooms” stand for meetings

- held in the WTO Director-General's office meeting room, which has a capacity for 20-plus persons (with extra chairs), but such meetings often include a smaller group of participants. See: <https://mobile.twitter.com/CoppetainPU/status/1537374431785402368>. According to the WTO website: "The 'Green Room' is a phrase taken from the informal name of the director-general's conference room. It is used to refer to meetings of 20-40 delegations, usually at the level of heads of delegations. These meetings can take place elsewhere, such as at Ministerial Conferences, and can be called by the minister chairing the conference as well as the director-general. Similar smaller group consultations can be organized by the chairs of committees negotiating individual subjects." See: https://www.wto.org/english/thewto_e/whatis_e/tif_e/org1_e.htm
2. See: "No Legitimacy or Credibility in Seattle Process and Results: Third World Groups Denounce Undemocratic and Bullying Tactics at Seattle", at <https://www.twn.my/title/bully-cn.htm>; Martin Khor, "How the WTO's Hong Kong Ministerial Adopted Its Declaration", at <https://www.twn.my/title2/twninfo336.htm>; and Chakravarthi Raghavan, "Two winners, one loser at WTO Conference", at <https://www.twn.my/title/loser-cn.htm>
 3. WTO document WT/MIN(22)/W/16/Rev.1, available at <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/MIN22/W16R1.pdf&Open=True>
 4. Supra n. 1.
 5. D. Ravi Kanth, "WTO: MC12 extended to 16 June due to differences on deliverables", *SUNS* #9596, 16 June 2022. Available at <https://www.twn.my/title2/wto.info/2022/ti220620.htm>
 6. The recording can be found at https://www.wto.org/english/thewto_e/minist_e/mc12_e/webcasting_closing_e.htm
 7. These were: the draft Ministerial declaration on the WTO response to the COVID-19 pandemic and preparedness for future pandemics; the draft Ministerial declaration on the emergency response to food insecurity; the draft Ministerial declaration on World Food Programme food purchases exemption from export prohibitions and restrictions; and the draft MC12 outcome document.
 8. One observer noted that copies of the text were kept at the entrance of the meeting room but not circulated in the room, leaving many delegates with no text in their hands. The text on fisheries subsidies was posted on the WTO website only in the late morning of 17 June.
 9. More on this issue can be found in: Sangeeta Shashikant, "Intense IP negotiations are underway, resolution on eligibility criteria outstanding", 16 June 2022, at <https://twn.my/title2/wto.info/2022/ti220623.htm>
 10. https://ourworldisnotforsale.net/2022-06-15_R_blame
 11. This is based on the experiences of the Third World Network as an accredited observer in several UN processes including those of the UN Framework Convention on Climate Change and its Paris Agreement, Convention on Biological Diversity and its protocols, etc.
 12. https://www.wto.org/english/tratop_e/dda_e/groups_by_country_e.htm. It is worth noting that not all WTO members are represented under such groups, many among which are small countries.
 13. Attached to this letter were only four texts of the seven that were to be adopted at the closing session that would follow less than three hours afterwards. Under the WTO rules of procedure for sessions of the Ministerial Conference, "Proposals and amendments to proposals shall normally be introduced in writing and circulated to all representatives not later than twelve hours before the commencement of the meeting at which they are to be discussed" (rule 23, "Rules of Procedure for Sessions of the Ministerial Conference and Meetings of the General Council", WTO document WT/L/161, 25 July 1996).
 14. https://www.wto.org/english/thewto_e/whatis_e/tif_e/org1_e.htm
 15. See: WTO document JOB/GC/158, available at https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S001.aspx
 16. See: WTO document WT/GC/W/471 (24 April 2002), presented by Cuba, Dominican Republic, Egypt, Honduras, India, Indonesia, Jamaica, Kenya, Malaysia, Mauritius, Pakistan, Sri Lanka, Tanzania, Uganda and Zimbabwe, available at https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S001.aspx

Connect
to <https://twn.my/>

Third World Network's website for the latest on

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



@3rdworldnetwork

World on brink of most severe cost-of-living crisis in a generation

The head of a UN development body has flagged the “extremely worrying” prospect of a global cost-of-living crisis driven by soaring food and fuel prices and tightening financial conditions.

by Kanaga Raja

GENEVA: The world is on the brink of the most severe cost-of-living crisis in a generation in the wake of the war in Ukraine, according to Rebeca Grynspan, Secretary-General of the United Nations Conference on Trade and Development (UNCTAD).

