

# Global public debt at an all-time high, warns UN

While public debt can be vital for development, it can also be a heavy burden, when it grows too much or too fast. According to a United Nations report, this is what is happening today across the developing world, with public debt reaching “colossal” levels, largely due to financing needs soaring with countries’ efforts to fend off the impact of cascading crises on development, including the COVID-19 pandemic and climate change, and an unequal international financial architecture that makes developing countries’ access to financing inadequate and expensive.

- **Global public debt hits an all-time high of \$92 trillion — p2**

..... ALSO IN THIS ISSUE .....

African Group calls for “re-balancing” reforms for industrialization

No room for trade disputes on national security issues, says US

The grand narrative of private finance

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

Global public debt hits an all-time high of \$92 trillion — *p2*

Many countries welcome Indonesia's proposal on OCOF disciplines — *p4*

African Group calls for "re-balancing" reforms for industrialization — *p8*

African Group exposes failures of WTO's TRIPS Agreement — *p10*

No room for trade disputes on national security issues, says US — *p12*

The grand narrative of private finance — *p15*

#### Founding Editors:

Chakravarthi Raghavan (1925-2021)

Martin Khor (1951-2020)

**Editor:** Kanaga Raja

**Typesetter:** Jessie Chan

Views expressed in these pages do not necessarily reflect the positions of the Third World Network.

# Global public debt hits an all-time high of \$92 trillion

Global public debt has increased more than five-fold since the year 2000, reaching a record USD 92 trillion in 2022, according to a United Nations report.

*by Kanaga Raja*

PENANG: Global public debt - comprising general government domestic and external debt - reached a record USD 92 trillion in 2022, with developing countries owing almost 30% of the total, according to a United Nations report.

Today, 3.3 billion people live in countries that spend more on interest payments (on debt) than on education or health, the report said.

The report further said that developing countries also pay much more for their borrowing.

"Countries in Africa borrow on average at rates that are four times higher than those of the United States and even eight times higher than those of Germany."

The report, titled "A world of debt. A growing burden to global prosperity", was jointly prepared by the United Nations Global Crisis Response Group established in March 2022 by UN Secretary-General Antonio Guterres, the UN Conference on Trade and Development (UNCTAD), and five UN Regional Economic Commissions: the Economic Commission for Africa, the Economic Commission for Europe, the Economic Commission for Latin America and the Caribbean, the Economic and Social Commission for Asia and the Pacific, and the Economic and Social Commission for Western Asia.

### Public debt at colossal levels

According to the joint report, public debt can be vital for development, with governments using it to finance their expenditures, to protect and invest in their people, and to pave their way to a better future.

"However, it can also be a heavy burden, when public debt grows too much or too fast," it said.

The report said this is what is happening today across the developing

world, adding that public debt has reached colossal levels, largely due to two factors:

- \* Financing needs soared with countries' efforts to fend off the impact of cascading crises on development that include the COVID-19 pandemic, the cost-of-living crisis, and climate change.

- \* An unequal international financial architecture makes developing countries' access to financing inadequate and expensive.

Debt has been translating into a substantial burden for developing countries due to limited access to financing, rising borrowing costs, currency devaluations and sluggish growth, said the report.

"These factors compromise their ability to react to emergencies, tackle climate change and invest in their people and their future."

Public debt around the world has been on the rise over the last decades. Cascading crises in recent years triggered a sharp acceleration of this trend, the report noted.

"As a result, global public debt has increased more than five-fold since the year 2000, clearly outpacing global GDP, which tripled over the same time."

In 2022, global public debt - comprising general government domestic and external debt - reached a record USD 92 trillion, said the report.

"Developing countries owe almost 30% of the total, of which roughly 70% is attributable to China, India and Brazil," it added.

However, public debt has increased faster in developing countries compared to developed countries over the last decade, it further said.

The report said the rise of debt in the developing world has mainly been due to growing development financing needs - exacerbated by the COVID-19 pandemic, the cost-of-living crisis, and climate

change - and by limited alternative sources of financing.

Consequently, the number of countries facing high levels of debt has increased sharply from only 22 countries in 2011 to 59 countries in 2022, it added.

Developing countries are dealing with an international financial architecture that exacerbates the negative impact of cascading crises on sustainable development, said the report.

"The burden of debt on development is intensified by a system that constrains developing countries' access to development finance and pushes them to borrow from more expensive sources, increasing their vulnerabilities and making it even harder to resolve debt crises."

Developing countries' total public debt increased from 35% of GDP in 2010 to 60% in 2021, the report noted.

Similarly, external public debt, the part of a government's debt owed to foreign creditors, increased from 19% of GDP (in 2010) to 29% of GDP in 2021, it said.

Comparing debt levels to developing countries' ability to generate foreign exchange through exports shows that their ability to generate sufficient revenue to service their external debt obligations has also been deteriorating, the report emphasized.

"The share of external public debt to exports increased from 71% in 2010 to 112% in 2021. During the same period, external public debt service as a share of exports increased from 3.9% to 7.4%."

Developing countries face additional major challenges due to high levels of external public debt, which make them more vulnerable to external shocks, said the report.

When global financial conditions change or international investors become more risk-averse, borrowing costs can shoot up suddenly, it added.

"Similarly, when a country's currency devalues, debt payments in foreign currency can skyrocket, leaving less money for development spending."

Private creditors, such as bondholders, banks, and other lenders, offer financing on commercial terms.

In the past ten years, the portion of external public debt owed to private creditors has risen across all regions, accounting for 62% of developing countries' total external public debt in 2021, said the report.

It pointed out that the increasing share of public debt owed to private creditors gives rise to two challenges.

First, it said, borrowing from private sources is more expensive than concessional financing from multilateral and bilateral sources.

"Second, the growing complexity of the creditor base makes it more difficult to successfully complete a debt restructuring when needed. Delays and uncertainties increase the costs of resolving debt crises."

Furthermore, the report said when developing countries borrow money, they have to pay much higher interest rates compared to developed countries, even without considering the costs of exchange rate fluctuations.

Countries in Africa borrow on average at rates that are four times higher than those of the United States and even eight times higher than those of Germany, it noted.

"High borrowing costs make it difficult for developing countries to fund important investments, which in turn further undermines debt sustainability and progress towards sustainable development."

### **Servicing debt or serving the people?**

The joint report also said developing countries' debt trends have caused a rapid increase in total public interest payments relative to the size of their economies and government revenues.

Currently, half of developing countries devote more than 1.5% of their GDP and 6.9% of their government revenues for interest payments, a sharp increase over the last decade, it added.

The rise of interest payments is a widespread problem, it said, adding that the number of countries where interest spending represents 10% or more of public revenues increased from 29 in 2010 to 55 in 2020.

The report said that interest payments in developing countries have grown faster than public spending on health, education and investment over the last decade, adding that the rapid increase of interest payments is squeezing out spending in these key areas.

For instance, it said in Africa, the amount spent on interest payments is higher than spending on either education or health.

Developing countries in Asia and Oceania (excluding China) are allocating more funds to interest payments than to health, it added.

Similarly, it said in Latin America and the Caribbean, developing countries are devoting more money to interest payments rather than to investment.

"Across the world, rising debt burdens are keeping countries from investing in sustainable development."

An increasing number of countries find themselves trapped in a situation where both their development and their ability to manage debt is compromised, said the report.

Currently, at least 19 developing countries are spending more on interest than on education and 45 are spending more on interest than on health, it noted.

