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US proposes radical overhaul of WTO's dispute settlement system

In what appears to be a radical overhaul, the United States has proposed a single-tier dispute settlement system for the World Trade Organization from the existing two-tier system that included the Appellate Body. However, the recent proposals tabled by the US on reform of the dispute settlement system could end up hurting the smaller WTO members.

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In a radical overhaul, US proposes single-tier dispute settlement system

Recent proposals tabled by the United States appear to have laid the ground for a radical overhaul of the World Trade Organization's dispute settlement system, which would be reduced from a two-tier system to a single-tier body.

by D. Ravi Kanth

GENEVA: The United States appears determined to reduce the World Trade Organization's two-tier dispute settlement system to a single-tier body based on the principle of "might is right", if members allow Washington to persist with its apparently radical proposals in the run-up to the 13th ministerial conference (MC13), to be held in Abu Dhabi in February 2024, said people familiar with the ongoing discussions at the WTO on reforming the dispute settlement system.

In a confidential document containing a matrix of proposals, reviewed by the SUNS, the US proposals lay the ground for a radical overhaul of the dispute settlement system (DSS), suggesting that there may be no more Appellate Body that was created as part of the Uruguay Round's Final Act, which established the WTO in 1995.

This appears to be part one of the US proposals that include various drastic changes in the composition of the panels among other issues.

Paralysis of Appellate Body

It is public knowledge that the WTO's dispute settlement system remains derailed due to the systemic paralysis of the Appellate Body brought about by the US, the world's largest trading member.

Trade ministers at the WTO's 12th ministerial conference (MC12) held in Geneva last June mandated members "to conduct discussions with the view to having a fully and well-functioning dispute settlement system accessible to all Members by 2024".

For the past few months, Guatemala's deputy trade envoy Mr Marco Tulio Molina Tejeda has been conducting an informal process in which the US, the European Union, Japan, Canada, Korea, Australia, China, Hong Kong (China), India, Pakistan, the African Group, Brazil, and some members of the Caribbean group among others are apparently taking an active part, according to people who spoke to the SUNS.

An initial glance at the proposals tabled by the US during these informal discussions seems to have raised several concerns among members like the EU, China, India, Australia, New Zealand, Indonesia, the African Group, and Pakistan among others, said people familiar with the discussions.

The US seems to have succeeded in totally stymying the Appellate Body despite repeated requests from more than 125 countries for reviving the Appellate Body by appointing its seven members as soon as possible to enable them to continue with the core function of adjudication, said people, who asked not to be quoted.

Washington seems to be in no mood to give up its "my way or the highway" approach.

From the comments made by members on the US proposals, it appears that things are not progressing well, said people, who preferred not to be identified.

The US proposals

The initial set of US proposals provides some insights into how the US wants to reform the dispute settlement system (DSS).

To start with, on the issue of panel

composition and expertise, the US says that members have expressed interest in ensuring that an adjudicator has the appropriate experience and level of expertise and maintaining the integrity of the system over time.

Maintaining an updated indicative list may advance these interests, it added.

In identifying its concerns, challenge, or improvement to the system, the US says: "One way to help address these interests/concerns would be to refresh the indicative list through a dedicated process, to include improved categorization of panelists and functionality of the list (i.e., searchable)."

In response to the US proposal, it is observed by members in the document that "the proposed solution would [be] one way to improve the mechanisms through which panel selection processes are carried out."

On a second proposal by the US, which also deals with the issue of panel composition and expertise, the US says that its interests include ensuring that an adjudicator has the appropriate experience and level of expertise, ensuring high-quality decision-making by an adjudicator, not support staff, and maintaining the integrity of the system over time.

In the same breath, the US says that it is apparently concerned that the existing code of conduct does not provide sufficient clarity on Members' expectations for the independence and impartiality of panelists and the (WTO) Secretariat.

The US argues that "one way to help address these interests/concerns would be to strengthen the code of conduct for the panelists and (WTO) Secretariat, including to strengthen the concepts of independence and impartiality."

"The proposed solution" by the US "would be one way to ensure that members have confidence in the independence and impartiality of the system", members apparently observed.

Further, the solution offered by the US would help meet "our interest in a system that ensures that an adjudicator has the appropriate experience and level of expertise, ensures high-quality decision-making by an adjudicator, not support staff, and maintains the integrity of the system over time," participants in the discussions seem to have observed.

The third proposal by the US, which appears to have generated some serious comments, is on "no expansion of rights or obligations; consistency."

The underlying rationale of the third proposal by the US is that members' interests include defining the role of an adjudicator as helping Members resolve disputes, defining what an adjudicator should or should not address to assist in resolving the dispute, defining what an adjudicator should give the parties to assist in resolving the dispute, maintaining the integrity of the system over time, having a system that respects the roles of the negotiating and monitoring functions of the WTO, maintaining policy space for Members where they have not clearly undertaken a commitment to govern their activities, and maintaining the prerogative of Members to agree to new commitments where they have not clearly undertaken a commitment to govern their action.

Despite members' agreement that WTO reports are not precedent and should have no precedential effect, the US said "we are concerned that, over time, WTO reports have become de facto precedential, including through legal standards for precedent developed by adjudicators."

The proposed solution to the third issue, according to the US, is that "one way to help address interests/concerns would be to correct erroneous interpretations in the past, including interpretations in past dispute settlement reports, including interpretations concerning the essential security exception (which the US recently rejected in a panel ruling in favour of China), trade remedies (including public body and benchmarks) and others identified by the United States or other members."

Apparently, questions were raised on the third US proposal, namely, "Would this "correction of erroneous interpretations" result in retrospective correction of rights or obligations as well? Or is it to only establish a guideline for adjudication in the future, in which case this is more like a reiteration of sorts for the idea of a review by WG (Working Group)/committee".

The EU and Indonesia seem to have raised the same queries, according to people familiar with the discussions.

In to-and-fro questions about the third US proposal, Washington is understood to have said, "That's not our intent."

It apparently suggested that it is not "re-opening any specific disputes, but wherever there is an erroneous decision, there shall be an option to re-correct it, and let's not let wrong decisions just sit in the system unaddressed. (National security interpretations are very serious issues and members shall have autonomy there). Plus, this right now is a cess identifying our issues and problems, solutions can follow in due time," said people, who asked not to be quoted.

Hong Kong (China) seems to have observed that the word "erroneous" is very subjective and that it could open "a Pandora's box".