In her opening statement to the 69th session of UNCTAD’s governing Trade and Development Board (TDB) on 20 June, Ms Grynspan said developing countries, already struggling to pay their COVID-19- and climate-change-related debts, are now seriously at the doorstep of a major debt crisis.

“Member states are worried about what is happening to their debts, how their currencies are depreciating, and how importing food and energy is getting more expensive,” she added.

In her statement, Grynspan noted that the last time delegates met (in February), “our shared concern was the fact that the post-2020 recovery was both fragile and uneven.” Today, “most countries in the world are concerned with how to avoid yet another crisis, in the context of a pandemic that is still not over, and a climate change and environmental crisis that keeps hitting us harder every year.”

“The war in Ukraine has built on the trends we were already observing, and the combination of these global shocks threatens to have massive ripple effects across the developing world in the form of a major cost-of-living crisis.”

According to Grynspan, UNCTAD has reacted very quickly. “In mid-March, we came out with a cross-divisional analysis, much used by member states, which warned what has now become evident to all: the possibility of a food insecurity crisis and the multiplying effects of the increase in energy prices and tightening financial conditions.

“We said that the trade disruptions would mean that supply chains would be

unable to cope. Food and energy prices would rise. Financial conditions would rapidly deteriorate. And the possibility of social unrest worldwide would increase.

“And that is exactly what has happened. The UN Secretary-General Antonio Guterres convened a Global Crisis Response Group on the War in Ukraine, supported by a Champions Group chaired by the UNSG, a steering committee group chaired by the DSG [Deputy Secretary-General] and a Task Team group with three workstreams on Energy, Finance and Food, whose coordination has been specially assigned to us here at UNCTAD.”

Since then, said Grynspan, the Global Crisis Response Group has produced two briefs, which describe a very alarming situation for the world at large.

“This situation can be summarized in a sentence – the world is on the brink of the most severe cost-of-living crisis in a generation,” the UNCTAD chief underlined.

“Crude oil is at \$120 a barrel, and some even suggest it can reach \$150-175 a barrel before the winter. The FAO food price index is at historic heights, and hundreds of thousands of people are already facing famine as a result.”

She said supply chains, already tight due to COVID, are in a violent process of decoupling and reconfiguration, where major old trade routes are shifting from one day to the next.

“And, worse of all, COVID has depleted both households’ and countries’ capacity to respond to this crisis, which is made much more dangerous as a result.”

She said that today, 60% of workers have lower real incomes than before the pandemic; 60% of the poorest countries are in debt distress or at high risk of it; developing countries miss \$1.2 trillion per year to fill the social protection gap; and \$4.3 trillion is needed per year –

more money than ever before – to meet the Sustainable Development Goals.

Vicious cycles

Grynspan said the current cost-of-living crisis has three defining dimensions: rising food prices, rising energy prices and tightening financial conditions.

“Among the three, alarming vicious cycles emerge – higher food and energy prices increase inflation, which increase interest rate pressure, which devalues developing country currencies, which makes imports of food and fuel more expensive, which increases the cost of fertilizers and reduces farm output, which in turn increase food and energy prices again and so on.”

She said that as a result, incomes are being squeezed, and families are forced to decide how to allocate shrinking household finances. “Perhaps choosing whether to skip a meal, keep children in school, buy less nutritious food, keep a family business open or pay medical bills.”

With that, another vicious cycle starts: the cycle of increasing poverty and inequality, and social unrest leading to political instability.

“The situation is extremely worrying. Now, the obvious question is – what UNCTAD must do to help,” said the UNCTAD Secretary-General.

She said “there is much that we are already doing. UNCTAD reacted rapidly and is now an important part of a whole-of-UN-effort, as part of a special assignment from UNSG Guterres.”

“And member states have played an important role in this, always being open to our calls and taking the initiative to knock [on] doors and ask how they could help. So, I want to thank you all, really, for all of this.”

With decisive action, UNCTAD has proven to be an important organization in the UN system and a good citizen of multilateralism, said the UNCTAD chief.

“In the process, many important aspirations of the Bridgetown Covenant [the outcome document from UNCTAD’s 15th ministerial conference held in October 2021] – such as increasing UN-wide coordination and improving cross-divisional work within UNCTAD – have been fulfilled.”