"In total, 48 countries are home to 3.3 billion people, whose lives are directly affected by under-investment in education or health due to large interest payment burdens."

### **Roadmap**

According to the report, the United Nations has a road map of multilateral actions to address the global debt burden and achieve sustainable development, including:

- \* Make the system more inclusive, improving the real and effective participation of developing countries in the governance of the international financial architecture.
- \* Provide greater liquidity in times of crisis expanding contingency finance, so that countries are not forced into debt as a last resort, including through the strengthened use of Special Drawing Rights, a temporary suspension of IMF surcharges, and increased quota-access windows to IMF emergency financing.
- \* Tackling the high cost of debt and rising risk of debt distress and create a debt workout mechanism to address the slow progress of the G20 Common Framework for Debt Treatment due to creditor coordination challenges and the lack of automatic debt service suspension clauses to participating countries.
- \* More and better finance massively scaling up affordable long-term financing. (SUNS 9823)

# Many countries welcome Indonesia's proposal on OCOF disciplines

Many developing and some developed countries welcomed a proposal tabled by Indonesia at the World Trade Organization that seeks a balanced framework for disciplines on subsidies that contribute to overcapacity and overfishing (OCOF) in the Doha Fisheries Subsidies Agreement.

by D. Ravi Kanth

GENEVA: Many developing and some developed countries apparently responded positively to a proposal tabled by Indonesia that seeks to arrive at a balanced framework for disciplines concerning the overcapacity and overfishing (OCOF) pillar in the Doha Fisheries Subsidies

Agreement (FSA), during the fourth "Fish Week" that concluded at the World Trade Organization on 14 July.

The restricted room document (RD/TN/RL/172\*) circulated by Indonesia on 11 July, seen by the SUNS, has brought to the fore the alleged imbalances and asymmetrical provisions of the previous draft agreement issued prior to the WTO's 12th ministerial conference (MC12) held in Geneva in June 2022.

More importantly, the proposal has based the framework for OCOF disciplines after taking into consideration the principle of common but differentiated responsibilities as well as the "polluter-pays" principle, said people familiar with Indonesia's room document.

Indonesia has suggested that any agreement on fisheries subsidies must be in tune with the United Nations Convention on the Law of the Sea (UNCLOS), emphasizing that the proposed FSA must not violate the provisions in the UNCLOS (see details of Indonesia's proposal below).

Significantly, the Indonesian proposal seems to have "shown the mirror" to big subsidizers like the European Union, the United States, Japan, Korea, Chinese Taipei, and China among others who have allegedly provided massive subsidies for large-scale industrial fishing contributing to OCOF that has caused the global

depletion of fish stocks, said people, who saw considerable merit in the proposal.

## Chair's assessment

Amidst the modest progress made in addressing the OCOF disciplines over the last four and a half months, the chair of the Doha fisheries subsidies negotiations, Ambassador Einar Gunnarsson of Iceland, emphasized that "bridge-building and problem-solving is the need of the hour", in a statement issued at a press conference on 14 July.

He said there are "eight submissions, counting, from proponents of varying profiles, along with elements from texts members are considering from MC12."

The chair said, "We are establishing a fuller picture of members' ideas, which is vital for unlocking a fair and effective solution to subsidies contributing to overfishing [and] overcapacity," in the face of the apparent "mess" that his predecessor former Ambassador Santiago Wills of Colombia (who is currently the head of the WTO's General Council and Trade Negotiations Committee Division) created by tabling an allegedly imbalanced and asymmetrical draft text.

"This step is crucial for formulating elements that can be used as the starting point for text-based negotiations in the autumn (previously the chair had said "fall")."

Ambassador Gunnarsson provided an account of progress made since the first "Fish Week" in March to the fourth "Fish Week" that concluded on 14 July.

He said members "considered a table he prepared to help them to explore commonalities and possible overlaps

among positions and proposals."

The chair suggested that most of the eight documents tabled by members "contain an explicit prohibition of subsidies contributing to overcapacity and overfishing, in some cases limiting the prohibition to large-scale industrial fishing."

The table, according to Ambassador Gunnarsson, "also notes varying ideas for the themes of sustainability-based flexibility, distant-water fishing, and special and differential treatment among others."

He intends to update the table next week by incorporating ideas from the new proposals.

The chair intends to hold a "Fish Week" every month after members resume work in September after the summer break (in Europe).

The chair acknowledged that one-third of WTO members, including Switzerland, Singapore, Seychelles, the United States, Canada, Iceland, the United Arab Emirates, the European Union (which comprises 27 members), Nigeria, Belize, China, Japan, and Gabon - have submitted their instruments of acceptance (of the Protocol of the Fisheries Subsidies Agreement).

However, the partial FSA will come into effect only after two-thirds of WTO members accept the Protocol.

## Indonesia offers a "blueprint"

During the fourth "Fish Week" that ended on 14 July, Indonesia circulated a restricted room document illustrating "certain ideas on how to move forward on disciplines for subsidies that contribute to overcapacity and overfishing (OCOF)."

Indonesia underscored the importance of "fulfilling the mandate of SDG 14.6 and the 12th WTO Ministerial Decision through disciplines on OCOF, that recognize appropriate and effective special and differential treatment (SDT) for developing and least developed countries Member as an integral part of the WTO fisheries subsidies negotiation."

The MC11 mandate agreed at the WTO's 11th ministerial conference (MC11) held in Buenos Aires, Argentina, in December 2017, as well as the United Nations Sustainable Development Goal 14.6 unambiguously state: "by 2020, prohibit certain forms of fisheries subsidies which contribute to overcapacity and overfishing, and 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."

According to Indonesia, the continued divergent views "have shown that the SDT (special and differential treatment) and OCOF issue" go beyond the previous draft texts issued by former chair Ambassador Wills.

It said "while reviewing these proposals (WT/MIN(22)/W/20 and WT/MIN(21)/W/5)," Indonesia continues to take into consideration "the existing imbalances in global fishing, where a few WTO Members, particularly developed countries and major subsidizers, have had the capacity and opportunity to develop their fisheries and expand their fishing fleets."

"Moreover, the provision of substantial harmful subsidies to their fishing fleets, have also enabled them to exploit marine resources on a global and unsustainable scale," Indonesia emphasized.

Consequently, due to the big subsidizers (like the US, the EU, Japan, Korea, Chinese Taipei, and China) who are engaged in large-scale fishing activities beyond their exclusive economic zones, "fish stocks are depleted at an alarming rate, posing significant threats not only to our oceans but also to our future generations."

Sadly, Indonesia said, "a significant proportion of WTO Members, primarily consisting of developing and least [developed] countries, have been unable to seize the same opportunities due to their limited financial and economic capacity to support their fishing industries."

### Policy space for South

Therefore, "appropriate special and differential treatment should be implemented to address this disparity as well as to provide developing and LDC Members with enough policy space to develop the fishing industry in a sustainable manner," Indonesia argued.

More importantly, Indonesia drove home the message that "it is crucial to emphasize the common but differentiated responsibilities and polluter pays principles in addressing subsidies

contributing to OCOF."

The current draft text (WT/MIN(22)/W/20), according to Indonesia, "has inevitably missed one of its important targets."

It said "instead of further regulating large-scale industrial fishing that operates outside Member's jurisdiction, they were provided with a high degree of flexibility in Article 5.1.1. in document W20."

In its coverage of the fisheries subsidies negotiations, the SUNS has repeatedly pointed out the alleged "kid-gloves" treatment being accorded to the big subsidizers to continue with their subsidies contributing to OCOF on somewhat extraneous grounds.

