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UNCTAD pushes for "global new deal"

The United Nations Conference on Trade and Development (UNCTAD) has advocated a "global new deal" to kickstart growth and rebalance an unequal world economy. This new agenda, as outlined in UNCTAD's *Trade and Development Report 2017*, would entail, among other elements, more proactive fiscal policies and reining in financial capital and corporate rentierism.

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A "global new deal" needed to build more inclusive economies

A UN development agency has called for a "global new deal" comprising fiscal stimulus as well as regulatory and redistributive strategies to revive and rebalance the world economy.

by Kanaga Raja

GENEVA: A "global new deal" that fosters proactive fiscal policies, along with coordinated strategies that address the triple challenges of large inequalities, demographic change and environmental problems, has been advocated by the United Nations Conference on Trade and Development (UNCTAD).

In this year's edition of its annual flagship *Trade and Development Report* (*TDR-2017*), released on 14 September, UNCTAD has argued that a new policy agenda is needed to help create more inclusive societies and economies.

The original New Deal, launched in the United States in the 1930s and replicated elsewhere in the industrialized world, particularly after the end of the Second World War, established a new development path that focused on three broad strategic components – recovery, regulation and redistribution – said the *TDR*.

It said that while these components involved specific policy goals tailored to particular economic and political circumstances, they made job creation, the expansion of fiscal space and the taming of finance a common route to success along this new path.

Building a new deal today could draw on those same components; and, as before, States require the space to tailor proactive fiscal and other public policies to boost investment and raise living standards, supported by regulatory and redistributive strategies that tackle the triple challenges of large inequalities, demographic pressures and environmental problems.

"However, the specific challenges of inequality and insecurity in the twenty-first century will not be tackled by countries trying to insulate themselves from global economic forces, but rather by elevating, where appropriate, some of the elements of [US President Franklin D.] Roosevelt's New Deal to a global level consistent with today's interdependent world," said UNCTAD.

In a foreword to *TDR-2017*, UNCTAD Secretary-General Mukhisa Kituyi points out that in sharp contrast to the ambitions of the 2030 Agenda for Sustainable Development, "the world economy remains unbalanced in ways that are not only exclusionary, but also destabilizing and dangerous for the political, social and environmental health of the planet."

The gains of economic growth have disproportionately accrued to the privileged few, and a combination of too much debt and too little demand at the global level has hampered sustained expansion of the world economy.

Austerity measures adopted in the wake of the global financial crisis nearly a decade ago have compounded this state of affairs, hitting the world's poorest communities the hardest, leading to further polarization and heightening people's anxieties about what the future might hold.

While some political elites have been adamant that there is no alternative, this has proved fertile economic ground for xenophobic rhetoric, inward-looking policies and a beggar-thy-neighbour stance.

Others have identified technology or trade as the culprits behind exclusionary hyper-globalization, but this too distracts from an obvious point: without significant, sustainable and coordinated efforts to revive global demand by increasing wages and government spending, the global economy will be condemned to continued sluggish growth, or worse.

The *Trade and Development Report 2017* argues that now is the ideal time to crowd in private investment with the help of a concerted fiscal push – a global new deal – to get the growth engines revving again, and at the same time help rebalance economies and societies that, after three decades of hyper-globalization, are seriously out of kilter.

The Sustainable Development Goals (SDGs) agreed to by all members of the United Nations two years ago provide the political impetus for this much-needed shift towards global macroeconomic policy coordination.

TDR-2017 calls for more exacting and encompassing policy measures to address global and national asymmetries in resource mobilization, technological know-how, market power and political influence caused by hyper-globalization that have generated exclusionary outcomes and will perpetuate them if no action is taken.

With the appropriate combination of resources, policies and reforms, the international community has the tools available to galvanize the requisite investment push needed to achieve the ambitions of the SDGs and promote sustainable and inclusive outcomes at both global and national levels, Kituyi said.

World economic prospects

According to *TDR-2017*, despite renewed optimism about the prospects for a broad-based global recovery, global growth is unlikely to rise much beyond the average rate of 2.5% recorded in the five-year period 2011-16. The forecast for the world economy in 2017 is 2.6%, not much higher than the 2.2% in 2016 and the same as in 2015.

The pick-up in performance can be attributed largely to the turnaround in some larger developing countries that were experiencing recession, and in the group of developing countries as a whole (from 3.6% in 2016 to 4.2% in 2017).

With growth in Japan, United States and the core eurozone economies stuck at a low level and clear signs of a slowdown in the United Kingdom, unless there is a significant and coordinated break with fiscal caution and austerity in these economies, the global environment will continue to hamper growth prospects across the developing world.

The situation in developing economies is, if anything, even more difficult to gauge, with considerable regional and country-level variation. The rapid recovery from the initial financial shock of 2008 has given way to a persistent slowdown in growth. The rate of output growth for the group declined continuously from 7.8% in 2010 to 3.6% in 2016, and is currently projected to rise to 4.2% in 2017.

The start of 2017 also saw some of the larger emerging economies move out of the recessionary conditions of the previous year, but with little chance of growth returning to rates registered in the first decade of the new millennium.

Two factors play a role here. The first is that while oil and commodity prices are up from their recent troughs, they are still well below the highs they experienced during the boom years, which dampens the recovery in commodity-exporting countries.

Second, fiscal tightening and / or enforced austerity continue to constrain domestic demand and growth in many countries. Indeed, with advanced economies abnegating responsibility for a coordinated expansionary push, austerity has become the default macroeconomic policy position in many emerging economies. This is certainly true of those facing fiscal imbalances and mounting debt levels, but it is also relevant in other countries pressured by foreign, especially financial, investors.

Not surprisingly, anxious policy-makers across the South are focusing their attention on the actions of the United States Federal Reserve, on the decisions of commodity traders and on the predatory practices of hedge funds, with a growing realization that they have limited control over some of the key components of their economic future.

In the absence of sustained international efforts to manage a coordinated expansion across the global economy against a backdrop of austerity, boom and bust is likely to remain the dominant growth pattern. Despite some moments of guarded optimism, stable and inclusive economies will remain elusive, said the *TDR*.

Whether a country has been able to grow largely based on the domestic market or has relied on exports as the driver of growth, global conditions are not conducive for a return to more widespread buoyancy.

Talk of technology or trade as the disruptive villains in this narrative distracts from an obvious point: unless significant and sustainable efforts are made to revive global demand through wage growth in a coordinated way, the global economy will be condemned to prolonged stagnation with intermittent pick-ups and recurrent downturns.

In a world of mobile finance and liberalized economic borders, no country by itself can attempt a significant fiscal expansion without risking capital flight, a currency collapse and a crisis. What is needed therefore is a globally coordinated strategy of expansion led by state expenditures, with intervention that guarantees some policy space to allow all countries the opportunity of benefiting from the expansion of their domestic and external markets.