For example, Grynspan cited paragraph 110 of the Covenant, which states: “As the world changes and responds

to a new reality, and as the international community strives to effect the necessary transformations, so too must UNCTAD become a more agile organization that can adapt to the spirit of the times and better respond to the needs and orientations of member States.”

She said: “I think that our actions these last four months have shown that we can become that more agile organization that Bridgetown called for.

“It has been the inter-divisional work of UNCTAD [that] has made a big difference. Understanding the mandates that this board and the Bridgetown Covenant has given us. We are a trade and development institution, and this is a crisis transmitted through trade, and developing countries are suffering disproportionately from this crisis.”

Grynspan added: “Member states are worried about what is happening to their debts, how their currencies are depreciating, and how importing food and energy is getting more expensive. Member states know how much trade disruptions are affecting them, how much more they are having to pay in freight rates, how delays are harming their vulnerable.”

She said member states are asking for the support of the multilateral institutions, alarmed by what may happen if their citizens must endure yet another major crisis barely two years since COVID, and if poverty and hunger rise with it.

Most importantly, she said, “member states are asking about who will advocate for them, who will make sure their concerns are being listened to, who can

provide concrete answers in terms of what to do, who to call, how to navigate this crisis”.

“This is exactly what we are trying to do through the Global Crisis Response Group – to advocate for concrete policies that can help developing countries. To engage with the Bretton Woods Institutions so that they can react in time to this situation, to make clear that this is a global crisis that must be addressed urgently,” said the UNCTAD chief.

Multilateral cooperation

Stressing on two messages, Grynspan firstly quoted UNSG Guterres as saying that “an effective solution to the food crisis cannot be found without re-integrating food production in Ukraine, as well as food and fertilizers produced in the Russian Federation, into global markets, despite the war”.

The second important message is that there is no answer to the cost-of-living crisis without an answer to the finance crisis in developing countries, said Grynspan.

“My last point, which follows directly from this, refers to Multilateralism. I remember at the beginning of the millennium, policymakers used to ask if a more multi-polar world would also be more multilateral? This question remains open.

“We all know, this is a difficult moment for multilateralism, but it is clear that we must find a way to interact effectively and comprehensively, and engage in the solutions to these crises,

despite how difficult they may be – because there is simply too much on the line.”

Grynspan noted that the Bridgetown Covenant dedicates a whole chapter – “Transforming Multilateralism” – to this issue. It states, in paragraph 91, that despite recent challenges, “the constructive and cooperative approach to multilateralism based on the Charter of the United Nations, must remain paramount.”

“The Bridgetown Covenant is so right!” said Grynspan. “Because even at a time where geopolitics taints everything, multilateralism must find and defend spaces for cooperation and collaboration.”

The most evident of these, she said, is humanitarian action. “It is a defining feature of the work that is done at the UN, that all humanitarian efforts must be pursued even in the face of the starkest of human conflicts.

“But cooperation and development must also be part of this. Poverty, malnutrition, and destitution are an issue no matter where in the world they take place. Children missing school or going hungry are an issue no matter where they live, how they pray, or who their parents are.

“Finding solutions to global problems is by necessity a global affair also. This is why, in a sense, the mission SG Guterres has given us is both special and not special. Special, because it is indeed a very high-stakes endeavour for UNCTAD. But it is un-special in the sense that this is not new – this is what the UN is about.” (SUNS9600)

Global food import bill to reach all-time high in 2022, says FAO

Spending on food imports worldwide will hit a record level this year, according to projections by the UN food agency, due almost entirely to higher prices rather than volumes.

by Kanaga Raja

GENEVA: The global food import bill is forecast to reach another all-time high in 2022, surpassing \$1.8 trillion, a near 3%

or \$51 billion increase from last year’s record level, the United Nations Food and Agriculture Organization (FAO) has

said.

In its latest *Food Outlook* report, released in June, FAO said that higher prices and transport costs rather than volumes account for the bulk of the expected increase.

FAO said the expansion in international food purchases will moderate significantly, considering that the increase from 2020 to 2021 amounted to almost 18%.

The anticipated slowdown in growth in 2022 reflects higher food prices, depreciating currencies vis-a-vis the US dollar as well as rising freight costs,

all of which are expected to weigh on the purchasing power of importers and subsequently on the quantity of food imports.