The SUNS has also highlighted the seemingly harsh treatment - particularly the lack of credible SDT provisions - being meted out to the developing countries.

According to Indonesia in its proposal, it is clear that "small-scale fishers, particularly those from developing Members, are limited to specific areas that fall under the coastal State's jurisdiction as regulated in UNCLOS. This might undermine the right of the coastal States to support their small-scale fishers which operate in its jurisdiction."

"In addition, as a party to UNCLOS," Indonesia underlined "the importance of harmonizing the Fisheries Subsidies Agreement with UNCLOS, to establish a robust international regime of global fisheries, and ensure that the Fisheries Subsidies Agreement does not undermine the sovereign rights of coastal States."

It reminded members about "Article 56 [of] UNCLOS where coastal State has the sovereign rights to explore and exploit living natural resources within their Exclusive Economic Zone (EEZ)."

Indonesia said that it views, "in the case of Fisheries Subsidies Agreement under the WTO, in line with the provision of UNCLOS, that it is within the coastal State's right to subsidize their fisheries activities up to their EEZ, where coastal State has sovereign rights."

Further, it said "this concept of geographical limitation has also been agreed on in the first phase of FSA, and incorporating this concept to this pillar will also ensure the coherency of the overall comprehensive agreement of the FSA."

Moreover, referring to Article 116 of UNCLOS, Indonesia said that all States have the right to engage in fishing in the high seas.

While Indonesia does not intend to reduce this right, it would like to underline that such fishing activities should be in line with international laws including the duty to conserve and manage marine resources.

In light of the above, during the discussion of the previous "Fish Weeks", aside from different views, there is one commonality that unites all of us, which is the agreement that all Members should be able to conduct sustainable fisheries, Indonesia argued.

Indonesia said it "believes that such "graduation" for Members who do not have the financial and [economic] capacity to do so, must be contingent upon the provision of access and availability of technical assistance and capacity building (TACB) for them to develop the necessary requirements for a sustainable fisheries management, as required by the agreement."

Further, "the developed Members or developing Members (China) with the capacity to conduct fisheries management should do its best to ensure that the fisheries fund as envisaged in Article 7 of the adopted Fisheries Subsidies Agreement, will be sustainable and accessible to the developing Members and LDCs, as well as endeavour to provide TACB in a bilateral manner, upon request," Indonesia emphasized.

Based on the existing proposals submitted by the different WTO members as well as the previous draft texts, Indonesia said that it hopes that "this proposal will bridge the different views and further facilitate the convergence of the comprehensive text as mandated in the 12th Ministerial Conference of the WTO."

Indonesia proposed several provisions for OCOF disciplines as follows:

- \* Indonesia said it adopts Article 5.1 of the WT/MIN(22)/W/20 document and footnote 12.
- \* This Article regulates harmful subsidies in line with UN SDG 14.6, aiming to prohibit certain forms of subsidies contributing to overfishing and overcapacity.

### Article X.1.1:

- \* Indonesia refers to Article 5.1.1 of the WT/MIN(22)/W/20 document and footnote 11.
- \* This Article provides general

exceptions to harmful subsidies listed in Article X.1.

- \* Members must determine a biologically sustainable level using reference points like maximum sustainable yield.
- \* References are made to fishing activities within the Member's jurisdiction or RFMO/A (Regional Fisheries Management Organization/Arrangement) in areas and for species under its competence.
- \* For multi-species fisheries, a Member instead may provide other relevant and available catch data.

#### Article X.2:

- \* Indonesia said that it attempts to bridge proposals such as those from the ACP (African, Caribbean and Pacific) group and six South American countries (Argentina, Colombia, Ecuador, Uruguay, Chile, and Paraguay).
- \* Large-scale industrial fishing or fishing-related activities are not eligible for Article X.1.1.
- \* To clarify, the definition of large-scale industrial fishing or fishing-related activities will be using RFMO's reference of the length of overall 24 meters fishing carriers.
- \* Certain subsidies related to personnel costs, social charges, insurance, and income support are exempted.

#### Article X.3:

- \* Indonesia said it proposes limiting the use of Article X.1.1 for Members engaged in fishing activities outside FAO major fishing areas where they are located.

#### Article X.4:

- \* Indonesia said the proposal emphasizes the importance of fulfilling UN SDG 14.6's mandate on Special and Differential Treatment.
- \* Indonesia wants to ensure appropriate and effective treatment for developing countries.
- \* Specific provisions are highlighted, including exemptions for Least Developed Countries (LDCs), transitional periods based on a self-determination basis for newly graduated LDCs, and considerations for developing Members within

jurisdictional areas.

#### Article X.5:

- \* Developing country Members (like China) who have developed fisheries capacity, would be encouraged to voluntarily self-exclude from using Article X.4.

#### Article X.6:

- \* To ensure compliance with Article X.1.1, Indonesia proposes for developing Members, particularly LDCs who do not have financial and economic capacity, must be provided with access to and availability of technical assistance and capacity building (TACB) in Article 7 of the FSA.
  - \* It is important to provide enough support for the said developing Members and LDCs, and thus enable them to develop the necessary requirements for sustainable fisheries management, as required by the Agreement.
  - \* Members with good fisheries management practices are encouraged to provide TACB at a bilateral level, upon request.
- It also proposed that "(under) X.11, No Member shall grant or maintain subsidies to fishing or fishing related activities that contribute to overcapacity or overfishing."

For the purpose of this paragraph, subsidies that contribute to overcapacity or overfishing include:

1. For greater clarity, Article X.1 does not apply to subsidies to the extent that they regard stocks that are overfished.
2. For the purpose of this paragraph, a biologically sustainable level is the level determined by a coastal Member having jurisdiction over the area where the fishing or fishing-related activity is taking place, using reference points such as maximum sustainable yield (MSY) or other reference points, commensurate with the data available for the fishery; or by a relevant RFMO/A in areas and for species under its competence.
3. For multi-species fisheries, a Member instead may provide other relevant and available catch data.
4. For the purposes of clarity, Large Scale Industrial fishing or fishing related

activities are those activities using vessels more than 24 metres length of overall (using RFMO's reference).

- (a) subsidies to construction, acquisition, modernisation, renovation, or upgrading of vessels;
- (b) subsidies to the purchase of machines and equipment for vessels (including fishing gear and engine, fish-processing machinery, fish-finding technology, refrigerators, or machinery for sorting or cleaning fish);
- (c) subsidies to the purchase/costs of fuel, ice, or bait;
- (d) subsidies to costs of personnel, social charges, or insurance;
- (e) income support of vessels or operators or the workers they employ;
- (f) price support of fish caught;
- (g) subsidies to at-sea support;
- (h) subsidies covering operating losses of vessels or fishing or fishing-related activities.

X.1.1: A subsidy is not inconsistent with Article X.1 if the subsidizing Member determines that measures are implemented to maintain the stock or stocks in the relevant fishery or fisheries at a biologically sustainable level.

X.2: Article X.1.1 shall not apply to subsidies provided to large-scale industrial fishing or fishing-related activities, with the exception of subsidies covering personnel costs, social charges, or insurance, as well as income support for the workers employed in such activities.

X.3: Article X.1.1 shall not apply to the subsidizing Members to fishing or fishing related activities beyond the FAO major fishing areas where they are located.

X.4: The prohibition in X.1 shall not apply to:

- (a) LDC Members; or
- (b) A developing country Member, for a nationally determined period [starting from notification to the Committee], after the entry into force of a decision of the UN General Assembly to exclude that Member from the "Least Developed Countries" category; or
- (c) Developing country Members within their national jurisdiction.