As of now, the sentiment seems to be different, with nationalist rhetoric, protectionist arguments and a beggar-thy-neighbour outlook dominating economic discourse. Growing inequalities feed this xenophobic turn, which provides a convenient "other" to blame for everybody's problems.

"Clearly, viable and equitable growth in this context will require a fiscal stimulus, along with other elements of a regulatory and redistributive framework, that must be coordinated across countries," said the *TDR*.

From partial to hyper-globalization

There are, undoubtedly, reasons to worry about the current health of the global economy and about emerging threats to rising living standards, political stability and environmental sustainability. Questions over the strength and effectiveness of multilateral institutions designed to help manage the challenges of an interdependent world order are also of concern.

Much of the current discussion assumes that these institutions were immaculately conceived at the end of the Second World War, and that, subsequently, they have overseen a steady march towards a level global playing field of open and competitive markets and broadly shared prosperity. The reality, however, is more punctuated and nuanced.

The three decades or so after the Second World War ushered in multilateral rules and structures to prevent beggar-thy-neighbour policies, restrain volatile capital flows and extend international cooperation. But there was still enough space for national governments to undertake proactive public policies in support of full employment and extended welfare provision in the North, and resource mobilization and industrialization in the South.

This balancing act was built around a political consensus (and related compromises) aimed at avoiding a repeat of the international economic disintegration of the 1930s, and the waste, wretchedness and war that followed.

That consensus required the leading economies (and their corporations) to accept some constraints on their ability to dominate international markets and to move capital freely from location to location, whilst giving a privileged role to the dollar as a means of stabilizing foreign exchange markets.

But it also supported high rates of aggregate capital formation along with wages that rose broadly in line with productivity in the developed countries. These generated strong global aggregate demand, leading to a rapid rise in international trade. Nevertheless, this remained only a partial globalization, in that the rules and structures were designed primarily by and for developed rather than developing countries, and were concerned more with openness to trade than to financial flows or transfers of technology.

These arrangements buckled under a series of distributional pressures and economic shocks in the 1970s, giving way to hyper-globalization from the early 1980s. It was characterized by an extensive deregulation of markets – particularly financial and currency markets – in rich and poor countries alike, the attrition of the public realm, and the extension of profit-making opportunities to ever-widening spheres of not only economic but also social, cultural and political life.

The associated withdrawal of public oversight and management of the economy included the curtailment, and sometimes even the elimination, of policy measures previously used by States to manage their integration into the global economy. This was based on the belief that the unregulated forces of supply and demand were best suited to this task, said the *TDR*.

New patterns and players in international trade emerged along with a surge in international capital flows and significant shifts in the international division of labour.

Hyper-globalization has also been accompanied by a radical break in the governance of the postwar international framework, whereby "bodies once designed to foster sovereignty are now recast to curtail it". Meanwhile, there has been a proliferation of more informal cross-border governance arrangements built around corporate networks and public-private partnerships.

Expansionary monetary policies have become the principal instrument of macroeconomic management, even as tight fiscal policies have constrained expansion. And the goal of financial stability has taken a backseat to the promotion of "financialization", enabling financial markets, financial motives, financial institutions and financial elites to assume the upper hand in the operation of the economy and its governing institutions, at both national and international levels.

Together these pressures have steadily eroded the checks and balances that had previously helped channel market forces into the creative and productive activities needed for long-term growth. Capital formation has stagnated, speculative investments (by banks, businesses and households) have proliferated, and rising levels of private debt have replaced rising wages as the binding agent in increasingly insecure and fragile socioeconomic structures.

Rising inequality

Even as many economists were anticipating a prolonged period of economic stability and income convergence, hyper-globalization entered its own *dammerung* (twilight) with the financial crisis of 2008-09, causing deep and long-lasting damage in the developed economies and a delayed but now evident slowdown in developing economies.

According to UNCTAD, the crisis was linked to rising economic inequalities both as a cause and an effect, and those inequalities were further accentuated by the policies adopted after the crisis. This trend has become a growing concern for policymakers seeking to promote hyper-globalization to an increasingly sceptical public.

There is now a greater willingness, says the *TDR*, to acknowledge that inequality may be an obstacle to growth, that it can pose a serious political threat to more open societies, and that current levels of inequality are morally unacceptable. However, the challenge of forging a more inclusive agenda is compounded by difficulties in measuring the problem.

Beyond some basic indicators of extreme deprivation, measuring poverty has never been straightforward; it is subject to changing social attitudes and political sentiments. Moreover, poverty data quickly become embroiled in a whole range of contentious issues that divide supporters and critics of hyper-globalization; for example, is it "the market" or the Chinese State that deserves the most applause for lifting more than a billion people out of extreme poverty?

The *TDR* said even as inequality has emerged as a primary political concern, the international community has lacked a convincing narrative linking distributional issues to the challenges of growth and development; instead, it has been focusing on the failure of national policymakers to adapt to the borderless forces of economic progress.

The current discussion continues a debate that began in the early 1990s, on whether it is increased North-South trade or technological change that is the principal source of economic disruption in the developed economies.

The impact of technological change is usually traced to relative price movements, the factor content of production and elasticities of substitution, with a bias towards new technologies (particularly information and communication technologies, or ICTs) that give skilled labour a wage premium over unskilled labour, thereby skewing income distribution.

This argument seems to offer a more palatable explanation than trade shocks, given the ubiquitous reach of technological change and its reported growth impulses (traditionally measured through the large residual in growth accounting exercises). It also lends itself to an easy policy agenda that targets education as the surest way to achieve more inclusive growth.

The "trade versus technology" discussion has served to highlight the critical role of employment in fostering inclusive economies, particularly given that a growing number of households are increasingly worried that the kinds of stable, well-paid jobs needed to secure a middle-class lifestyle have already been hollowed out in the developed economies and are also increasingly out of reach for an aspiring middle class in many emerging economies.

"However, the evidence linking greater inequality to either trade or technology remains inconclusive, in part because the scale of changes in both these areas over the past two decades does not directly match the pattern of job destruction in the manufacturing sector."

The *TDR* further argues that the workings of the global economy and of individual national economies are closely tied to the cumulative sources of market power augmented through specific policy measures, including those that have helped to boost profits at the expense of wages.

This has given rise to unstable growth regimes, driven by rising levels of debt, and it reinforces the point that hyper-globalization has become intimately connected to the financialization of economic activity and to concomitant increases in income inequality within and across economies.

Since the financial crisis of 2008-09, researchers have paid growing attention to these links between polarization and instability, in part because inequality is increasingly considered a factor that contributed to that crisis.

Thomas Piketty's *Capital* has become the leading opus in this emerging canon, and, despite its methodological shortcomings, it has refocused the inequality debate from the bottom of the income ladder (extreme poverty) to the top 1%. This, in turn, has drawn attention to systemic economic causes of rising inequality.