It asked how the US believes it is not going to be retrospective.

India apparently sought to know whether the US sees this as a continuous review or a one-time exercise.

Russia appears to have cautioned that if the third US proposal is approved, potentially every case has erroneous interpretations, at least in the eyes of the losing member.

Russia also warned that this proposal by the US doesn't contribute to the mandate of reviving the Dispute Settlement Body by February 2024, said people familiar with the discussions.

Brazil apparently asked whether the US proposal is tantamount to establishing a mechanism that is different from Article 9.1 of the Marrakesh Agreement or is it an authoritative interpretation invoking Article 9.2 on a closed list of cases.

Article 9.1 of the Marrakesh Agreement on decision-making states: "The WTO shall continue the practice of decision-making by consensus followed under GATT 1947. Except as otherwise provided, where a decision cannot be arrived at by consensus, the matter at issue shall be decided by voting. At meetings of the Ministerial Conference and the General Council, each Member of the WTO shall have one vote. Where the European Communities exercise their right to vote, they shall have a number of votes equal to the number of their member States which are Members of the WTO. Decisions of the Ministerial Conference and the General Council shall be taken by a majority of the votes cast unless otherwise provided in this Agreement or in the relevant Multilateral Trade Agreement."

Article 9.2 states: "The Ministerial Conference and the General Council

shall have the exclusive authority to adopt interpretations of this Agreement and of the Multilateral Trade Agreements. In the case of an interpretation of a Multilateral Trade Agreement in Annex 1, they shall exercise their authority on the basis of a recommendation by the Council overseeing the functioning of that Agreement. The decision to adopt an interpretation shall be taken by a three-fourths majority of the Members. This paragraph shall not be used in a manner that would undermine the amendment provisions in Article X."

In response to the above queries, the US apparently suggested that this is not a precondition to go for Article 9.2 of the Marrakesh Agreement but that is one way where any member can propose to re-negotiate something.

The US also suggested that it does not envision a panel doing this but it is a member-driven process.

Nigeria is understood to have said the US is flexible and does not want it to be retrospective.

China asked what is the difference between this proposal and the Article 9.2 model of authoritative interpretation.

India apparently said that "the devil is in the details", and asked the US to come up with more details so a solid stance may be developed by all members.

New Delhi also sought to know how one sees the Appellate Body shaping up and the outcomes of the entire package.

India said these are two important things that will finally enable a member to comment on this proposal.

The Guatemalan facilitator is understood to have said that India is right, suggesting that members shall work with more details.

Mr Marco also said we need to decide if a decision or interpretation can be thought of as erroneous.

There are several other issues that the US raised in its proposals including the appeal/review mechanism and WTO Secretariat support among others.

From the ongoing discussions, it appears that reaching a credible outcome on the reform of the dispute settlement system by February 2024 seems difficult, as many members apparently have serious reservations about the US proposals, said people who asked not to be quoted. (SUNS 9770)

US proposals on dispute settlement reform could hurt smaller countries

Recent proposals tabled by the United States on the reform of the World Trade Organization's dispute settlement system could end up hurting the smaller members.

by D. Ravi Kanth

Geneva: The United States, in a somewhat "hegemonic" manner, led members in creating rules for resolving global trade disputes at the World Trade Organization 35 years ago, including the Appellate Body as the final adjudicator based on the principle of negative consensus.

The principle of negative consensus required that a ruling issued by the Appellate Body can only be blocked if all the members agree not to adopt the ruling at the Dispute Settlement Body (DSB).

This principle replaced the positive consensus framework wherein a losing member in a trade dispute could block the ruling.

More importantly, Washington's latest proposals, reviewed by the SUNS, seem to turn the clock back to the positive consensus framework.

Today, Washington appears to be in a hurry to dismantle the existing rules to create a new Dispute Settlement Understanding at the WTO, said people familiar with the ongoing discussions for reforming the WTO's dispute settlement system (DSS).

The US proposals/actions for reforming the DSS seem somewhat akin to the desires of the proverbial emperor without clothes, said a negotiator, who asked not to be quoted.

The second part of the US proposals on an appeal/review mechanism and on compliance says that "an appeal mechanism operating on [an] ad hoc basis will create uncertainty and allow for political pressures to be better tools of arm-twisting and making decisions in one's own favour," SUNS has learned.

"This will hurt smaller members," New Zealand apparently said during one of the meetings, according to a confidential matrix of proposals issued by the deputy trade envoy of Guatemala, Mr Marco Tulio Molina Tejeda, who is currently facilitating the informal discussions on reforming the dispute settlement system.

The US proposals, which touch upon the role of the WTO Secretariat in assisting on dispute settlement, and on the issues of consistency and compliance, envision a reformed panel system but precluding the Appellate Body from any role in adjudicating trade disputes in the two-tier system, said people who are familiar with the ongoing discussions.

The US proposals seem to focus only on a one-tier DSS and appear to be based on the principle of "might is right", according to the comments made in the matrix of proposals.

After making the Appellate Body dysfunctional for the past five years, Washington's proposals on an Appeal/Review Mechanism apparently received negative responses from the European Union, China, Australia, New Zealand,

Brazil, India, and the African Group among others in the ongoing informal consultations.

US proposals on appeal/review mechanism

The US floated four proposals on the Appeal/Review Mechanism in the ongoing discussions.

To begin with, the first proposal on an Appeal/Review Mechanism, as contained in the confidential matrix of proposals, says "Our interests", but in reality, it is the interests of Washington, which include facilitating the settlement/efficient resolution of disputes (not solely through the panel process or litigation), ensuring high-quality decision-making by an adjudicator (and not support staff), and having a system that promotes a negotiated outcome at all stages.

The US says that "Our interests also include defining the role of an adjudicator as helping Members resolve disputes, defining what an adjudicator should or should not address to assist in resolving the dispute, and defining what an adjudicator should give the parties to assist in resolving the dispute," according to the confidential matrix of proposals.

The US says that it is concerned that "a panel's interim review no longer contributes to resolving the dispute; a party's incentive to preserve issues for appeal may be a contributing factor."

Further, the US argues, "we seek to improve interim review so that it can meaningfully support both a panel in its decision-making process and the parties as they seek a resolution to their dispute."

In terms of the purpose, the US said to "help address these interests/concerns would be to clarify the purpose and scope of a panel's interim review to include reconsideration of any issue of fact or law, including completion of the analysis."