X.5: A developing country Member may choose to opt out of the use of X.4.

X.6: Sympathetic consideration shall be given to developing Members,

in particular LDCs, to be able to transition to sustainable fisheries and implement Article X.1.1 regarding Fisheries Management.

Such transition is contingent upon:

- (a) Access and availability of targeted technical assistance and capacity building (TACB), as accorded in Article 7 of the Fisheries Subsidies Agreement; and/or

- (b) Best endeavour of developed Members and developing Members with good fisheries management practices to provide TACB at a bilateral level, upon request.

Unlike the previous proposals tabled by various WTO members (highlighted in SUNS #9816 dated 5 July 2023), Indonesia's proposal seems to have broken new ground for arriving at a balanced

Doha Fisheries Subsidies Agreement, said a South Asian trade negotiator, who asked not to be identified.

It remains to be seen whether the big subsidizers will be willing to endorse the Indonesian proposal during the intense "Fish Weeks" planned to take place from September onwards. (SUNS 9824)

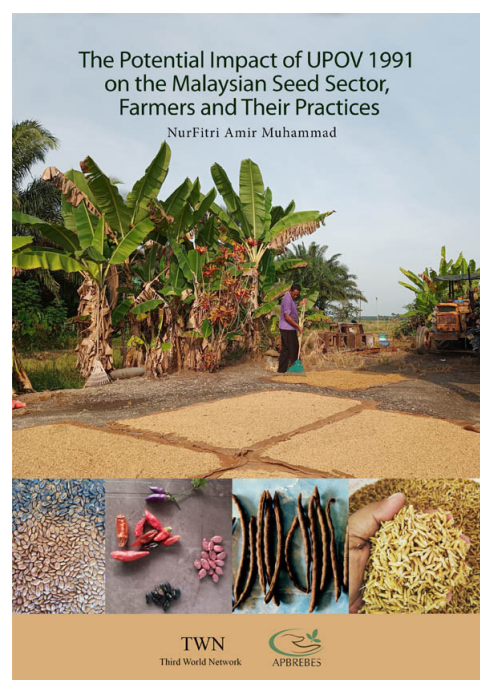
# The Potential Impact of UPOV 1991 on the Malaysian Seed Sector, Farmers and Their Practices

*NurFitri Amir Muhammad*

Malaysia has a unique and functional system in place for protecting intellectual property on plant varieties. Its Protection of New Plant Varieties Act 2004 provides for the granting of rights to plant breeders while also recognizing farmers' innovations and safeguarding exceptions for their rights to save, use, exchange and sell seeds.

This delicate balance could however be upended if Malaysia signs on to the 1991 Act of the International Convention for the Protection of New Varieties of Plants (UPOV 1991). Designed to further the interests of commercial breeders in developed countries, the UPOV 1991 regime will severely restrict the age-old farming practice of seed saving and promote corporate seed monopolies in its stead, thereby undermining farming livelihoods, food security and agricultural biodiversity.

Drawing on rigorous research and interactions on the ground with domestic food farmers, this report sounds a clarion call to resist pressures for Malaysia to join UPOV 1991, and makes the case for a plant variety protection framework that is more attuned to the needs of the country's agricultural system.



Available at <https://twm.my/title2/books/pdf/Potential%20Impact%20UPOV%20Malaysia.pdf>



# African Group calls for “re-balancing” reforms for industrialization

The African Group, comprising more than 50 developing countries, has tabled six proposals at the World Trade Organization that seek to “re-balance” the existing WTO rules in order to enable the African countries to pursue their own industrialization paths.

by D. Ravi Kanth

NEW DELHI: The African Group appears to have joined the race to reform the World Trade Organization (WTO), by proposing several initiatives that call for “policy space for industrial development” based on “re-balancing” the existing WTO rules in order to promote their own industrialization, said people familiar with the development.

With six months left before the WTO's 13th ministerial conference (MC13) commences in Abu Dhabi, UAE, in February 2024, the WTO seems to be embroiled in a clash of narratives on the WTO reforms.

According to paragraph three of the Outcome Document of the WTO's 12th ministerial conference (MC12) held in Geneva last June, WTO members are required to work towards “necessary reform of the WTO” based on the “foundational principles (enshrined in the Marrakesh Agreement of 1994) of the WTO.”

Thereformsareenvisionedtoimprove all the functions of the WTO including the negotiating function, the enforcement function, and the implementation and monitoring function.

The MC12 mandate requires that “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.”

Paragraph three of the Outcome Document also carries 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.”

At a time when the major industrialized countries, including the United States and the European Union among others, seem to be resorting to national industrialization policies in apparent violation of the WTO rules, the African Group of more than 50 developing countries is seeking the “re-balancing” of the WTO rules to enable them to industrialize in different areas.

The six proposals tabled by the African Group on 5 July highlight six different themes with a central message: reform of the organization must begin with addressing the mandated issues that have been hanging in limbo for more than 23 years.

They touch upon issues that have remained unaddressed since the fourth ministerial conference in Doha, Qatar, in November 2001.

The proposals tabled by the African Group appear to drive home the message that it is time that “charity begins at home”, namely at the WTO, in the area of “re-balancing” the WTO rules, unlike pursuing unilateral industrialization initiatives worth billions of dollars like the US Inflation Reduction Act of 2022, which seeks to provide subsidies for developing green industries; the US CHIPS Act of 2022 that allegedly aims to perpetuate the US hegemony in advanced digital areas; and carbon border tax measures, as recently put in place by the EU.

## Attenuation of WTO bodies

At a time when the WTO is being increasingly attenuated by the US to ensure that there is no robust two-tier dispute settlement system, and the sudden plunge into controversial plurilateral

discussions involving the Joint Statement Initiatives, the African Group said what they are seeking is a mere “re-balancing” of the existing WTO rules that would allow them to pursue their own specific industrialization paths.

The six proposals circulated by the African Group touched on the following themes:

1. The role of transfer of technology in resilience building - “Reinvigorating the Discussions in the WTO on Trade and Transfer of Technology (WT/GC/W/883);

2. The role of transfer of technology in resilience building - The TRIPS Agreement (WT/GC/W/884);

3. The role of transfer of technology in resilience building - Agriculture (WT/GC/W/885);

4. The role of transfer of technology in resilience building - Climate Change Adaptation, and Mitigation (WT/GC/W/886);

5. The role of transfer of technology in resilience building - Trade Facilitation (WT/GC/W/887); and

6. The role of transfer of technology in resilience building - The Work Program on Electronic Commerce (WT/GC/W/888);

## Role of technology transfer

According to the African Group, an examination of the role of transfer of technology in trade was mandated by trade ministers at the fourth WTO ministerial conference in Doha in 2001.

The discussions highlighted that “technology and technical know-how were essential for improving productivity, promoting growth, and attaining the development aspirations of less developed Members; and, that technology transfer can be an important tool to narrow the technological gap between developed and developing countries, and for integrating developing countries into the multilateral trading system.”

Several cross-cutting issues have emerged in the WTO, particularly due to a health crisis in the form of the COVID-19 pandemic, food insecurity and climate change.

The African Group said, “WTO rules on the transfer of technology are relevant in the context of the TRIPS Agreement.”

It said that the COVID-19 pandemic is the latest illustration of “how WTO rules and the so-called flexibilities in



the TRIPS Agreement have hampered Members' ability to respond reasonably to the multiple crises that ensued."