“In view of the soaring input prices, concerns about the weather, and increased market uncertainties stemming from the war in Ukraine, FAO’s latest forecasts point to a likely tightening of food markets and food import bills reaching a new record high,” said FAO economist Upali Galketi Aratchilage, lead editor of the *Food Outlook*.

According to the FAO report, overall, in 2022, developed regions are foreseen to account for 60% of world expenditures on imported food and over 90% of global growth.

The bulk of the increase in the world food import bill is expected to be cost-driven, reflecting record food prices that come on the back of surging input prices, it said.

Imports by developing regions are expected to become increasingly responsive to soaring prices. Their imports are forecast to come to a near-standstill in 2022, with an overall bill rising by just 1%, said FAO.

Slower growth or outright contractions are foreseen in the most vulnerable countries, where consumer expenditures are highly sensitive to rising prices, owing to low incomes, it added.

“While Net Food-Importing Developing Countries (NFIDCs) and sub-Saharan Africa (SSA) could experience an increase of 1.0% and 2.8%, respectively, in their food import bills, Least Developed Countries (LDCs) are anticipated to undergo a 5% contraction in their 2022 food import bill from last year.”

The anticipated increase in the 2022 import bill is almost entirely on account of higher prices: \$49 billion are due to higher international prices and merely \$2 billion reflect higher volumes, said the report.

The upshot is that higher import bills mainly reflect higher unit costs rather than higher volumes, with many regions set to face higher bills in return for lower volumes, it said.

“Worryingly, this development is much more pronounced in economically vulnerable regions,” said the report.

Sub-Saharan Africa, for instance, is expected to spend \$1.5 billion more on food imports, but could see a decline in volumes worth \$0.9 billion. For NFIDCs, with a forecast \$1.3 billion in extra

costs for importing food, volumes are anticipated to decline by a value of \$2.2 billion. Similarly, LDCs are expected to see a contraction in their food import bill by \$2.4 billion fully on account of lower volumes.

“These are alarming signs from a food security perspective, indicating that importers will find it difficult to finance rising international costs, potentially heralding an end of their resilience to higher prices,” said the report.

From a food group perspective, existing differences across importing regions are likely to become more pronounced in 2022, it cautioned.

FAO said while developed countries continue purchasing across the entire spectrum of food products, the budgets of developing regions will be increasingly concentrated on importing staple foods, with shrinking inflows of high-value products such as meat, beverages and oilseeds.

It said continued purchases of high-

price, high-quality foods by developed regions reflect the generally low price responsiveness of their food demand. In contrast, the profile of imported foodstuffs by developing regions, dominated by staples, signals a further deterioration of dietary diversity and quality.

“Overall, the year 2022 may usher in an era of lower resilience to higher food prices, notably by the poorer regions of the developing world,” said the report. This would also signal a departure from the remarkable resilience that many countries displayed throughout the COVID-19 pandemic in terms of sustaining food imports.

In response to these developments, FAO said that it has proposed a Food Import Financing Facility (FIFF), which would provide balance-of-payments support to the low-income, highly food import-dependent countries to ease their access to international food markets. (SUNS9601)

Health Action International Asia Pacific at 40 (1981-2021)

A Chronicle of Health Heroes, Historic Events, Challenges and Victories

Prepared and edited by Beverley Snell

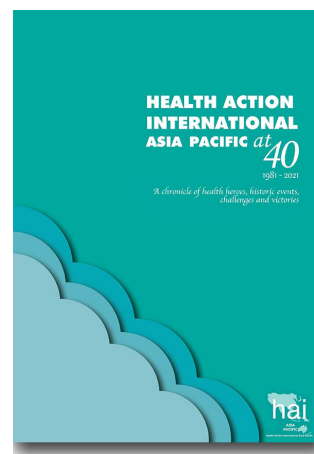
Published by Third World Network, Health Action International Asia Pacific, International Islamic University Malaysia, Gonoshasthaya Kendra, and Drug System Monitoring and Development Centre

This book commemorates the 40th anniversary of Health Action International Asia Pacific (HAIAP), an informal network of non-governmental organisations and individuals in the Asia-Pacific region committed to resistance and persistence in the struggle for Health for All Now.