Moreover, by bringing wealth back into the discussion, Piketty has revived Adam Smith's political economy aphorism (borrowed from Thomas Hobbes) that wealth is power, and – by implication – that an increasingly unequal distribution of wealth is likely to skew political power and, with it, policy design in favour of those at the top of the income ladder.

The *TDR* also said that two big trends characterize the era of hyper-globalization: a massive explosion in public and private debt, and the rise of super-elites loosely defined as the top 1% of income earners. These trends are associated with the widening gap in ownership of financial assets, particularly short-term financial instruments, and the related growth of financial activities that, as the economist James Tobin noted long ago (1984), "generate high private rewards disproportionate to their social productivity".

"This is a world where rent extraction has become a much more pervasive source of income inequality," said the *TDR*.

The *TDR* noted that less attention has been given to the ways in which non-financial corporations have become adept at using rent-seeking strategies to bolster their profits. Indeed, financial incomes constitute only one part of rents in this broad definition. It said a significant proportion of rents has also accrued through monopolies or quasi-monopolies created by intellectual property rights (IPRs), while still others can be described as "political rents" derived from the ability to influence particular aspects and details of government policies in ways that disproportionately favour certain players.

Recent evidence of rising market concentration across several sectors, at both the national and international levels, has revived interest in the links between market power, rent-seeking and income inequality. Market concentration and rent extraction can feed off one another, resulting in a "winner-takes-most competition" that has become a visible part of the corporate environment, at least in some developed economies.

The *TDR* highlighted three evident sources of exclusion: (i) the automation of production, in particular robotization, and the threat of this causing a "hollowing out" of the human workforce; (ii) the segmentation of labour markets, in particular in terms of the gender dimension, which threatens to engender a "race to the bottom"; and (iii) corporate strategies to concentrate control over markets, particularly by non-financial corporations, combined with growing "rent extraction".

Each presents its own distinct challenges to policymakers, in both developed and developing countries, who seek more inclusive outcomes. However, they are all interconnected through the deregulation of markets and a tighter control of assets, along with asymmetries in market power as a potent source of growing inequality.

An inclusive agenda

"From all this, it is clear that moving away from hyper-globalization to inclusive economies cannot be a matter of simply boosting human capital, filling information gaps, honing incentives, ensuring better provision of public goods – particularly education – extending credit to the poor and providing stronger protection to consumers."

Rather, said the *TDR*, it demands a more exacting and encompassing agenda which addresses the global and national asymmetries in resource mobilization, technological know-how, market power and political influence which are associated with hyper-globalization and which generate and perpetuate exclusionary outcomes.

Such an approach would bolster the SDG agenda of tackling income inequality, both within and across countries, with a strong narrative around which effective policy measures could be designed, combined and implemented.

Today, no less than 50 years ago, achieving prosperity for all in an interdependent world must still involve paying close attention to the biases, asymmetries and deficits in global governance that can stymie inclusive and sustainable outcomes.

With this in mind, a possible narrative around which an alternative inclusiveness agenda might be fashioned is a "global new deal", said UNCTAD.

The original New Deal established a new development path with three broad strategic components: recovery, redistribution and regulation. While these components gave rise to specific policy goals tailored to particular economic and political circumstances, they made the taming of finance a common route to success along this new path.

Franklin D. Roosevelt, in his 1944 address to the US Congress, belatedly added another ambitious set of economic rights as a final component to achieving a secure and prosperous postwar United States. These included: the right to a useful and remunerative job, the right to economic security at all stages of life, the right to fair competition, the right to a decent home, adequate medical care, good health and a good education.

The shift from partial globalization to hyper-globalization has failed to bring about a more stable, secure and inclusive international order; and the lead role ceded to unregulated financial markets appears to be particularly ill-suited to delivering the SDGs. Just how an agenda built around recovery, regulation, redistribution and rights takes shape will depend, again, on local circumstances, and policymakers will need to ensure that they have the requisite policy space.

However, the specific challenges of inequality and insecurity in the 21st century will not be tackled by countries trying to insulate themselves from global economic forces, but rather by elevating the elements of the original New Deal to a global level consistent with today's interdependent world.

According to the *TDR*, just as in the past, today's global new deal will have to face the challenge of reclaiming and renewing the public sphere in ways that offer an alternative to the short-term, predatory and at times destructive behaviour of deregulated markets that is increasingly provoking a popular backlash.

Achieving this will require a more proactive State, but it will also mean empowering non-State actors to better mobilize and direct productive resources, and to establish levels of cooperation and coordination to match the ambition required.

According to the *TDR*, some possible elements of a global new deal include:

● Ending austerity: This is a basic prerequisite for building sustainable and inclusive economies. It involves using fiscal policy to manage demand conditions, and making full employment a central policy goal. Monetary expansion should also be used differently, so as to finance public investments which add to inclusive and sustainable outcomes. As part of a general expansion of government spending that covers physical and social infrastructure, the State can act as an "employer of last resort"; specific public employment schemes can be very effective in job creation, especially in low-income countries, where much of the workforce is in informal and self-employed activities. Both public infrastructure investments and employment schemes are important for reducing regional imbalances that have arisen in developed and developing countries.

● Enhancing public investment with a strong caring dimension: This would include major public works programmes for mitigating and adapting to climate change and promoting the technological opportunities offered by the Paris Climate Agreement, as well as addressing problems of pollution and degradation of nature more generally. It also means dealing with demographic and social changes that erode local communities and extended families by making formal public provision of child care and elderly care a necessity. In both respects, public investments should be designed to enable and attract more private investment, including by small and medium-sized enterprises (SMEs) and in more participatory ownership forms such as cooperatives.

● Raising government revenue: This is key to financing a global new deal. A greater reliance on progressive taxes, including on property and other forms of rent income, could help address income inequalities. Reversing the decline in corporate tax rates should also be considered but this may be less important than tackling tax exemptions and loopholes and the corporate abuse of subsidies, including those used to attract or retain foreign investment.

● Establishing a new global financial register: Clamping down on the use of tax havens by firms and high-wealth individuals will require legislative action at both national and international levels. Interim efforts in this direction could include a global financial register recording the owners of financial assets throughout the world.

● A stronger voice for organized labour: Wages need to rise in line with productivity. This is best achieved by giving a strong voice to organized labour. At the same time, job insecurity also needs to be corrected through appropriate legislative action (including on informal work contracts) and active labour market measures. More innovative supplementary income support schemes could be considered for achieving a fairer income distribution, such as a social fund that could be capitalized through shares issued by the largest corporations and financial institutions.

● Taming financial capital: Crowding in private investment requires taming financial institutions to make them serve the broader social good. In addition to appropriate regulation of the financial sector, it is important to tackle private banking behemoths, including through international oversight and regulation, as well as to address the highly concentrated market for credit rating and the cozy relationship between rating agencies and the shadow banking institutions that have allowed "toxic" financial products to flourish.