Moreover, the African Group said that the COVID-19 pandemic has also "prompted a deeper reflection on the utility of the TRIPS Agreement vis-a-vis the manufacturing capacity of developing and least developed countries notably in the pharmaceutical and industrial sectors."

Therefore, it said that the reinvigoration of the discussions in the TRIPS Council would "delve deeper into the relationship between the promotion and dissemination of technology in a way that benefits both its producers and users."

The African Group said the role that digital technologies play "in trade facilitation reform is an area of growing interest to WTO Members."

It said this paves the way for a deeper reflection on the effects of digital technologies on the composition of trade especially in developing and least developed countries.

Further, such reflections indicate how "intellectual property protections together with other institutional and regulatory determinants could affect the smooth transfer and diffusion of technology to developing countries, including least developed countries."

Faced with the continuing "poly-crises (a term coined by the former European Commission head Jean-Claude Juncker for multiple crises at any point of time)", the African Group said that "the transfer of technology is fundamental when considering how to build agricultural resilience to withstand, amongst others, the food security emergencies."

Noting that technological developments including hybrid seed, fertilizers, pesticides, mechanical improvements, etc. have revolutionized agricultural trade in industrialized countries, the African Group said state intervention played a key role.

Given the predominant role that international and regional agriculture research centres play in promoting and disseminating technology, the African Group said that it is important to know "how products and technologies are developed (inputs, production, harvest, etc.), as well as considering a range of issues relating to water management,

nitrogen, and food waste reductions, etc."

According to the African Group, "WTO Members will greatly benefit from resetting the climate change narrative in the WTO to an assessment of the application of existing WTO rules on technology transfer for diffusion of climate change technologies, including compulsory licensing."

It wants the discussions in the WTO to "focus on how to build deeper coherence and coordination to support existing mechanisms and frameworks" in the context of emerging environmental law principles.

The EU's carbon border adjustment mechanism (CBAM) could act as the biggest barrier for developing countries to carry on with their industrialization, said a person, who asked not to be quoted.

### **E-Commerce Work Programme**

Even though the 1998 Work Programme on Electronic Commerce has provided a broad framework for discussion in an area of extreme importance, i.e., the safety and cybersecurity of hardware and software systems through Source Code, the major players appear to have circumvented the discussions on several important issues in the e-commerce work program, said people familiar with the discussions.

The African Group said that the discussions on the E-commerce work program should "assess the policy and legal considerations of balancing accessibility to source codes in the context of a secure, transparent and trusted technology environment."

The African Group said the themes could be based on the following parameters:

- A. Analyzing the relationship between the transfer of technology and economic development.  
This may include but is not limited to:
  - i. Assessing the role of technology transfer in increasing production and in enhancing agricultural productivity in developing and least developed countries.
  - ii. Assessing the role of transfer of technology as a means to enhancing industrial development and in diversifying their economies to better

integrate into the regional and global value chains, including in the green economy.

- B. Assessing the use of Information and Communications Technology (ICT) to promote technology transfer.
  - C. Assessing the role of the "flexibilities" contained in the TRIPS agreement to promote technology transfer in areas relevant to pharmaceuticals and medical applications, treatments, medicines, diagnostics, therapeutics, and biodiversity.
  - D. Assessing the role of the "flexibilities" contained in the TRIPS agreement to promote technology transfer in areas relevant to climate change mitigation, decarbonization or green industrialization technologies, and digitalization.
  - E. Assessing the role of technical assistance and capacity-building programs offered or granted by donors to developing and least developed countries, including an examination of technology transfer flows.
  - F. Identification and assessment of incentives provided by developed countries, by virtue of their national regulations, to their enterprises and institutions to promote and encourage technology transfer to developing countries and in particular to LDCs (Article 66.2).
  - G. How to best enable MSMEs (micro, small, and medium enterprises), especially in developing and least developed countries benefit from various technology transfer tools, instruments, agreements, and platforms?
  - H. Assessing the effects of the introduction of patents on prices and welfare in developing and least developed countries (the case of pharmaceuticals and therapeutics).
- In a crux, the African Group's comprehensive proposals call for a robust and fundamental "re-balancing" of the existing WTO rules.

However, it remains to be seen how the African Group intends to invest its negotiating energies at the WTO and whether it will be able to change the terms of the debate on WTO reforms. (SUNS 9819)

# African Group exposes failures of WTO's TRIPS Agreement

The African Group has tabled a proposal at the World Trade Organization that has highlighted the alleged failings of the WTO's TRIPS Agreement in combatting the COVID-19 pandemic.

by D. Ravi Kanth

NEW DELHI: The African Group has exposed the alleged failings of the World Trade Organization's TRIPS Agreement in combatting the COVID-19 pandemic, underscoring the need for "policy space" in grappling with the unaddressed issues so as to ensure that the same mistakes are not repeated in future health emergencies, said people familiar with the development.

Under the overall rubric of WTO reforms as mandated by trade ministers in the Outcome Document of the WTO's 12th ministerial conference (MC12) last June, the African Group has brought certain fundamental issues centering on "re-balancing" the WTO rules to the TRIPS negotiating table.

As reported in SUNS #9819 dated 11 July 2023, the African Group seems to have turned the tables on a range of issues concerning industrialization and the "re-balancing" of the WTO rules to be decided at the WTO's 13th ministerial conference (MC13), to be held in Abu Dhabi, in February 2024.

In a proposal (WT/GC/W/884), titled, "The Role of Transfer of Technology in Resilience Building: the TRIPS Agreement," and circulated on 3 July, the African Group said that "existing mechanisms of technology transfer have not adequately boosted the productive capacities of developing countries in a broad-based fashion."

As opposed to changing the WTO rules in an attempt to do away with the principle of consensus-based decision-making and bringing in plurilateral negotiations as part of the WTO reforms proposed by the Northern countries, the African Group has raised some fundamental issues concerning "policy space for industrial development."

The group, comprising more than 50 developing countries, made the case for "re-balancing trade rules to promote

industrialization and to address emerging challenges such as climate change, the concentration of production and digital industrialization".

In this context, the African Group has tabled submissions "on Agreement-specific issues as [they] pertain to industrial development in general, including the role, towards that end, of transfer of technology and trade."

## TRIPS Agreement

The TRIPS Agreement has always been seen as the proverbial "eye sore" of the Uruguay Round Agreements, in which "Big Pharma", aided and abetted by the Northern countries, particularly the United States, secured its main goals in an iron-clad agreement.

The TRIPS Agreement, which according to several studies, has no place in global trade rules, provided a "monopoly" shield for "Big Pharma" with weak provisions on flexibilities. During the Uruguay Round Agreement negotiations, the developing countries were apparently forced to "swallow" the agreement, after initially opposing it, said a former TRIPS negotiator, who preferred not to be quoted.

It is against this backdrop that the African Group noted in its proposal that: "The preamble and Articles 7 and 8 of the TRIPS Agreement set out the general goals, objectives, and principles of the Agreement."

The African Group argued that "Article 7 entitled "OBJECTIVES" reflects the search for a balanced approach to IP protection in the societal interest since IP protection is expected to contribute not only to the promotion of technology but also to the transfer and dissemination of technology in a way that benefits both its producers and users and that respects a balance of rights and obligations, with

the overall goal of promoting social and economic welfare."

According to the African Group, "Article 8, entitled "Principles", recognizes the rights of Members to adopt measures for public health and other public interest reasons and to prevent the abuse of IPRs, provided that such measures are consistent with the provisions of the TRIPS Agreement."