"Another would be to enable parties to request the assistance of a mediator to facilitate a resolution following issuance of the interim report and prior to circulation," the US appears to have suggested.

In response, New Zealand seems to have expressed concern that "an appeal [mechanism] operating on [an] ad hoc basis will create uncertainty and allow for political pressures to be better tools of arm-twisting and making decisions in one's own favour. (Power dynamics). This will hurt smaller members."

However, the US suggested that: "The proposed solution would be one way to improve Members' confidence in panel decision-making, and to ensure that parties have all available tools at their disposal to resolve their dispute throughout the adjudicative process."

The final decision on the US proposal will be made by the other members and at the Dispute Settlement Body, according to the confidential matrix of proposals.

In the second proposal on an Appeal/Review Mechanism, the US suggests "defining the role of an adjudicator as helping Members resolve disputes, defining what an adjudicator should or should not address to assist in resolving the dispute, and defining what an adjudicator should give the parties to assist in resolving the dispute."

> "Review by default rather than exception has led to negative systemic consequences"

The US says that it is concerned that "review by default rather than exception has led to negative systemic consequences."

However, it did not provide any details in its proposal.

However, Washington contends that "one way to help address these interests/concerns would be to limit review of issues in a final panel report to be only by agreement between the parties, with the review adjudicator to be selected via a mechanism agreed by the parties."

It is also "to enable parties to use those mechanisms they consider useful to assist in resolving the dispute" and it would permit Members "to obtain review of a panel report if the parties so agree at any point."

The final decision on the above proposal has been left to members and the DSB to take a final call on it.

The third proposal by the US on an Appeal/Review Mechanism suggests that it is "the prerogative of Members to agree to new commitments where they have not clearly undertaken a commitment to govern their action."

The US says that it is concerned that "the system does not provide the proper incentives with respect to review: parties are incentivized to pursue appeals because the adjudicator reviews from a clean slate, and adjudicators are incentivized to provide expansive interpretations in order to distinguish their work from panelists."

The US has underscored the need "to establish a standard of review for questions of law, under which an appellant must establish that the panel: (1) was guilty of gross misconduct, bias, or serious conflict of interest, or otherwise materially violated a rule of conduct; (2) seriously departed from a fundamental rule of procedure; or (3) manifestly exceeded its powers, authority or jurisdiction, and any of these acts by the panel materially affected the decision and threatens the integrity of the process."

The proposed solution, according to the US, "would be one way to institutionalize the proper incentives for all participants, to limit the role of adjudicators in adding to or diminishing the rights and obligations of Members, and to reduce the complexity, length, and cost of any review."

Here again, the decision has been left to the other members and the DSB.

In the fourth proposal on an Appeal/Review Mechanism, the US says that it is concerned that "adjudicators' disregard for deadlines enabled them to engage on issues not necessary to resolve the dispute, which contributed to overreach."

"One way to help address this interest/concern would be to confirm that the deadline for issuance of the report may not be extended by the adjudicator, given the systemic implications; parties may agree to suspend the proceeding and until the deadline," the US suggested.

The US argues that it wants "to limit the potential for overreach during the review process" so that "clearly defined time limits require dispute settlement participants to focus only on those issues

necessary to resolve the dispute."

The US says that "a systemic approach to mandatory limits eliminates the conflicting interests that may arise in the context of a particular dispute," as well as facilitates the settlement/efficient resolution of disputes and maintains the integrity of the system over time.

Issue of consistency

On the issue of consistency, the US says that it wants to ensure that the "interpretative authority" is returned to the Members by "empowering Members to clarify ambiguous terms, respecting the roles of the negotiating and monitoring functions of the WTO, and ensuring the system maintains policy space for Members where they have not clearly undertaken a commitment to govern their action (activities), and maintains the prerogative of Members to agree to new commitments where they have not clearly undertaken a commitment to govern their action".

The US says that it remains concerned that "reliance on litigation to clarify treaty interpretation has undermined the other functions of the WTO, with experts in the committees often disconnected from the interpretations that are developed in the dispute settlement context."

Further, Washington says, "The dispute settlement system should contribute to and not undermine these functions."

"One way to help address these interests/concerns," according to the US, "would be to establish a mechanism, in addition to the authoritative interpretation process, through which the relevant WTO committees discuss treaty interpretations contained in reports."

However, there is no consensus on any of the US proposals.

Secretariat support

Another area of deep controversy arising from the US proposals is ensuring that "an adjudicator has the appropriate experience and level of expertise and that the system ensures high-quality decision-making by an adjudicator, not support staff."

"We seek to improve the level of Secretariat support by ensuring that staff has practical experience in the relevant topic area," the US apparently argued.

In response to the US proposal, the EU is understood to have said that while it is open to reforms on this topic, Brussels is not clear about "what is required here by the USA" and "what kind of role is desired to be given to the Secretariat here."

China said it understands the desire of the US here, adding that the Secretariat is mandated to uphold the quality of decisions.

Japan said that it would like to discuss the first proposal further, while the second proposal seems to suggest that adjudicators are required to draft the panel report.

The US said that one way to help address these interests/concerns would be to establish Secretariat guidelines for the staffing of panels (e.g., at least one staffer with a legal background, and each staffer must either support the relevant committee or have relevant, practical subject matter expertise).

The proposed solution would be one way to improve the quality of decision-making by adjudicators (and not support staff), while appropriately supporting the panel process with necessary resources, it added.

The US said this would help "meet our interests in a system that ensures that an adjudicator has the appropriate experience and level of expertise and high-quality decision-making by an adjudicator, not support staff."

In another proposal on the Secretariat, the US says that its interests include "facilitating the settlement/efficient resolution of disputes (not solely through the panel process or litigation), ensuring high-quality decision-making by an adjudicator (and not support staff), and having a system that promotes a negotiated outcome at all stages."

Washington also says that it wants to ensure that the system serves the needs of domestic stakeholders and that it respects the roles of the negotiating and monitoring functions of the WTO. It wants to improve the operation of the DSB surveillance mechanism.

To address these interests/concerns, according to the US, "would be to establish parameters on the support to be provided to panels, to be limited to (1) the administration of the proceeding, and (2) legal support that is responsive to the submissions of the parties."

The US prescribes that "any Issues Paper or background memo prepared by the Secretariat would be provided to the parties for comment as part of the briefing process" and "the panel report (in particular, its findings and conclusions) is to be drafted by the panel."