● Significantly increasing multilateral financial resources: This should include meeting targets for official development assistance (ODA), but also ensuring better capitalized multilateral and regional development banks. In addition, the institutional gap in sovereign debt restructuring needs to be filled at the multilateral level.

● Reining in corporate rentierism: Measures aimed at curtailing restrictive business practices need to be strengthened considerably if corporate rentierism is to be reined in. The 2013 OECD BEPS (base erosion and profit shifting) initiative is a start, but a more inclusive international mechanism for the regulation of restrictive business practices will be needed. Earlier attempts in the United Nations, dating back to the 1980s, would be a good place to begin. Meanwhile, stricter enforcement of existing national disclosure and reporting requirements for large corporations would be useful. A global competition observatory could facilitate the task of systematic information gathering on the large variety of existing regulatory frameworks, as a first step towards coordinated international best practice guidelines and policies, and to monitor global market concentration trends and patterns. Competition policy more generally should be designed with an explicit distributional objective.

● Respecting policy space: Meaningful reform of the many restrictive investment and intellectual property policies enshrined in thousands of bilateral and the growing number of regional trade and investment agreements, will be impossible without a fundamental overhaul of the current international investment regime. This should begin with rethinking its current narrow purpose of protecting foreign investors in favour of a more balanced approach that takes the interests of all stakeholders on board and recognizes the right to regulate at the national level.

The international investment dispute settlement and arbitration system needs to be fixed and, if necessary, replaced by a more centralized system with proper appeal procedures and grounded in international law. An Advisory Centre on International Investment Law could help developing-country governments navigate disputes with multinational corporations on more egalitarian terms. *(SUNS8534)* ❒

MC11 may become platform for future plurilateral talks

The WTO Ministerial Conference this December could see the launch of plurilateral negotiations on a number of contentious new issues if multilateral agreements in areas under the existing work programme cannot be reached.

by D. Ravi Kanth

GENEVA: The World Trade Organization's eleventh Ministerial Conference (MC11), which will take place in Buenos Aires on 10-13 December, is likely to become a platform for launching plurilateral trade negotiations on investment facilitation, disciplines on micro, small and medium enterprises (MSMEs), electronic commerce and even fisheries subsidies, trade envoys told the *South-North Development Monitor (SUNS)*.

Such an outcome, they added, will be part of a Plan B if there are no substantive multilateral agreements on the outstanding Doha Development Agenda (DDA) issues because of differences among member states.

In all probability, Buenos Aires could spell a death knell for multilateral trade negotiations, the sine qua non of the WTO, and pave the way for ambitious plurilateral trade negotiations, thereby undermining the multilateral framework for years to come, said a South American trade envoy who asked not to be quoted.

Given the paucity of time and the continued opposition from major developed countries, particularly the United States, to credible and substantive agreements on issues such as the permanent solution for public stockholding programmes for food security, outstanding Doha agriculture issues (particularly domestic support), rules and services among others, attempts are being made to ensure that the Buenos Aires meeting is used for launching plurilateral negotiations as part of Plan B, the trade envoy said.

There will be neither formal nor informal indication from the WTO secretariat and the Director-General (DG) Roberto Azevedo to the effect that the eleventh ministerial meeting is going to be used as a platform for launching plurilateral negotiations, particularly on new issues such as investment facilitation and disciplines for MSMEs, and e-commerce, the envoy said. If anything, the secretariat will deny that such a prospect is being envisaged at this juncture, the envoy added.

But powerful members of the WTO are aware of such a development.

[Any such move for negotiations on new issues, without formally bringing to a close the multilateral negotiations launched at Doha in 2001, will be a clear violation of the decisions of the WTO General Council in July 2004 (after the collapse of the Ministerial Conference in Cancun in 2003) that managed to relaunch the Doha negotiations, stipulating that until they were concluded, there would be no negotiations on new issues. – *SUNS*]

Recently, the US Trade Representative Robert Lighthizer, in remarks at the Center for Strategic and International Studies in Washington, had said that the eleventh ministerial meeting is "unlikely" to produce any negotiated outcomes, according to a report in the *Washington Trade Daily (WTD)* of 19 September.

"There are some areas where the United States would like to see action, but it appears that members are unable to agree on any issues," Lighthizer said, and "at best, the Buenos Aires meeting will end with agreement on an agenda for moving forwards on issues next year", according to the *WTD*.

DG's roadmap

Against this backdrop, an informal meeting of heads of delegation (HoD) convened on 21 September at the WTO presented a picture of business-as-usual, with the Director-General issuing an ambiguous report on how the negotiations on substantive issues will be conducted in the run-up to Buenos Aires.

Prior to the HoD meeting, Azevedo had held one-on-one consultations with trade envoys from the European Union, China, the United States, India, Brazil, Japan and Australia, among others, to discuss both substantive as well as process-related issues.

Azevedo, however, did not inform members at the HoD meeting about his consultations, said an African trade envoy.

At the brief HoD meeting, which lasted for about an hour, Azevedo called for prioritizing issues that are doable in terms of negotiated outcomes and the unresolved issues that will require a work programme.

He said these two baskets of issues must be finalized before proceeding to Buenos Aries. Azevedo suggested that chairs of the Doha negotiating bodies are immersed in work with members on agriculture, fisheries subsidies and developmental flexibilities.

He called for a consensual document on the format to be adopted at the Buenos Aires meeting so as to avoid the Nairobi ministerial process. He said that members had complained about the previous Ministerial Conference – which was held in Nairobi in 2015 – even though it had produced good outcomes, according to a person who was present at the HoD meeting.

While he insisted that the negotiating process will be a chair-led transparent process, Azevedo did suggest that there will be ministerial intervention in the run-up to the Buenos Aires meeting. Ministerial intervention in different formats is also going to take place at Buenos Aires, he suggested.

Effectively, Azevedo suggested two baskets of issues that must be decided at Buenos Aires – one of issues involving doable negotiated outcomes and the other, non-doable issues requiring a work programme.

He urged the proponents to explain to their counterparts what they are expecting in terms of concrete outcomes and what should be left for the post-Buenos Aires process.

The DG said that he will hold consultations with the Argentinian minister, group coordinators and ministers in the coming days. By mid-October, he wants members to finalize a clear picture in terms of what is doable and not doable.

The General Council chair, Ambassador Xavier Carim of South Africa, informed members that he agreed with the DG's roadmap.

Carim said that he is holding consultations on e-commerce with members on the issue of a moratorium for not levying customs duties on e-commerce transactions as well as on other e-commerce issues such as the demand for a new work programme.

Carim also touched on issues concerning the organization for the Buenos Aires Ministerial Conference. There is no single model for organizing work at a ministerial, he said, arguing that from the first ministerial in Singapore to the tenth ministerial in Nairobi, different formats were adopted.