HAIAP is the regional arm of Health Action International – upholding health as a fundamental human right and aspiring for a just and equitable society in which there is regular access to essential medicines for all who need them. HAIAP works with governments, academic institutions and NGOs at community,

national and regional levels on issues such as promoting the essential medicines concept, equitable and affordable access to essential medicines, rational use of medicines, ethical promotion and fair prices. While promoting awareness of the impact of multilateral agreements, particularly TRIPS and GATT, on access to affordable healthcare and essential medicines, HAIAP advocates for poverty eradication and action on other priority themes relevant to countries in the Asia-Pacific region.

Available at <https://twon.my/title2/books/HAIAP%20at%2040.htm>



SWIFT dollar decline

The dollar is the international currency of choice, but can the US maintain its financial hegemony?

by Anis Chowdhury and Jomo Kwame Sundaram

US-led sanctions are inadvertently undermining the dollar's post-Second World War dominance. The growing number of countries threatened by US and allied actions is forcing victims and potential targets to respond proactively.

SWIFT strengthened dollar

The instant messaging system of the Society for Worldwide Interbank Financial Telecommunication (SWIFT) informs users, both payers and payees, of payments made. Thus, it enables the smooth and rapid transfer of funds across borders.

Created in 1973 and launched in 1977, SWIFT is headquartered in Belgium. It links 11,000 banks and financial institutions (BFIs) in more than 200 countries. The system sends over 40 million messages daily, as trillions of US dollars (USD) change hands worldwide.

Co-owned by more than 2,000 BFIs, it is run by the National Bank of Belgium, together with the G10 central banks of Canada, France, Germany, Italy, Japan, the Netherlands, Sweden, Switzerland, the UK and the US. Joint ownership was supposed to avoid involvement in geopolitical disputes.

Many parties use USD accounts to settle dollar-denominated transactions. Otherwise, banks of importing and exporting countries would need accounts in each other's currencies in their respective countries in order to settle payments.

US and allied – including European Union (EU) – sanctions against Russia and Belarus followed their illegal invasion of Ukraine. Created during the US-Soviet Cold War, SWIFT remains firmly under Western control. It is now used to block payments for Russian energy and agriculture exports.

But besides stopping income flows, it inadvertently erodes USD dominance. As sanctions are increasingly imposed, such actions intimidate others as well. While

intimidation may work, it also prompts other actions.

This includes preparing for contingencies, e.g., by joining other payments arrangements. Such alternatives may ensure not only smoother but also more secure cross-border financial transfers.

As part of US-led sanctions against the Islamic Republic, the EU stopped SWIFT services to Iranian banks from 2012. This blocked foreign funds transfers to Iran until a compromise was struck in 2016.

Based in Brussels, with a data centre in the US, SWIFT is a “financial panopticon” for surveillance of cross-border financial flows. About 95% of world USD payments are settled through the private New York-based Clearing House Interbank Payments System (CHIPS), involving 43 financial institutions.

About 40% of worldwide cross-border payments are in USD. CHIPS settles \$1.8 trillion in claims daily. As all CHIPS members maintain US offices, they are subject to US law regardless of headquarters location or ownership.

Hence, over nearly two decades, CHIPS members like BNP Paribas, Standard Chartered and others have paid nearly \$13 billion in fines for Iran-related sanctions violations under US law!

Exorbitant privilege

The USD remains the currency of choice for international trade and foreign reserve holdings. Hence, the US has enjoyed an “exorbitant privilege” since World War Two after the 1944 Bretton Woods conference created the gold-based “dollar standard” – set at \$35 for an ounce of gold.

With the USD remaining the international currency of choice, the US Treasury could pay low interest rates for bonds that other countries hold as reserves. It thus borrows cheaply to finance deficits and debt. Hence, it is able

to spend more, e.g., on its military, while collecting less taxes.

Due to USD popularity, the US also profits from seigniorage, namely, the difference between the cost of printing dollar notes and their face value, i.e., the price one pays to obtain them.

In August 1971, President Nixon unilaterally “ended” US obligations under the Bretton Woods international monetary system, e.g., to redeem gold for USD as agreed. Soon, the fixed USD exchange rates of the old order – determining other currencies' relative values – became flexible in the new “non-system”.

In the ensuing uncertainty, the US “persuaded” Saudi King Feisal to ensure all oil and gas transactions are settled in USD. Thus, OPEC's 1974 “petrodollar” deal strengthened the USD following the uncertainties after the Nixon shock.