According to the US, this is "one way to provide confidence to Members and stakeholders that panelists are taking decisions and that those decisions are based on the panelists' own objective assessment of the matter based on a review of the party submissions."

Issue of compliance

Several members raised sharp concerns over the US proposal on the issue of compliance.

Australia sought to know "how will this practical function be submitted to negotiated rules (how members will avoid power dynamics) & how you see this complying with Article 21 [of the Dispute Settlement Understanding (DSU)]."

Brazil insisted that a compliance panel under Article 21 (of the DSU) will be required, while Russia said that the US proposal "reduces Article 21, so for us it means that two options could be (1) immediate compliance, and (2) immediate retaliation."

The EU said the US proposal seems to be assuming that the respondent doesn't have to obey the decision and that he will have to either come up with a suggested solution or wait for penalties.

Russia said that 60 days (period for compliance) are not enough at all, while India said it is a very short time-frame.

In short, the US proposals call for an overhaul of the existing two-tier dispute settlement system which was agreed by all members at the end of the Uruguay Round.

But any changes in the DSU can only be decided by trade ministers at the WTO's 13th ministerial conference (MC13), to be held in Abu Dhabi in February next year.

Worse still, the US could ask for a payment from members, namely a trade-off between its dispute settlement reform proposals on the one side, and Washington's acceptance of outcomes in other areas in the run-up to MC13, on the other, said people, who preferred not to be quoted. (SUNS 9771)

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Indonesia demonstrates why e-commerce moratorium must end

Several developing countries, especially Indonesia, have made a strong case as to why the current moratorium on customs duties on electronic transmissions must end.

by D. Ravi Kanth

GENEVA: Several developing countries, especially Indonesia, who are seeking the termination of the current moratorium on customs duties on electronic transmissions at the World Trade Organization, have demonstrated that the moratorium must end as per the mandate of the WTO's 12th ministerial conference (MC12), said people familiar with the discussions.

At a dedicated meeting on the e-commerce moratorium, held under the 1998 Work Programme on Electronic Commerce and convened by the facilitator, Ambassador Usha Cannabady of Mauritius, on 20 April, India, South Africa, Indonesia, Pakistan, and Bangladesh, on behalf of the least-developed countries (LDCs), made a strong case that there cannot be any further extension of the moratorium.

Indonesia provided evidence on the adverse implications and the loss of revenue suffered by the developing countries due to the moratorium (see Indonesia's paper below), said people, who asked not to be quoted.

In contrast, the United States, the European Union, Australia, Japan, and Singapore, who are currently seeking the continuation of the moratorium on imposing customs duties on electronic transmissions, apparently failed to demonstrate at the meeting as to how the moratorium is beneficial for global trade, and how it reduces prices among others, said people, who preferred not to be quoted.

The opponents of the moratorium debunked, with concrete evidence, the arguments advanced by the main proponents for the continuation of the moratorium, said people familiar with the ongoing discussions.

MC12 Decision on e-commerce moratorium

The Decision on the E-commerce Moratorium and Work Programme (WT/MIN(22)/32- WT/L/1143) that was subsequently adopted at MC12 last June states:

"We 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."

Indonesia, which has been raising the issue of the need to re-consider the scope and definition of so-called electronic transmissions since the WTO's 11th ministerial conference (MC11) held in Buenos Aires, Argentina, in December 2017, presented a detailed study at the meeting on the underlying realities of how goods are being traded by using electronic transmissions.

Indonesia showed the difference between electronic transmissions on the one hand, and goods that are being imported by Indonesia and other developing countries through electronic transmissions, on the other.

At the meeting, Singapore, which is one of the coordinators of the plurilateral Joint Statement Initiative (JSI) group on digital trade, presented its report on the likely rise in the prices of goods digitally traded among countries, said participants, who preferred not to be identified.

In terms of evidence and ideas, the proponents of the moratorium seem to have repeatedly raised the same arguments without providing material evidence, India alleged at the meeting.

The trans-Atlantic trade partners, namely, the US and the EU, apparently claimed at the meeting as to how the moratorium helped countries during the COVID-19 pandemic and how it proved to be a success.

The two members along with their JSI allies echoed the narrative that the moratorium provided predictability and certainty in digital trade, underscoring the need for its continuation, said participants who attended the meeting.

Japan and a few other JSI members appear to have demanded a permanent moratorium at the meeting.

While the JSI members seem to have made different statements on the duration for continuing with the moratorium, the G-7 industrialized countries (the US, Canada, Italy, France, Germany, the United Kingdom, and Japan, together with the EU) repeatedly issued calls for a permanent moratorium right after MC12.

"With a revived multilateral trading system," the G-7 leaders said at a meeting in Germany last June, "we look forward to matching this ambitious progress at the 13th WTO Ministerial Conference, advancing negotiations on E-Commerce and finding a permanent solution for the moratorium on E-Commerce customs duties, closing the gap in the fisheries negotiations, addressing agricultural reform, and making concrete progress on WTO reform."

Proponents for termination of moratorium

At the meeting on 20 April, India and South Africa, joined by Indonesia and Pakistan, apparently sharply questioned the logic applied by the proponents for the continuation of the moratorium.

India called for the termination of the moratorium as stated in the MC12 outcome document, saying that it is

central to development.

Pakistan said while such provisions are not provided for in the GATT (General Agreement on Tariffs and Trade) and in the GATS (General Agreement on Trade in Services), it is inhibiting digital development.

Several opponents of the moratorium pointed out that it is a market access issue, insisting that its continuation is harmful to developing countries, said people, who asked not to be quoted.

Indonesia presented a detailed study at the meeting, pointing out that "Indonesian Customs Law has stipulated that Customs Duties are imposed on digital goods (software, electronic data, multimedia, etc.) which are delivered via electronic transmission, i.e., through the internet."

Indonesia's proposal

In a six-page proposal (WT/GC/W/859) circulated on 13 December 2022, Indonesia argued that "international trade rules on e-commerce must ensure the inclusivity and fairness of the global e-commerce ecosystem."

The e-commerce moratorium agreed at the WTO's second ministerial conference in Geneva, has been repeatedly renewed every two years during the ministerial conferences, it said.

The temporary moratorium on customs duties on electronic transmissions has been repeatedly discussed during the last seven years as to whether it needs to be continued.

Despite some literature having argued that "the moratorium might offer benefits to the world economy and advantages brought on by the expansion of e-commerce," Indonesia said that the time has come to discuss its significant impacts, especially on developing and least-developed countries.