Carim said that he will work with members on what needs to be included in the outcome document of the conference, emphasizing that there were ministerial declarations in some previous conferences and chair's summaries in other conferences such as in 2009 and 2011.

The General Council chair said a bottom-up and inclusive process will be followed. He urged members to avoid contentious issues so as to accomplish smooth outcomes at Buenos Aires.

African Group statement

According to an African trade envoy who asked not to be quoted, "following the Nairobi MC10, the African Group has repeatedly raised the issue of getting the process right".

Although the group had prepared a statement for the HoD meeting, it did not issue it at the meeting. Members did not make any statements at the meeting after Azevedo's concluding remarks.

According to a copy of the statement obtained by *SUNS*, the African Group underscored "the importance of upholding the principles of full participation, inclusiveness, and transparency in the run up to, as well as during the MC11."

"In this regard, we stress the process you institute as the TNC Chair [referring to the DG, who also serves as chair of the WTO Trade Negotiations Committee] ensures: that all meetings regardless of their configuration must be representative of all WTO groupings; that groups participating in these meetings have an opportunity to consult during intervals with their constituents; that there will be decent hours to hold these negotiations to ensure group consultations and Ministerial oversight are possible; that a minimum of 24 hours are given to Members to consider any text presented at the closing Plenary session," the African Group said.

"Buenos Aires must deliver on development-related issues in accordance with the letter and spirit of the Doha Development Agenda," according to the African Group statement.

"It is from this perspective that the African Group expects an outcome that will constitute a solid foundation for a bright future of our economies notably through:

- elimination of imbalances inherited in the Uruguay Round Agriculture Agreement.
- Provisions for special and differential treatment that create an enabling environment for industrialization in Africa.
- A multilateral outcome in fisheries subsidies with provisions for elimination of subsidies to IUU [illegal, unreported and unregulated] fishing activities, as well as disciplines on subsidies that contribute to overfishing and overcapacity, while taking into account the need for necessary policy space for the development of this sector in many African countries."

The African Group wants to support the DG's proposal "to set a time upon which we shall agree on a set of issues to pursue for MC11."

"Indeed, in our recent communications, we have been calling on Members to abide by the 'gentleman's agreement' requiring any Member pursuing an issue for decision, but not achieving consensus on it 6 weeks before MC11, to not insist on putting the item before our Ministers in Buenos Aires," according to the African Group statement.

In crux, the African Group have a mammoth task ahead to ensure that the Director-General and the Argentinian chair of MC11 live up to their credible wishes, failing which they can only remain as marginalized members of a trade body that is going to be transformed from multilateral to plurilateral on a lasting basis, said a trade envoy who asked not to be quoted. *(SUNS8538)* ❒

"Will not pay for mandated permanent solution for PSH," insist G33

The developing-country G33 grouping, which is seeking an agreement on public food stocks at the WTO ministerial meeting, has opposed attempts to link this issue with outcomes on domestic agricultural support at Buenos Aires.

by D. Ravi Kanth

GENEVA: Indonesia, India, China and other members of the G33 group made clear categorically on 15 September that they will not pay for the mandated permanent solution for public stockholding (PSH) programmes for food security in the developing countries at the upcoming WTO Ministerial Conference in Buenos Aires, several trade envoys told the *South-North Development Monitor (SUNS)*.

The G33 group along with a large majority of developing and poorest countries made it clear to the European Union, Brazil, Argentina, Australia, Paraguay, Pakistan and Thailand, among others, that there is no linkage between the mandated permanent solution for PSH programmes and the proposed outcomes in the domestic support programmes, said trade envoys who asked not to be cited.

In a joint proposal, the EU, Brazil, Peru, Colombia and Uruguay have included the mandated permanent solution along with their demand for an agreement on overall trade-distorting domestic support (OTDS). The EU and its partners, however, suggested that public stockholding programmes for food security be exempt from the OTDS.

Significantly, Norway raised several concerns over the proposal to exempt public stockholding programmes from the OTDS, said a trade envoy who asked not to be quoted.

Norway is one of the major beneficiaries of the current trade-distorting domestic support programmes and remains opposed to any comprehensive reform of domestic subsidies or the elimination of the Aggregate Measurement of Support (AMS).

During an informal open-ended meeting of the Doha agriculture negotiating body on 15 September, Norway along with Argentina, Australia, Paraguay and Pakistan severely questioned the EU's proposal, arguing that it will create a new exemption outside the current rules.

Norway said the EU's proposal posed problems from a "systemic" point of view. In its own proposal, Norway raised the following questions:

1. Article 1(a) of the WTO Agreement

on Agriculture (AoA) defines the AMS as support other than that exempted through Annex 2 to the AoA. In other words, the AMS and Annex 2 make up a categorization of support that is exhaustive.

2. The EU joint proposal, however, appears to create a new unaccounted-for category of support in addition to this exhaustive definition. Could the proponents (the EU, Brazil, Peru, Colombia and Uruguay) confirm or clarify the intention and consequence of the provision that stipulates that relevant market price support does not have to be accounted for in "the AMS", "including *de minimis*"?

3. How would market price support to staples in the public stockholding programmes under the proposal for a ministerial decision be accounted for in the domestic support notifications? Is there a need for a new annex to the AoA?

4. What are the legal implications of the proposal for footnote 5 of Annex 2 in the AoA? Is there a conflict between the proposal for a ministerial decision and footnote 5 of the AoA?

5. According to the proposal, for existing programmes as of the date of the Bali ministerial decision, they do not need to be accounted for in "the AMS" or in the new OTDS. Is the total entitlement for trade-distorting support corrected downwards with the value of production of staples covered by PSH programmes or is the total value of production maintained, thus eventually in the future leaving more room to subsidize other agricultural products?

6. If a member for instance has 30% of domestic wheat production covered by public stockholding, is all of domestic wheat production exempt from "the AMS" and OTDS or only the 30%?

7. For new programmes, there is a new 10% *de minimis* in percentage of value of production. Does this mean that in addition to providing this *de minimis* support without accounting for it in the AMS and the new OTDS, members may still provide a market price support up to 10% of value of production for the crop in question according to the AoA?

Argentina, Australia, Paraguay and Pakistan among others joined Norway to challenge the EU for proposing a new carve-out for PSH programmes.

Argentina, which is going to host the Ministerial Conference, had raised several legal issues on the EU's proposal, including the Korea beef case. It, however, suggested that it can consider an outcome on PSH programmes with considerable safeguards along with an outcome on domestic support programmes for food security, said trade envoys who took part in the 15 September meeting.

The EU said that it proposed "a compromise approach which could provide the way forward for this difficult and important issue", suggesting that such outcomes were reached in the past. It said that it took into account all the concerns raised by both the demandeurs and the opponents to the permanent solution for PSH programmes.