Nevertheless, countries began diversifying their reserve portfolios, especially after the euro's launch in 1999. Thus, the USD share of foreign currency reserves worldwide declined from 71% in 1999 to 59% in 2021.

With US rhetoric more belligerent, dollar apprehension has been spreading. On 20 April 2022, Israel, a staunch US ally, decided to diversify its reserves, replacing part of its USD share with other major trading partners' currencies, including China's renminbi.

Sanction reaction

The EU decision to bar Iranian banks from SWIFT prompted China to develop its Cross-border Interbank Payment System (CIPS). Operational since 2015, CIPS is administered by China's central bank. By 2021, CIPS had 80 financial institutions as members, including 23 Russian banks.

At the end of 2021, Russia held nearly a third of world renminbi reserves. Some view the recent Russian sanctions as a turning point, as those not entrenched in the US camp now have more reason to consider using other currencies instead. After all, before seizing about \$300 billion in Russian assets, the US had confiscated about \$9.5 billion in Afghan reserves and \$342 million of Venezuelan assets.

Threatened with exclusion from SWIFT following the 2014 Crimea crisis, Russia developed its own SPFS (Financial Message Transfer System) messaging system. Launched in 2017, SPFS uses

technology similar to SWIFT's and CIPS's.

Both CIPS and SPFS are still developing, largely serving domestic BFIs. By April 2022, most Russian banks and 52 foreign institutions from 12 countries had access to SPFS. Ongoing developments may accelerate their progress or merger.

The National Payments Corporation of India (NPCI) has its own domestic payments system, RuPay. It clears millions of daily transactions among domestic BFIs and can be used for cross-border transactions.

Unsurprisingly, those not allied to the US want to change the system. Following the 2008-09 global financial crisis, China's central bank head called for "an international reserve currency that is disconnected from individual nations".

Meanwhile, China's USD assets have declined from 79% in 2005 to 58% in 2014, presumably falling further since

then. More recently, China's central bank has been progressively expanding use of its digital yuan or renminbi, e-CNY. With over 260 million users, its app is now "technically ready" for cross-border use as no Western bank is needed to move funds across borders. Such payments for imports from China using e-CNY will bypass SWIFT, and CHIPS will not need to clear them.

Russia has long complained of US abuse of dollar hegemony. Moscow has tried to "de-dollarize" by avoiding USD use in trade with the other BRICS countries – Brazil, India, China and South Africa – and in its National Wealth Fund holdings.

Last year, Vladimir Putin warned the US is biting the hand feeding it by undermining confidence in the US-centric system. He warned that "the US makes a huge mistake in using dollar as the sanction instrument".

The scope of US financial payments surveillance and USD payments will decline, although not immediately. Thus, Western sanctions have unwittingly accelerated erosion of US financial hegemony.

Besides worsening stagflationary trends, such actions have prompted their targets – current and prospective – to take pre-emptive, defensive measures, with yet unknown consequences. (IPS)

Anis Chowdhury, Adjunct Professor at Western Sydney University (Australia), held senior United Nations positions in New York and Bangkok. **Jomo Kwame Sundaram**, a former economics professor, was UN Assistant Secretary-General for Economic Development, and received the Wassily Leontief Prize for Advancing the Frontiers of Economic Thought in 2007.

TWN Intellectual Property Rights Series No. 18

Remedies Against Excessive Pricing of Patented Medicines Under Competition Law

by Shiju Mazhuvanchery

Exorbitant medicine prices, especially for medicines subjected to patent protection, are increasingly coming under the spotlight. This paper considers whether and how this serious concern can be addressed within the framework of competition law.

Differing perspectives exist over the appropriateness of intervention by competition authorities in cases of excessive pricing, particularly when these involve patented products. However, there are no legal barriers to such intervention; competition authorities can act – and have acted – against firms deemed to have charged unfairly high prices for medicines, including those under patent.

In fact, this paper contends, competition enforcement against excessive pricing of patented medicines would not only advance consumer welfare but also contribute to safeguarding the fundamental human right to health. The remedies available under competition law – such as compulsory licensing – can be effectively applied to keep a lid on the prices of essential, potentially life-saving medicines.

Available at <https://twn.my/title2/IPR/ipr18.htm>