It said that "domestic retailers in developing countries hardly benefit from the free tax and duties scheme for the electronic transmission, given that the majority of business sectors in developing countries are Small and Medium-sized Enterprises (SMEs) who engage minimally in cross-border e-commerce."

"According to the Indonesian Customs Law number 17 of the Year 2006 on the Amendment of Customs Law number 10 Year 1995, Customs Duties are imposed on digital goods (software, electronic data, multimedia, etc.) which are delivered via electronic transmission i.e., through [the] internet."

Indonesia said it has issued a specific tariff heading for digital goods in Chapter 99 (Heading 99.01) in the Indonesia Customs Tariff Book.

Despite the tariff heading, Indonesia said it imposes "most favored nation (MFN) tariff of zero percent (0%) on software and other digital goods transmitted electronically under Heading 99.01 which consists of five tariff lines, namely: Operating System Software (9901.10.00), Application Software (9901.20.00), Multimedia (9901.30.00), Supporting or Driver Data (9901.40.00), and Other Software and Digital Product (9901.90.00)."

Interestingly, Indonesia said the physical import of those five digitizable goods was USD 116 billion.

The difference between the estimated import value and the physical import value reached USD 139 billion, said Indonesia, adding that "this number can be estimated as the import value of digitizable goods imported using Electronic Transmission."

In addition, using the same conservative growth rate of online imports of 49 HS code of digitizable goods, it is projected that the online worldwide imports of digitizable goods imported by Electronic Transmission will rise from USD 204 billion in 2020 to USD 365 billion in 2025, i.e, an increase of 79%, Indonesia said.

Moreover, in the period 2017-2020, it is estimated that developing countries and LDCs lost USD 56 billion of tariff revenue, of which USD 48 billion were lost by the developing countries and USD 8 billion by the LDCs, according to a study by the United Nations Conference on Trade and Development (UNCTAD).

The loss of tariff revenue is from the imports of just 49 products (at HS six-digit), which include many luxury items like movies, music, oriented matter, and video games.

In addition, the moratorium could be a continuous provision of duty-free access to developed countries to enter the markets of developing countries, including LDCs, Indonesia argued.

"This will have a negative impact on economic growth, employment, and sustainable development," Indonesia emphasized.

Therefore, Indonesia argued that the "customs duty policy on digital goods requires the customs administration to monitor the flow of contents at the borders."

The existing moratorium on customs duties on electronic transmissions creates tax treatment discrimination between e-commerce stores (primarily foreign firms engaging in global e-commerce without a local presence) and brick-and-mortar stores (domestic) which results in unfair business circumstances, it said.

"In practice, imported goods that physically enter the territory of a country are subject to customs duties, while the importation of digital goods through electronic transmission is prevented from any duties collection."

This different treatment on imported products results in higher prices of physical products than with digital goods.

Therefore, imposing customs duties for contents will preserve the fairness of tax treatment between physical and digital goods and create a robust business environment, Indonesia argued.

Further, considering global e-retailers offer more competitive prices of digital goods coupled with a convenient way of online shopping, there is no doubt that the consumers of brick-and-mortar stores will shift to online stores, Indonesia said.

On this account, according to Indonesia, "in the future, the role of customs duties is to increase the prices of imported digital goods so that domestic digital goods can maintain their competitiveness and contribute towards domestic digital industrial development."

More importantly, it said that "the certainty in customs procedures is not only for government agencies but also for businesses in terms of customs duty and import tax collection, digital goods classification, as well as the import declaration procedure."

Indonesia said that "Customs administration needs to assess digital goods risks which includes the potential occurrence of tax avoidance, Intellectual Property Rights (IPR) infringement, and trans-national organized crime such as creating weapons with the use of 3D printing, illegal material smuggling, and money laundering."

Also, by monitoring the flow of content, the customs administration can control the flow of content that is harmful for society, such as digital materials for terrorist attacks, Indonesia said.

Policy space

For developing countries and LDCs to remain relevant in the "midst of rapid development of the digital economy, we should also consider the importance of a certain degree of policy space to enable highly needed adjustments for the imposition of customs duties on the importation of digital goods transmitted electronically," Indonesia argued.

"This policy space includes both financial space and regulatory space in which customs duties is one of the manifestations of state fiscal rights," Indonesia pointed out.

Besides, "retaining policy space is important for developing countries including LDCs to develop a viable domestic digital industrialization and the generation of local jobs in the era of Industry 4.0", Indonesia said.

There is no common understanding on the scope and definition of the moratorium, despite evidence of its negative impact on the digital industry of most developing countries, it added.

"Therefore, as Members consider the policy interventions to address the impacts of the moratorium, it is imperative that WTO Members approach the implementation of the moratorium from a holistic perspective."

In this regard, Indonesia said that all Members need to be equipped with the following crucial elements: multilaterally agreed scope and definition, and a thorough, balanced understanding on the impact of the imposition of the moratorium particularly on developing countries, including LDCs.

Indonesia said it has been developing a mechanism regarding the imposition of customs duties on electronically transmitted digital goods.

The mechanism will be adjusted to accommodate digital goods importation, which is naturally different from conventional importation, it added.

It is important in the current context that "WTO Members need to analyze the implementation of the moratorium from a holistic perspective."

"For that, we need to be equipped with crucial elements, such as a multilaterally agreed scope and definition, and an understanding on the impact of the imposition of the moratorium on customs duties", along with having "a certain degree of policy space to enable the highly needed adjustments since customs duties are one of the manifestations of the fiscal rights of a State."

Imposing Customs Duties on electronically transmitted content will not create a distortion for global trade and it is not meant to put an administrative burden on the importation procedure of digital goods using electronic transmission, Indonesia said.

In concluding, Indonesia reiterated that it "has issued the specific tariff heading for intangible goods in Chapter 99 in the Indonesia Customs Tariff Book," adding that "so far, Indonesia imposes most favored nation (MFN) tariff of zero percent (0%) on software and other digital goods transmitted electronically under Heading 99.01."

It clarified that "the termination of the moratorium does not mean that Indonesia will abruptly increase the MFN tariff of electronically transmitted digital goods."

It said "the rationale for imposing customs duties on digital goods is not solely about the state revenue, but more importantly regarding these following concerns: recording data statistic, creating a level playing field for domestic and foreign firms, promoting the growth of local SMEs, providing business certainty, and assessing digital goods risks. Indonesia considers that these rationales are essential in establishing state sovereignty."