Brazil suggested that its joint proposal with the EU, Peru, Colombia and Uruguay will make the 2013 interim solution permanent under clear rules with enhanced transparency and safeguards. It said the proposal would allow developing countries to pursue PSH programmes subject to specific conditions.

No to linkage

During the to-and-fro exchanges between the EU on the one side, and Norway and the farm-exporting countries on the other, the G33 members stated their opposition to the EU's joint proposal on grounds that it is linked to commitments on domestic support.

On behalf of the G33 members, Indonesia expressed sharp concern over the EU proposal. "The G33 strongly opposes and will not accept the linkage between the issues of PSH and domestic support," Indonesia said.

"The G33 would like to reiterate that the mandate on finding permanent solution on Public Stockholding for Food Security Purposes is distinct and on an independent track and G33 believes there should be no linkage between PSH with other issues," Indonesia added.

Indonesia said that the G33 proposal on a permanent solution for PSH programmes called for amending the AoA by inserting a new Annex 6 to exempt programmes for the acquisition of foodstuffs that are going to be distributed at subsidized prices from any AMS reduction commitments.

The G33, said Indonesia, "firmly believes that the best solution for the PSH issues is the one that includes new and current programmes of all developing members who are facing food security challenges but are constrained by inequitable Uruguay Round disciplines."

It argued that provisions on public stockholding for food security purposes under the current WTO rules will not be able to address the real need of developing countries to effectively support their low-income or resource-poor farmers, nor to fight hunger and rural poverty.

Indonesia explained that "the interim solution which was agreed in Bali and modified by the General Council decision of 2014, was meant as an interim solution and will not sufficiently address the real needs."

Consequently, the G33 proposed an amendment of the AoA for a permanent solution, Indonesia said.

"In this regard, the Group specifically proposes the insertion of a new annex (as Annex 6) to the AoA, where programmes for public stockholding for food security purposes shall not be required to be accounted for in the Aggregate Measurement of Support (AMS)," Indonesia argued.

The G33, according to Indonesia, will agree to transparency elements in the permanent solution. The transparency elements include notifying the WTO Committee on Agriculture on an annual basis.

However, the G33 will not accept "onerous and cumbersome" transparency provisions which will defeat "the purpose for which the permanent solution is intended, namely, food security in developing countries. Too many onerous and cumbersome requirements or conditions precedent will come in the way of the use of this mechanism by developing countries. For example, the ex-ante transparency requirements as conditions for invoking the PSH would be onerous for developing countries."

India said that it will not pay for the mandated solution for PSH programmes, nor accept onerous transparency conditions as set out in the EU's proposal.

China stressed that the permanent solution is essential to address food security problems in the developing countries.

A large majority of developing and poorest countries – Botswana on behalf of the Africa, Caribbean and Pacific (ACP) Group, Egypt on behalf of the African Group, South Africa, Kenya, Zimbabwe and Cameroon, among others – strongly supported the G33 proposal.

Special safeguard mechanism

The G33 also called for a decision at Buenos Aires on its proposal for a special safeguard mechanism (SSM) for developing countries for curbing unforeseen surges in the imports of farm products.

Indonesia, on behalf of the G33 members, said the "SSM has been denied for long, the debilitating effects of import surges and price depressions continue to wreak havoc on developing Members' agriculture."

It called for a legally binding amendment in the AoA to enable the developing countries to use volume-based and price-based SSM.

In its latest proposal on the SSM, the G33 had called for "a concrete and operational SSM" to be established at MC11 in Buenos Aires. It proposed a draft legal text as well as an annex for establishing the SSM. The G33 proposal contained "Annex A" for the volume-based SSM and "Annex B" for the price-based SSM.

"While the WTO ministerial mandate is for establishing both volume-based SSM and price-based SSM, the G33 is open to issuance of either of the mechanisms at MC11 in the interim period, provided that a decision agreement contains – at the minimum – a concrete and operational SSM for use by developing country Members that effectively addresses either import surges or price depressions from day one of the decision," it said.

Since there is no proposal on the table yet on the SSM, the G33 said it "expects that the G33 newest submission shall be the basis of our discussions from now."

A large majority of developing and least-developed countries supported the G33 proposal on the SSM.

But the opponents to the SSM such as the United States, Australia and other Cairns Group members remained conspicuously silent during the discussion, said trade envoys after the meeting.

With less than two-and-a-half months left before the Buenos Aires meeting, the developing and poorest countries face a herculean battle for securing a credible and effective permanent solution for PSH programmes and the SSM. Unless a large majority of them remain united at Buenos Aires, they could face an ugly outcome that will deny them forever these two instruments, trade envoys said. *(SUNS8535)* ❐

Argentina's "authoritarian" approach to MC11 agenda riles South nations

The host country of the coming Ministerial Conference, Argentina, has reportedly caused a stir at the WTO by suggesting that a joint China-India proposal to scrap trade-distorting farm subsidies in developed countries be dropped.

by D. Ravi Kanth

GENEVA: Argentina, which is hosting the WTO's eleventh Ministerial Conference in Buenos Aires from 10 December, has warned members to drop proposals for MC11 such as the elimination of the most trade-distorting agricultural domestic subsidies – the Aggregate Measurement of Support (AMS) – proposed by China and India, on grounds that it will lead to the breakdown of the conference, sources told the *South-North Development Monitor (SUNS)*.

"Argentina, which is the chair of the WTO's eleventh Ministerial Conference, is behaving in an authoritarian manner by telling countries to remove their proposals so as to ensure a successful ministerial meeting," said a source who asked not to be quoted.

"For some time now, Argentina is setting markers as to what is feasible and what must be removed," the source maintained.

Argentina's comments on proposals tabled by members came into the open on 13 September at an informal open-ended meeting of the Doha agriculture negotiating body.

Support for joint proposal

A large majority of developing countries – the African Group, the Africa, Caribbean and Pacific (ACP) Group, South Africa, Zimbabwe, the Philippines and Venezuela – supported the joint proposal from China and India for eliminating the AMS, the most trade-distorting domestic subsidies in the industrialized countries, as a prerequisite for commencing the stalled reform in the area of domestic agricultural support.

In their joint proposal (see *TWE* No. 645), China and India argued that "in the Uruguay Round AMS entitlements were made available in the Agreement on Agriculture to developed Members and some developing Members."

"Developed Members have more than 90% of global AMS entitlements amounting to nearly $160 billion," the two largest developing countries maintained. "As a result developed Members have access to huge amount of AMS beyond their *de minimis*", while "most developing Members have access only to *de minimis* resulting in a major asymmetry in the rules on agricultural trade".

Against this backdrop, China and India said "in order to achieve the long outstanding reforms in agriculture subsidies the AMS entitlements of developed Members must be eliminated as a prerequisite for consideration of other reforms in domestic support negotiations."

"Only in this way will it help reduce some of the inequities built into the WTO rules in favour of the developed Members," the two countries pointed out.