Even though the WTO's dispute settlement panels repeatedly said that Articles 7 and 8 "are to be borne in mind when the substantive rules of the Agreement are being examined," including the 2001 Doha Declaration on TRIPS and Public Health, it is not clear whether the industrialized countries have followed these provisions.

The African Group noted that Paragraph 15 of the MC12 Declaration on the WTO Response to the COVID-19 Pandemic and Preparedness for Future Pandemics (WT/MIN(22)/31) recognizes that "increasing the level of global preparedness to COVID-19 and future pandemics requires strengthened productive, scientific and technological capacity across the world. We also recognize that such capacity is instrumental for developing solutions to public health crises beyond COVID-19, including those relating to HIV/AIDS, tuberculosis, malaria, and other epidemics, as well as neglected tropical diseases, and for diversifying manufacturing locations. In line with WTO rules, we underscore the importance of promoting

technology transfer that contributes to building capacity in related sectors".

The African Group proposal gave an account of "numerous market-related channels through which technology may be transferred across international boundaries", such as trade in goods, especially capital goods and technological inputs, and foreign direct investment, as well as important non-market channels for technology transfer.

## Inadequate technology transfer

The African Group issued a strong message that the failure to boost the productive capacities of the countries in the African region is one of the telling phenomena of COVID-19, creating more problems for African countries during the past three years.

"This is particularly true of African countries which severely hampered the

continent's ability to respond to the COVID-19 pandemic and other health emergencies, as well as other pressing challenges such as food insecurity and the impact of climate change."

"Shortcomings of existing mechanisms for technology transfer include, among others: restrictive contractual terms in licensing agreements; information asymmetries related to R&D and pricing; and market concentration," the African Group pointed out in its proposal.

Further, it said, "Pricing strategies are based on determinants such as, inter alia, the cost of R&D, costs of production or financial returns to incentivize future R&D programs".

It said that the "true costs of R&D, especially for pharmaceuticals, are often unknown and highly variable, while the contribution made by public and non-profit-making sectors is not always accounted for."

Worse still, "the lack of transparency in the true cost of technologies, how public funding is taken into account and determinants of the market price contributes to concerns about inaccessibility of key technologies, especially those that contribute to the global commons," it argued.

The African Group said it is time that WTO members "engage on the role of the private sector and mechanisms that need to be put in place to ensure better accountability by the private sector in relation to technology transfer, especially in promoting affordable access to key technologies required to address global commons such as public health and green

technologies to fight climate change."

It said the key objective of the discussions should be to enable countries in Africa to "harness the potential of WTO instruments to render technologies accessible and affordable on fair and reasonable terms."

It said that the reinvigoration of the discussions needs to be centred around the following issues and questions, proposing that "each theme or sub-theme will be thoroughly analyzed and discussed among Members, with a view to making recommendations to Trade Ministers for adoption at MC13."

The African Group urged members to discuss the following issues in the TRIPS Council:

- a. How have the flexibilities contained in the TRIPS Agreement contributed to technology transfer to developing countries and in particular to LDCs? How developed countries have allowed for compulsory licensing in their national legislation?
- b. In light of the Paragraph 6 system, following the Doha Declaration on TRIPS and Public Health, how have member countries addressed the problem of countries with insufficient or no manufacturing capacities in the pharmaceutical sector?
- c. How have compulsory licensing and the Paragraph 6 system contributed to the issue of technology transfer in the pharmaceutical sector?
- d. What kind of flexibilities are needed to promote the transfer of technology in the industrial sector more generally, and in particular for the benefit of Small and Medium Sized

Enterprises in developing countries, including LDCs?

- e. How can TRIPS provisions be utilized to boost industrial development and productive capacities?
- f. What kind of flexibilities are required, and which TRIPS provisions are relevant to support climate change mitigation and adaptation efforts, green industrialization, and integration of developing countries, including LDCs in global value chains in the green economy?
- g. How can existing mechanisms of technology transfer be improved within the context of the multilateral trading system and the TRIPS Agreement, in particular, to ensure equitable and affordable access?
- h. The participation of developing countries in R&D takes many forms, including clinical trials - how can this be leveraged to ensure better terms of accessibility and affordability to medical products from this contribution?
- i. What are the mechanisms that can be put in place to encourage greater transparency on the true cost of R&D with a view to ensuring affordable access to key technologies?

In short, the African Group has highlighted some difficult issues that need to be addressed in the run-up to MC13. It remains to be seen whether the US and other industrialized countries would address the above issues with a degree of sincerity, said a trade negotiator, who asked not to be quoted. (SUNS 9820)

Connect  
to <https://twm.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

# No room for trade disputes on national security issues, says US

In a proposal on 5 July, the United States highlighted its "objectives" for a "reformed dispute settlement system", which would exclude discussions on issues pertaining to national security interests during the adjudication of trade disputes.

by D. Ravi Kanth

NEW DELHI: The United States on 5 July spelled out its "objectives" for a "reformed dispute settlement system", including banning discussions on issues pertaining to national security interests during the adjudication of trade disputes.

The US proposal of "objectives" appears to be a move to "weaponize" trade-restrictive measures/sanctions against countries with whom Washington seems to be having rather "frosty" trade and political relations, said people familiar with the negotiations.

Surprisingly, the US "objectives" remain silent on preserving the existing two-tier dispute settlement system, with the Appellate Body as the final adjudicating arm of the World Trade Organization's enforcement function.

Recently, the US apparently faced "rough weather" over its ideas/proposals for the reform of the WTO's dispute settlement system, as many members rebuffed Washington's ideas/proposals on appellate review and sunset provisions amongst others in the ongoing informal discussions being conducted by a facilitator.

Against this backdrop, the US says that it intends "to lead in all areas where we can contribute, including on dispute settlement reform, but achieving fundamental reform can only happen through a collective, Member-driven process."

It says that Washington is "determined to pursue an interest-based, inclusive process that brings in all WTO Members as we work towards fundamental reform."

It adds that Washington will "work towards producing a system that reinforces the principles of fairness, equity, and sovereignty that underlie support for the multilateral trading system."

Instead of focusing on the central role accorded to a two-tier dispute settlement system to oversee the enforcement function of the WTO, the US says that "the dispute settlement system should preserve the policy space in WTO rules for Members to address their critical societal interests and support rather than undermine the WTO's role as a forum for discussion and negotiation to help Members address new challenges."

The reform of the WTO's dispute settlement system was mandated by trade ministers at the WTO's 12th ministerial conference (MC12) last June.

In paragraph four of the Outcome Document (WT/MIN(22)/24) issued at MC12, trade ministers acknowledged "the challenges and concerns with respect to the dispute settlement system including those related to the Appellate Body, recognize the importance and urgency of addressing those challenges and concerns, and commit to conduct discussions with the view to having a fully and well-functioning dispute settlement system accessible to all Members by 2024."

Yet, the battle over the reform of the WTO's dispute settlement system seems to be increasingly becoming one between the US on the one side, and the rest of the membership, on the other, said several negotiators familiar with the ongoing informal discussions.

The US says that the "success of dispute settlement reform efforts depends on understanding each other's interests in dispute settlement", instead of adjudicating on disputes as set out in the existing Dispute Settlement Understanding (DSU), said negotiators.

Although the US acknowledges the "contributions of all Members" in driving these discussions with the assistance of a capable facilitator, it says that "no Member

dictates the terms of reform."