Jakarta said that it has been developing a mechanism regarding the imposition of customs duties on electronically transmitted digital goods.

"The importer of digital goods will utilize a simplified customs declaration with the minimum requirement of filled-in element data compared with the general import and the exclusion of several customs measures," it added.

Indonesia urged WTO Members to analyze the implementation of the moratorium from a "holistic" perspective.

It emphasized that members "need to be equipped with crucial elements, such as a multilaterally agreed scope and definition, and an understanding on the impact of the imposition of the moratorium on customs duties."

"In addition, we should be having a certain degree of policy space to enable the highly needed adjustments since customs duties are one of the manifestations of the fiscal rights of a State," it argued, according to people present at the meeting.

Indonesia emphasized that "customs duties are the most accurate and effective policy tool of the government to administer importation of digital goods transmitted electronically, referring to above-mentioned rationales."

Therefore, said Indonesia, "imposing Customs Duties on electronically transmitted content will not create a distortion for global trade and it is not meant to put an administrative burden on the importation procedure of digital goods using the electronic transmission."

The facilitator, Ambassador Cannabady of Mauritius, said that she will present a consolidated report of the proceedings towards the end of the week. (SUNS 9772)

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South raises developmental issues at second "Fish Week"

The second "Fish Week" that took place at the World Trade Organization from 25 to 28 April brought to the center stage several critical issues raised by the developing countries, including special and differential treatment.

by D. Ravi Kanth

GENEVA: The chair of the Doha fisheries subsidies negotiations said that members "generally advanced our work" and "our understanding of each other's positions" during the second "Fish Week" that ended at the World Trade Organization on 28 April, despite divergent positions and fundamental differences over certain definitional issues that marked the proceedings.

During the second "Fish Week" that was held from 25 to 28 April, several definitional issues came to the fore involving large-scale, small-scale, and artisanal fishers as well as the need to classify these different categories of fishers to assess their impact in contributing to the problem of overcapacity and overfishing.

However, there was little convergence between the big subsidizers such as the European Union, the United States, China, Canada, Korea, and Chinese Taipei among others on the one side, and large-scale, small-scale and artisanal fishers, on the other, said people who took part in the week-long meetings.

Ahead of the meetings, the chair of the Doha fisheries subsidies negotiations, Ambassador Einar Gunnarsson of Iceland, had circulated several questions for members to reflect on.

They include:

1. How should we best approach making operational the prohibition on subsidies contributing to overcapacity and overfishing?
2. Delegations may wish to consider the extent to which the approaches and elements in WT/MIN(22)/W/20 and WT/MIN(21)/W/5 would be appropriate and sufficient.

(These two draft texts - WT/MIN(22)/W/20 and WT/MIN(21)/W/5 - were issued by the previous controversial chair Ambassador Santiago Wills of Colombia, who later became Director of the Council and Trade Negotiations Committee Division at the WTO).

3. How should the disciplines on subsidies contributing to overcapacity and overfishing address subsidies to large-scale fishing, including fishing in distant waters?
4. What considerations, criteria, and principles are relevant to disciplining such subsidies?
5. How should the disciplines on subsidies contributing to overcapacity and overfishing address small-scale or artisanal fishing, and what considerations, criteria and principles are relevant to providing appropriate and effective flexibilities for subsidies to such fishing for developing and least-developed Members?

Chair's assessment

Ambassador Gunnarsson issued a press note on 2 May, stating that "over the week, there was widespread support for the hybrid approach, contained in previous negotiating texts WT/MIN(22)/W/20 and WT/MIN(21)/W/5, in which prohibited subsidies for overcapacity and overfishing were to be qualified based on both a list of types of government support and a condition relating to the biological sustainability of fish stocks."

However, the chair noted that the previous chair's draft text requires "adjusting," adding that "one member describes a different approach, building on the serious prejudice concept in Article 6 of the (WTO's) Agreement on Subsidies and Countervailing Measures."

Apparently that one member is Australia, said a negotiator who asked not to be identified.

Ambassador Gunnarsson said, "Members are keeping an open mind and are willing to engage on this new approach."

In the same tone, he acknowledged that "as MC13 draws closer, members need ample time to consider new approaches, so I invite any member thinking of a different approach to share ideas as soon as possible."

Commenting on how to deal with subsidies to large-scale fishing, including fishing in distant waters, the chair said, "Various members expressed support for retaining texts in previous negotiating documents."

Yet, he conceded that "some Members also spoke to the need to define distant water fishing based on tangible indicators and emphasized the relevance of credible data in this regard."

Without naming these countries, the chair said, "Some also proposed reduction commitments by major subsidizers."

The chair said, "One member made a concrete suggestion recalling its previously-submitted proposal to impose a long-term moratorium on granting or maintaining subsidies to fishing or fishing-related activities by a Member engaged in distant water fishing outside its exclusive economic zone."

Commenting on special and differential treatment (SDT), the chair said: "All members acknowledge that SDT is an integral part of the negotiations, and we heard differing views as to what would constitute an appropriate and effective approach."

Without naming these countries, Ambassador Gunnarsson said "those Members (the big subsidizers such as the US, the EU, and Japan among others) who see SDT as a tool to comply with the disciplines, propose that S&DT [be] provided within the disciplines themselves, without permanent carve-outs."

The chair also maintained that "members who see SDT as a tool to provide policy space call for the use of specific parameters including the level of catch, the level of development, and the level of subsidization."

Further, the chair argued that "we also heard from some members who think that S&DT can be a mixture of flexibilities within the disciplines, as well as specific parameters."

As regards artisanal fishers, the chair said, "One point of agreement is that all

members recognize the need to safeguard the livelihood and food security of small-scale and artisanal fishing."

He asked somewhat rhetorically, "The question is largely how best to craft meaningful SDT without undermining the disciplines."

Without naming several big subsidizers, the chair said, "We did hear strong views that any S&DT should not be utilized by members whose vessels are engaged in distant water fishing, irrespective of the level of development."

Single text by end-July

As regards the next steps, the chair emphasized on the need to work on the basis of a single text.

He said that "his ambition is to get to that point before or by the summer break in August."

"Given the readiness of many members to begin engaging in text-based discussions, I will use the time before the next fish week to explore how to move forward with this work, noting members' collective vision to complete the second wave of negotiations by the General Council meeting in December," the chair maintained.

According to the chair, such a process would allow members to "use the remaining time before the ministerial meeting on cleaning up the text."