Egypt on behalf of the African Group, Botswana on behalf of the ACP Group, South Africa and Zimbabwe supported the joint proposal from China and India, saying it offers a proper direction for reforming domestic farm subsidies.

China maintained that the agriculture negotiations must remain consistent with the Doha Work Programme, including the 2008 revised draft agriculture modalities that were constructed on the basis of the development dimension.

China said the joint proposal with India showed how the developed countries enjoyed "exorbitant privilege" for continuing their trade-distorting domestic subsidies while curtailing minimum flexibilities for developing countries, said a person who took part in the 13 September meeting.

India maintained that the current WTO Agreement on Agriculture, premised on the Uruguay Round deal, is "imbalanced" and replete with "asymmetrical rules."

India suggested the subsidies provided in developing countries seem like a drop in the ocean as compared to the AMS and other trade-distorting subsidies granted by the developed countries.

In sharp opposition, the EU and Brazil said the joint proposal from China and India will maintain inequality between members as some developing countries would have AMS and others would not. "Such a narrow focus on just one accounting mechanism of trade-distorting support represents a highly inaccurate picture of the realities of agricultural subsidies in major countries."

[It may be recalled that in 2003, as a counter to a US-EU bilateral deal (on the eve of the Cancun Ministerial Conference) not to touch on each other's agricultural subsidies but focus on developing-country markets, Brazil had reached out to China and India and created the G20 group of developing countries to bring developmental reform in global farm trade. The EU is on record at the WTO at the time as hitting out at Brazil and others for their move to counter the US-EU deal. Now, however, Brazil has jettisoned the G20 to join hands with the EU against them. – *SUNS*]

Recipe for disaster

Argentina went well beyond the EU and other critics of the China-India joint proposal by suggesting that the proposal is a recipe for disaster at Buenos Aires. It said the proposal does not merit any attention, and urged members not to make such proposals at this juncture, said a participant who asked not to be quoted.

The unusual statement from Argentina caused a flutter at the meeting, raising the hackles of developing countries, because the MC11 host has started fixing the markers for the conference, the participant said.

The US, which does not want any reform of the AMS and other trade-distorting domestic subsidies at this juncture because of the ongoing preparation for its new domestic farm bill, said there are far too many divergences.

The US expressed skepticism that members can find a solution to issues that have remained unresolved for many years. It urged members to use MC11 for "reflection" and not enter into any substantive outcomes.

Even on the issue of cotton subsidies, the industrialized countries remain evasive and reluctant to address the subsidies "ambitiously, expeditiously and specifically", the participant said.

The EU and Brazil, as well as Australia, New Zealand and Canada from the Cairns Group of farm-exporting countries, drove home a strong message for an outcome / agreement on domestic support at Buenos Aires.

Australia said that it would be presenting a revised proposal with two or three options for a nominal ceiling for domestic support.

The EU and Brazil made a case for an outcome based on their proposal of a floating limit for Overall Trade-Distorting Domestic Support (OTDS) expressed as a percentage of the value of production.

Australia, Canada, New Zealand and Paraguay, however, called for a fixed limit on OTDS in nominal terms.

The chair of the Doha agriculture negotiations, Ambassador Stephen Karau of Kenya, had said, in a report on the state of play of the talks, that "a key question is whether this limit should be fixed or floating" and "what type of support such a limit should apply to."

Australia said at the 13 September meeting that it is working on a proposal to bridge positions on these two issues.

With regard to another pillar of the agriculture negotiations, market access, WTO members also remained divided. The Philippines said any future work programme must advance the unresolved issues in the Doha market access pillar, while Paraguay and Peru suggested a work programme without any linkage to the Doha Work Programme.

Russia called for the elimination of special safeguards but several members including the EU, Korea and the Philippines said it is impractical to address the issue at this juncture.

On export restrictions, many members supported a proposal from Singapore for enhanced transparency notifications. India, however, maintained that Singapore's proposal will impose burdensome requirements on developing countries.

In sum, ominous signs have emerged for the upcoming ministerial meeting in Buenos Aires, with the host country suggesting what should be decided during the four-day meeting, sources said. *(SUNS8533)* ❐

North declares war on SDT and improvements at WTO

A proposal for more flexible WTO rules for developing countries has met with rejection from developed-country negotiators ahead of the Buenos Aires conference.

by D. Ravi Kanth

GENEVA: The United States and other major developed countries seem to have declared a war against proposals for specific improvements in special and differential treatment (SDT) as demanded by a large majority of developing and poorest countries for the upcoming WTO Ministerial Conference in Buenos Aires, several trade negotiators told the *South-North Development Monitor (SUNS).*

At a meeting of the Doha negotiating body on development issues on 14 September, the US, the European Union, Japan, Australia and Canada, among others, aggressively rejected a comprehensive proposal from the Group of 90 countries – the Africa, Caribbean and Pacific (ACP) Group, the African Group and the group of least-developed countries (LDCs) – for a "fruitful outcome" on specific improvements in special and differential flexibilities at Buenos Aires.

SDT proposals

In their nine-page proposal, the three groups demanded – "as a first step towards achieving the target of paragraph 44 of Doha Ministerial Declaration" – an outcome on specific proposals for overcoming the constraints "in promoting much needed industrialization, structural transformation and diversification of their economies for raising the standard of living of their population, which is the prime objective of the WTO, and integration into the multilateral trading system."

The G90 countries called for "constructive discussions" from WTO members on their proposals "with a view to have a fruitful outcome during upcoming Eleventh WTO Ministerial Conference (MC11) to be held in Buenos Aires."

They said their initial proposal contained 25 agreement-specific proposals. As a first step towards an outcome at Buenos Aires, the G90 members said they prioritized 10 proposals so as to enable members to complete negotiations during the remaining two-and-a-half months. They called for specific improvements in the following agreements:

(i) Agreement on Trade-Related Investment Measures (TRIMs)

(ii) Article XVIII of the General Agreement on Tariffs and Trade (GATT) 1994 (provisions A and C)

(iii) Article XVIII of GATT 1994 (Section B) – the balance-of-payments (BOP) provisions applicable to developing countries

(iv) Agreement on the Application of Sanitary and Phytosanitary (SPS) Measures

(v) Agreement on Technical Barriers to Trade (TBT)

(vi) Agreement on Subsidies and Countervailing Measures

(vii) Agreement on Customs Valuation

(viii) 1979 Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries

(ix) Transfer of technology

(x) LDC accession.

Uganda introduced the proposal for improving several provisions in the TRIMs Agreement. Uganda proposed that "notwithstanding Articles 4 and 5 of the TRIMs Agreement and Articles III and XI of GATT, Members agree that developing countries shall be free to deviate temporarily from the provisions of Article 2 of the TRIMs Agreement, and introduce new investment measures related to trade in goods" in accordance with various provisions.