Washington says that it has "shared a number of ideas on dispute settlement reform in the informal discussions, with an open mind to different ways of achieving the interests that we and other Members have identified."

However, the ideas shared by the US on dispute settlement reform seem to have been opposed by many members during the informal discussions, said negotiators familiar with the discussions.

The US maintains that it will "support the work of the facilitator (Mr Marcos Molina, the deputy trade envoy of Guatemala) and will not disclose information that may undermine the constructive nature of the discussions so far."

Recently, the US complained about a write-up in this publication that informed members outside the informal discussions about the state of play in the negotiations as well as the growing opposition to the US ideas, said negotiators, who preferred not to be quoted.

According to the US in its proposal of "objectives", "a well functioning dispute settlement system supports all WTO Members in the resolution of their disputes in an efficient and transparent manner, and in doing so limits the needless complexity and interpretive overreach that has characterized dispute settlement in recent years."

## The US "objectives"

While claiming that it is not advancing specific negotiating proposals at this time, the US says its "objectives" are intended to contribute to constructive discussions among Members.

It listed the following "positive contributions of a reformed dispute settlement system."

They include:

### 1. FACILITATING THE RESOLUTION OF TRADE DISPUTES:

The US complained that "the use of dispute settlement to create new rules has contributed to the atrophy of the monitoring and deliberative functions of the WTO."

Therefore, it says that it would "support a system in which dispute settlement remains focused on assisting Members in resolution of their disputes,



and preserves the roles of the monitoring and deliberative functions of the WTO."

## **2. MAINTAINING EXISTING COMMITMENTS AND RULES AS AGREED:**

The US says that "WTO dispute settlement cannot be a means to change the commitments and rules of the WTO agreements without the consent of all Members."

It adds that, "We support a system that respects the rules, including the policy space left to Members, as agreed by Members."

## **3. PRESERVING AND PROMOTING FAIRNESS IN THE TRADING SYSTEM:**

The US again reiterated its complaint that "WTO dispute settlement adjudicators have interpreted commitments and rules in ways that undermine core values, such as the ability of Members to protect their workers and businesses from non-market economic distortions, to promote democracy and human rights, or to protect human health or the environment."

It says that it would "support a system that enables rather than undermines Members' ability to promote and defend their values so that the trading system is a force for good."

## **4. RESPECTING THE ESSENTIAL SECURITY INTERESTS OF MEMBERS:**

The US says that "WTO dispute settlement cannot be a forum for debating and deciding on the essential security interests of Members."

Washington says that it would "support a system that respects the right of Members to determine what action is necessary to protect their essential security interests."

## **5. UTILIZING ALL AVAILABLE TOOLS TO RESOLVE DISPUTES:**

The US again complained that "WTO dispute settlement has become synonymous with litigation, leading to increased judicialization of the system."

It wants a "system that maximizes the tools available under the DSU to assist WTO Members in resolving trade disputes."

## **6. REDUCING COSTS TO ENABLE WIDER ACCESS TO DISPUTE RESOLUTION:**

The US says that "WTO dispute settlement is prohibitively expensive for most WTO Members, failing to deliver a system for resolving trade disputes that can be effectively utilized by all Members."

It wants to support "a system that makes the dispute settlement system accessible and affordable for all Members, in particular capacity constrained Members."

## **7. RESOLVING DISPUTES EFFICIENTLY:**

The US complained that "WTO dispute settlement proceedings routinely drag on for years, failing to deliver an effective solution for governments and stakeholders."

It wants "a more streamlined, efficient form of dispute resolution."

## **8. PROMOTING TRANSPARENCY OF THE SYSTEM:**

The US claimed that "WTO dispute settlement has nothing to hide from the public," and therefore, called for a "system that can be better understood and accessed by Members who are not directly involved in the dispute and the public."

## **9. BUILDING TRUST IN THE SYSTEM AND ITS RESULTS:**

The US argued that "WTO dispute settlement adjudication must produce results that have credibility and legitimacy among Member governments and their stakeholders."

The WTO is an intergovernmental organization and stakeholders in the countries are represented by their government, it pointed out.

It called for "a system that delivers quality, consistent, and efficient adjudication through the fair application of treaty interpretation according to the terms of the agreements as agreed by Members while leaving to Members to further develop their commitments and rules through negotiation."

## **10. SAFEGUARDING THE INTEGRITY OF THE DISPUTE SETTLEMENT SYSTEM:**

As in previous instances, the US again complained that "WTO dispute settlement departed over time from the system envisioned and agreed to by Members in the DSU."

It called for "a system that provides opportunities for meaningful assessment of all participants in the system and mechanisms for ongoing improvement to ensure the system continues to deliver for Members."

The US "objectives" for a reformed dispute settlement system seem like a "red herring" in which the US does not want a proper two-tier dispute settlement system where issues are decided on their legal and compliance merits, said several negotiators, who asked not to be quoted.

Recently, at an informal discussion on 8 June chaired by the facilitator, Mr Marcos Molina of Guatemala, several countries including China, the European Union, Canada, Australia, India, Pakistan, and South Africa apparently opposed the US proposal on Appellate Review, said participants familiar with the discussion.

As reported in the SUNS, during the plenary meeting, the facilitator apparently tried hard to see if the members could make progress on the US proposal during an entire working day (two sessions of three hours each), but his attempts were proved to be in vain, said people who took part in the meeting.

The US has been largely responsible for making the Appellate Body dysfunctional after Washington repeatedly blocked the selection process for the appointment of members to the highest adjudicating body at the WTO since December 2019. It has effectively paralyzed the two-tier dispute settlement system since then.

Against this backdrop, the US introduced a rather strong proposal on Appellate Review that seemed to suggest "a body without any teeth", said negotiators familiar with the discussions.

### **US proposal on appellate review**

As previously reported in the SUNS, the facilitator included the US proposal on Appellate Review in his so-called "yellow table" of proposals that are supposed to be more refined for further discussions.

When referring to the two-tier dispute settlement system, a deeper conversation also needs to be had on the implications that a departure from the two-tier system will have on the Marrakesh Agreement and its subsequent amendment procedures, said a former negotiator, who is closely following the negotiations on dispute settlement reform.

The former negotiator said: "Proponents of WTO reform are seeking one fundamental change to the current

legal architecture in the WTO i.e., to change the practice of consensus under Article IX.1 on decision-making for two main purposes. The first is to seek a system overhaul to formally bring in new issues for negotiations without requiring the consensus of the whole membership. The second is to eliminate the requirement for consensus under Article X.8 on amendments.

"The premise of the latter objective is to amend the Understanding on Rules and Procedures Governing the Settlement

of Disputes (DSU) because it mandates the Dispute Settlement Body (DSB) to establish a standing Appellate Body to hear appeals from panel cases according to Article 17. It lays out the composition of the Appellate Body and the procedures for Appellate Review. Since the DSU is classified as an Annex 2 agreement according to the Marrakesh Agreement, any amendment to the DSU under Article X.8 shall be made by consensus." (SUNS 9818)

# Putting the Third World First

## A Life of Speaking Out for the Global South

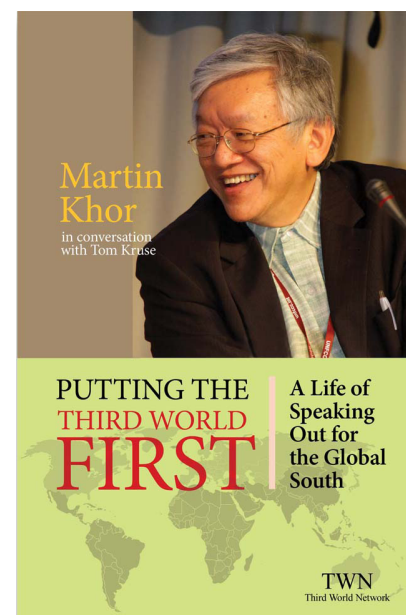
### *Martin Khor in conversation with Tom Kruse*

Martin Khor was one of the foremost advocates of a more equitable international order, ardently championing the cause of the developing world through activism and analysis. In this expansive, wide-ranging conversation with Tom Kruse – his final interview before his passing in 2020 – he looks back on a lifetime of commitment to advancing the interests of the world's poorer nations and peoples.