The chair also underscored the need to work on a "parallel" track to develop the necessary procedures, notification templates, and other documentation to be used by the (Doha) Committee on Fisheries Subsidies.

This will also be conducted under the Negotiating Group on Rules based on his consultations with members, he added.

Ambassador Gunnarsson expressed confidence that "everyone seems to agree that such work should take place outside of the Fish Weeks so that it does not dilute our focus on the negotiations."

Members' views

Apparently, during the meetings that took place from 25 to 28 April, the major subsidizers seemed to be opposed to defining the three categories of fishers and classifying them to assess/measure their specific contributions to the problem of overcapacity and overfishing (OC&OF), for arriving at appropriate disciplines, said people present at the meetings.

On the other hand, several developing countries including Indonesia, Pakistan, South Africa, and other developing countries pressed for such a classification in order to arrive at a better understanding of the subsidies that need to be prohibited, as well as for deciding on special and differential treatment (S&DT) for developing and least-developed countries, said participants.

More importantly, the developing countries apparently argued for enhanced S&DT provisions that would allow for the development of their fisheries sectors given the livelihood concerns of hundreds of millions of people who depend on fishing in these countries, said people who preferred not to be quoted.

Some developing countries including India sought a robust S&DT regime for developing their fisheries sector, which has been under-developed all these years, said people, who asked not to be quoted.

Indonesia's response

In a comprehensive response to the chair's questions, Indonesia said: "The main goal of the OCOF pillar is disciplining subsidies that contribute to Overcapacity and Overfishing (OCOF)."

It acknowledged the effectivity of the list-based approach in Article 5.1 outlined in document WT/MIN(22)/W/20 with regard to operationalizing the prohibition on certain forms of subsidies that contribute to OCOF in the Fisheries Subsidies Agreement, in line with the mandate of the UN Sustainable Development Goal (SDG) 14.6.

The UN SDG 14.6 states: "by 2020, prohibit certain forms of fisheries subsidies which contribute to overcapacity and overfishing, eliminate subsidies that contribute to IUU (illegal, unreported, and unregulated) fishing and refrain from introducing new such subsidies, recognizing that appropriate and effective special and differential treatment for developing and least-developed countries should be an integral part of the WTO fisheries subsidies negotiation."

Yet, there is a need for recognition and differentiation between harmful and non-harmful fisheries subsidies to ensure positive impacts on capacity reduction and conservation, Indonesia said.

Indonesia said that it remains concerned about several issues, including:

1. This article is subject to a strict notification requirement under Article 8.7 (W/20) or 8.6 (a) and (b) (W/5). In order to benefit from specific flexibility, Members should provide regular notifications under Article 25 [of the] ASCM (WTO's Agreement on Subsidies and Countervailing Measures) including additional information [on] the status of the fish stocks in the fishery for which the subsidy is provided, the reference points used, whether such stocks are shared with any other Member or are managed by an RFMO/A (Regional Fisheries Management Organization/Arrangement), and conservation and management measures in place for the relevant fish stock.

"I would like to underline that collecting such data is costly, especially for Members with more waters and species of fishes like Indonesia."

2. Not all WTO members have adequate fisheries management systems currently in place, especially developing and LDC Members that have insufficient resources and capacity to adopt and maintain such measures. All these will create more difficulties for developing members and LDCs to reap the benefit from Article 5.1.1.
3. To address the capacity gap between members in implementing this agreement, it is important that the entry into force of this agreement should consider the availability of adequate fisheries management systems in LDCs and Developing members and not simply based on a time limit. This includes a proper framework for technical assistance and capacity building for developing and LDC members to implement adequate fisheries management and notification measures under this agreement.
4. Indonesia said that the WTO is however not a fisheries organization to prevent the misuse of Fisheries Management against our objective to fight overcapacity and overfishing.
5. Determine a clear parameter of the flexibilities covered under the Fisheries Management provision. On this note, Indonesia said that it believes that flexibilities should be limited to Member's jurisdiction.
6. Finally, the guideline should be agreed upon by consensus to avoid

future disagreements or disputes that could undermine the credibility of the Fisheries Subsidies Agreement (FSA).

On the chair's second question on how to discipline subsidies contributing to overcapacity and overfishing, Indonesia reiterated that disciplining subsidies contributing to overcapacity and overfishing is a development issue.

In particular, it highlighted the threat of distant water fishing activities to the livelihoods of fishers and coastal communities globally.

It argued that "a handful of distant water fishing nations (DWFN) with large fishing fleets, having depleted fish populations in their own waters, use subsidies from their governments to out-compete local, small-scale fishermen in many developing countries, and heavily exploit other countries' EEZs and on the high seas."

Besides, "it is also a sustainability issue, whereby subsidies that contribute to overcapacity and overfishing in distant waters have negative multiplier effects on the wider marine environment, global fish stocks, and marine biodiversity," Indonesia said.

Citing some estimates, Indonesia said that DWFN account for 78% of industrial fishing efforts occurring within the national waters of lower-income countries, some of which are in off-limit areas, such as marine protected areas.

According to Indonesia, "It is crucial to establish effective disciplines that can regulate these subsidies and ensure the sustainability of global fisheries."

On that note, Indonesia said it is of the view that "any measures should take locus and temporal considerations."

According to Indonesia, "temporal considerations are reflected through historical catch and subsidies of members towards distant fishing activities. The very fact that there are members who have heavily subsidized and exploited fish stocks in distant waters or the high seas as compared to "infant" fishing industries in many developing members creates unequal position between both.

"Therefore, those who have historically contributed to the depletion of fish stocks must have larger limitations or even outright prohibition to continue subsidizing their distant water fleets, in accordance with the "polluter pays" principle and common but differentiated responsibility (CBDR) principle."

It argued that "locus consideration takes into account the unique geographic features of each member. In this vein, Indonesia considers general prohibition towards fishing beyond the subsidizing member's jurisdiction as outlined in Article 5.2(a) of the W20 document have properly captured this locus consideration."

Indonesia said that it acknowledges that "footnote 13 provides policy space for members to subsidize their artisanal and small-scale fishers who engage in fishing or fishing-related activities beyond subsidizing member's jurisdiction , but only if vessels or operators are not engaged in distant water fishing."

It argued that the flexibility should not weaken the discipline, as developing and LDC members have difficulties in developing their fisheries sector in the first place and specifically subsidizing distant water fishing would be an undue burden on their budgets.

On the issue of small-scale or artisanal fishing, Indonesia said that it is of the view that any S&DT provisions be applied effectively.

To this end, Indonesia said that it supports that any S&DT should be limited to areas where members have legitimate jurisdiction and to the fishers in developing nations that needed it the most, namely, artisanal and the small-scale fishers of developing members and LDCs.

With these in mind, Indonesia argued that the current provisions regarding special and differential treatment are inadequate to ensure that the legitimate interests of developing and least-developed members are protected, as mandated in Sustainable Development Goal Target 14.6.

For this reason, Indonesia suggested that the following elements should be included:

A. Flexibilities for artisanal fishing should be made permanent, as Article 5.1.1 is permanent, and not be limited to a maritime zone of 12 nautical miles, but also include Member's rights over their exclusive economic zone, as stated under the UNCLOS (United Nations Convention on the Law of the Sea) provisions.
B. It is not appropriate to subject special and differential treatment to the notification requirements under Article 25 of the ASCM since it would place a disproportionate burden on developing and LDC Members to comply with it, making the provision inoperative.
C. The de minimis factors with a fixed transition period are wholly insufficient and inconsistent with the actual development needs of developing and LDC members.

Indonesia highlighted the 2005 Hong Kong Ministerial Declaration language, which recognizes the importance of special and differential treatment in the fisheries sectors to development priorities, poverty reduction, and livelihood and food security concerns.

In this regard, Indonesia said it believes that changing such de minimis factors, for example, to marine capture per capita, would provide a more justifiable discipline for fisheries subsidies.

D. Indonesia said it is essential to recognize the common but differentiated responsibilities and "polluter pays" principles in addressing subsidies contributing to overcapacity and overfishing for small-scale and artisanal fisheries.
E. It urged developed countries with advanced fisheries sectors to take a greater share of the responsibility in addressing these issues and should be willing to provide adequate financial and technical support to developing and least-developed members that can support the development of their fisheries sector in a sustainable and responsible manner.

Pakistan's views

Pakistan, which has substantial concerns in the fishing sector, particularly for its artisanal and small-scale fishers, said that based on the MC11 and UN SDG 14.6 mandates, it is clear that members are required to prohibit certain forms of subsidies that contribute to overcapacity and overfishing and eliminate subsidies that contribute to IUU fishing and refrain from introducing new such subsidies through the adoption of comprehensive and effective disciplines.

Pakistan sought to know whether members "have successfully eliminated all subsidies contributing to IUU [fishing] or have they channelized them or qualified them; are members planning to do the same with prohibition?"

It argued that many WTO members

have been "advocating the reduction and eventual elimination of subsidies in agriculture and how agreements in 1995 have created an uneven field for developing and LDCs to compete in trade, and here we are in 2023."

Emphasizing that negotiating would mean qualifying subsidies yet again, Pakistan said: "In this discussion, we are also joined not only by developing countries and LDCs but also by developed countries which have realised how subsidies make it very difficult to compete."

Pakistan said it has always been flexible in its approaches and always stands with consensus among members, but "we do feel that it is important for all of us to walk the talk."

Pakistan said the MC12 mandate, which requires members to continue with the discussions based on documents WT/MIN(22)/W/20 and WT/MIN(21)/W/5 prepared by the previous chair under his own capacity, needs to be revisited.

In response to the chair's second and other questions, Pakistan said that the WTO cannot work as a fisheries management organization.

However, "basing the work on provisions and regulations that have been negotiated in other organizations and will continue to be negotiated and amended in other organizations, it is important to understand those provisions, regulations, and procedures and see if those are essentially based on science, the level of reliability and the limitations, which would then help us guide discussions and negotiations," Pakistan said.

Pakistan argued that some members mentioned difficulties involved "in defining terms like large-scale industrial, small-scale, distant waters, artisanal fishing."

Yet, according to Pakistan, it sees "a problem with not defining them when we aim to address the mandate of appropriate and effective S&DT for developing and LDC members."

Therefore, it said "the priority for the second wave of negotiations for Members in line with the mandate of 14.6, MC11 and MC12 in terms of appropriate and effective S&DT is to maintain monetary and non-monetary policy space to allow industrial development of the fisheries sector with CBDR and "polluters pay" principle."

Smaller fishing nations are not responsible for the current state of fisheries and their level of responsibility for the harm done by large industrial fishing vessels cannot be equalized, it argued.

The current state of fisheries with depleted stocks is a result of overcapacity and overfishing by the major subsidizers over decades, Pakistan said, adding that clearly, the big subsidizers have to shoulder the responsibility.

"There have been few approaches under discussion for the application of appropriate and effective S&DT and many members have raised their priority for the de minimis approach with no geographic limit and we do see a merit in this approach," Pakistan argued.

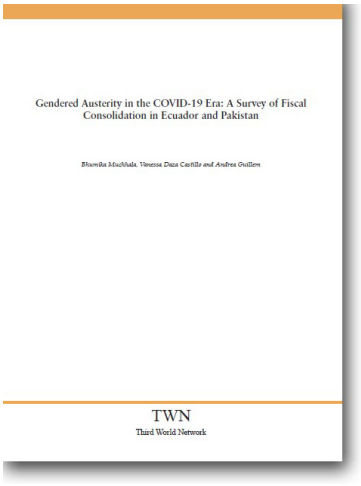
In short, the second "Fish Week" brought to the center stage several critical issues raised by the developing countries.

It remains to be seen whether the present chair will accommodate the concerns raised by the developing countries, unlike the previous chair who allegedly gave a short shrift to the developmental concerns raised by the Global South. (SUNS 9775)

Gendered Austerity in the COVID-19 Era: A Survey of Fiscal Consolidation in Ecuador and Pakistan

by Bhumika Muchhala, Vanessa Daza Castillo and Andrea Guillem

Austerity is gendered in that the power relations that shape the distribution of resources and wealth as well as the labour of care and reproduction turn women and girls into involuntary "shock absorbers" of fiscal consolidation measures. The effects of austerity measures, such as public expenditure contraction, regressive taxation, labour flexibilization and privatization, on women's human rights, poverty and inequality occur through multiple channels. These include diminished access to essential services, loss of livelihoods, and increased unpaid work and time poverty. This report examines the dynamics and implications of gendered austerity in Ecuador and Pakistan in the context of the fiscal consolidation framework recommended by International Monetary Fund (IMF) loan programmes.



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