Khor recalls his early days working with the Consumers Association of Penang – a consumer rights organization with a difference – and reflects on how he then helped build up the Third World Network to become a leading international NGO and voice of the Global South. Along the way, he shares his thoughts on a gamut of subjects from colonialism to the world trade system, and recounts his involvement in some of the major international civil society campaigns over the years.

From fighting industrial pollution in a remote Malaysian fishing village to addressing government leaders at United Nations conferences, this is Khor's account – told in his inimitably witty and down-to-earth style – of a life well lived.

**Martin Khor** (1951-2020) was the Chairman (2019-20) and Director (1990-2009) of the Third World Network.



To buy the book, visit <https://twon.my/title2/books/Putting%20the%20TW%20first.htm> or email [twon@twonetwork.org](mailto:twon@twonetwork.org)

# The grand narrative of private finance

While one message from the recent summit on a "New Global Financing Pact" was that developing countries need financing to tackle the climate and biodiversity crises, the false narrative that the only way this gap can be filled is to "leverage" more private finance has also persisted.

*by Bhumika Muchhala and Maria Jose Romero\**

NEW YORK/BRUSSELS: One message that was repeated throughout last month's summit on a so-called "New Global Financing Pact" was that developing countries urgently need mass financing to tackle the climate and biodiversity emergency. And there is not enough of it in public coffers.

Unfortunately, the false narrative that the only way to fill this gap is to "leverage" more private finance also persisted.

The resulting Paris Agenda for People and Planet stated: "meeting global challenges will depend on the scaling up of private capital flows."

This should be achieved in large part by revamping the role of multilateral development banks (MDBs).

Last December, the World Bank Group (WBG), the biggest MDB, launched its so-called "evolution" process, with the support of G7 governments.

This set the institution to work on increasing its lending by deepening its reliance on the financial market.

The dogged reliance on private capital as saviour appears to be steeped in capitalist realism.

It is believed to be implausible for the public sector to deliver the scale of financing needed to address the climate and development crisis.

Private capital, which can be leveraged using public money, securitised and re-produced is favoured as the pragmatic choice.

However, while the financing gap to deliver on the Sustainable Development Goals (SDGs) is very real, the neat narrative buttressing private capital obscures two empirical realities.

First is the absence of rich countries' political will to deliver on agreed

commitments, from the 0.7 per cent of Gross National Income in development aid made in 1970 to the US\$100 billion per year climate financing agreed in 2009.

Second, the ongoing systemic wealth drain from developing to rich countries.

Since 1982, developing countries as a whole have transferred an estimated US\$4.2 trillion in interest payments to global North-based creditors, far outstripping aid flows and concessional lending during the same period.

Additionally, tax-related illicit financial flows cost countries hundreds of billions of dollars in lost tax income every year.

Debt servicing is draining approximately 25 per cent of total government spending in developing countries as a whole, hijacking both climate and SDG financing.

## Allure of private finance

Last month, in a new attempt to "leverage" private capital, the WBG launched the Private Sector Investment Lab, a partnership with the private sector that aims to "rapidly scale solutions that address the barriers preventing private sector investment."

Furthermore, it announced "an expanded toolkit for crisis preparedness, response, and recovery" that includes providing "new types of insurance" to backstop private sector projects.

This follows a not-so-new pattern articulated in the WBG's Evolution Roadmap draft published in April

While the WBG is set to expand its mandate to incorporate "sustainability" considerations, the approach is still

rooted in a heady cocktail of de-risking instruments such as risk guarantees, blended finance and first-loss positions by governments, and in tweaking national regulatory frameworks to enable a business-friendly environment.

The goal is as singular as the solution: to make investment more profitable for the private sector.

The (optimistic) rationale: "incentivising" private capital will "crowd in" economic growth and climate, biodiversity and development financing.

This assumes that it is possible to equate commercial goals and the public interest, which is not always the case without creating financial barriers that undermine access to public services, such as user fees.

It also ignores that risks are transferred from private to public actors, further increasing debt vulnerabilities, and the developmental dilemma posed by prioritising private profits over distributive goals and state sovereignty.

In ongoing discussions about the Roadmap, it is yet to be seen if the WBG will incorporate sufficient provisions within its plans to ensure the recipient state's right to regulate in the public interest for a rights-based economy that upholds distributive justice. That is, economic, climate and gender equity.

## Solutions with legitimacy

The largest coalition of developing countries in the United Nations (known as the "Group of 77"), representing 134 nations, have been calling for reform of the international tax, debt and financial architecture for many years.

These calls, enshrined in resolutions adopted by the UN General Assembly, include establishing a multilateral legal framework that would comprehensively address unsustainable and illegitimate debt, including through extensive debt restructuring and cancellation, and agreeing on a UN Tax Convention with equitable participation of developing countries to address tax abuse by multinational corporations and other illicit financial flows.

As was made clear last month in several developing countries' calls, a reform agenda should not be limited to merely boosting MDBs' coffers - via financial innovation techniques - but rather include governance reform that meaningfully augments the voice and vote

of developing countries in macroeconomic decision-making, which is the litmus test for legitimate and democratic economic governance.

Furthermore, for many in civil society, for the WBG to "evolve" in a credible way, it must also seek to independently evaluate the development impact of its policy prescriptions for developing countries over recent decades.

Civil society organisations are

stating this again in official feedback on the Evolution Roadmap submitted to the Bank this week.

The ways in which the mythology of the private financier is construed dangerously omits the concrete reforms for historical economic justice, and state sovereignty, that the global South are demanding.

This disjuncture calls for a clear-eyed questioning of the allure of private

finance. Here lies the difference between new forms of extraction as opposed to change towards redistributive justice. (IPS)

---

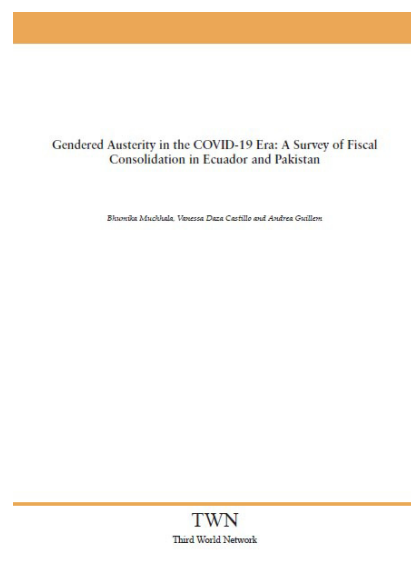
[\* Bhumika Muchhala is Political Economist and Senior Advisor at Third World Network and Maria Jose Romero is Policy and Advocacy Manager at the European Network on Debt and Development (Eurodad).]

---

## 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.



Available at <https://twon.my/title2/books/pdf/GenderedAusterity.pdf>