The developing countries, for example, can notify measures that shall remain effective for an initial period of about 15 years or more for accelerating their industrialization and thereby achieve socioeconomic transformation.

The other provisions include upgrading and modernizing the domestic manufacturing capabilities of small and medium enterprises for employment generation and promoting domestic manufacturing capabilities in high-value-added sectors or technology-intensive sectors. The improvements are also aimed at accelerating domestic competition and / or correcting restrictive business practices, according to the proposal.

Further, "LDCs shall be allowed to introduce and maintain measures that deviate from their obligations under the TRIMs Agreement" and "members agree that least-developed country Members shall not be obliged to implement, apply or enforce the provisions of the TRIMs Agreement as long as they remain LDCs".

South Africa, which spoke on improvements in the application of sanitary and phytosanitary measures, called for the following specific changes:

(i) In pursuance with the condition set out in Paragraph 5(d) of Annex B of the Agreement on the Application of Sanitary and Phytosanitary Measures, reasonable time for making comments on any SPS measure notified by the developed-country members shall be understood to mean at least 180 days for LDC members and developing-country members facing capacity constraints before the adoption of the measure, which shall commence with the circulation of the notification by the WTO secretariat. Upon request, a longer period of time shall be granted for LDC members.

(ii) A developed-country member proposing an SPS measure shall consult directly, at an early stage, with any LDC member or developing-country member facing capacity constraints exporting a product that would be covered by the proposed SPS measure in order to take into account the special needs of those countries for effectively implementing Article 10.1 of the Agreement on Sanitary and Phytosanitary Measures.

Besides, South Africa suggested several other changes "where the trade of a least-developed country Member or developing country Member facing capacity constraints is or will be adversely affected by a proposed or final sanitary or phytosanitary measure taken by a developed country Member."

The changes also include that "longer time-frames for compliance with the measure shall be accorded to products of interest to least developed country Members and developing country members facing capacity constraints so as to maintain opportunities for their exports."

As regards changes to the Agreement on Technical Barriers to Trade, the G90 countries proposed that developed countries shall "provide developing and LDC members facing capacity constraints at least a 180 day comment period before the adoption of the measure."

Further, where a developing or LDC member will be adversely affected by a proposed final regulation or standard taken by a developed country, the proposal called for application of the following procedures:

(i) Longer time-frames for compliance with the measure shall be accorded to products of interest to developing and least developed country Members facing capacity constraints so as to maintain opportunities for their exports. The phrase "reasonable interval" referred to in paragraph 12 of Article 2 of the Agreement on Technical Barriers to Trade shall be understood to mean a period of not less than 18 months.

(ii) Where investments are required in order for exporting developing and LDC members facing capacity constraints to fulfil a technical regulation or standard proposed or applied by a developed-country member, the developed-country member shall provide financial and technical assistance required for compliance with the technical regulation or standard.

On behalf of the G90 countries, Egypt spoke on the need to improve the BOP provisions in Article XVIII of GATT 1994 for achieving developmental objectives during industrialization.

Cameroon highlighted proposed improvements in the Agreement on Subsidies and Countervailing Measures for promoting industrialization and economic development in developing and poorest countries.

Several members of the G90 also took the floor to address issues in the Customs Valuation Agreement as well as changes needed in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) for encouraging international cooperation on and access to technology transfer and innovation.

Bangladesh addressed improvements sought in the process of accession by LDCs to the WTO, which is currently burdened with onerous conditions.

Developed-country opposition

During the 14 September meeting, India supported the proposals for improving the SPS and TBT measures, TRIMs provisions, and changes in the Agreement on Subsidies and Countervailing Measures.

But the response from the major developed countries was extremely hostile and threatening, said an African trade negotiator who asked not to be quoted.

The US, for example, said it will not engage in any discussions on the improvements demanded in the specific covered agreements. The US said the proposal is not any basis for further work. It warned the G90 countries that their continued attempts to bring the proposal in one form or another will not help, the negotiator said.

Other developed countries – the EU, Japan, Australia and Canada – ruled out any change in the covered agreements as demanded by the G90 members without concrete evidence from the proponents as to how the existing provisions are hampering their industrialization, the negotiator said.

In conclusion, it is clear that the developed countries, which are embarking on negotiations for e-commerce and MSMEs (micro, small and medium-sized enterprises) at Buenos Aires, are not prepared to address the outstanding / unresolved core developmental issues in the Doha Work Programme, several negotiators said.

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World Bank should draft new policy to advance human rights

Pointing to adverse effects of World Bank policies and financing, a UN rights expert has advocated a reorientation towards integrating human rights promotion into the Bank's operations.

by Kanaga Raja

GENEVA: A United Nations human rights expert has called on the World Bank to embark on an inclusive process for drafting a new and separate human rights policy, which should embody a commitment to integrate human rights into its work.

Calling for a fundamental rethink, the rights expert proposed a change of paradigm that would require not only amending the Bank's Articles of Agreement of 1944 but also ensure clear directives from the Board of Governors that mainstream human rights into the Bank's activities.

In his report to the UN Human Rights Council, the Independent Expert on the promotion of a democratic and equitable international order, Alfred de Zayas (of the United States), also called on the World Bank to cease promoting labour market deregulation, including through its funding conditionalities, and instead help to reverse the rise in income inequality by supporting social dialogue and collective bargaining.

He further said the World Bank Board of Governors should issue a clear directive that the International Centre for Settlement of Investment Disputes (which is part of the World Bank Group) must refrain from interfering with the ontological functions of the State, which are to regulate in the public interest, including through environmental, health, social and labour legislation. "The International Centre for Settlement of Investment Disputes should not lend its services to litigation that puts those functions of the State into question. Rather the International Centre for Settlement of Investment Disputes should discover its vocation to serve in an advisory capacity."

The Human Rights Council held its regular thirty-sixth session here from 11-29 September.

"Progress cannot be measured only by increases in Gross Domestic Product (GDP) but must also encompass the enhanced enjoyment of human rights and a higher standard of living," de Zayas said in a UN news release.

"The World Bank should stop financing projects that adversely impact people's human rights, and should instead seek to combine economic growth with the promotion of food security, clean water, health care, education and employment, as well as the equitable distribution of wealth," he added.

Rights-based approach

In his report to the Human Rights Council, de Zayas said that while international financial institutions can advance human rights and development, some of their policies have resulted in the erosion of the enabling human rights environment in some countries, especially through the promotion of neoliberal policies that weaken the public sector and hinder States in the fulfilment of their human rights treaty obligations in the fields of education, healthcare, labour standards and an adequate standard of living.

Moreover, by financing enterprises that evade taxes, the World Bank abets the diversion of public resources away from public services. Increased Bank support for public-private partnerships enhances the private sector at the expense of communities, especially when investments go awry and result in greater costs to governments.

Henceforth, he said, international financial institutions should take a human-rights-based approach to lending, consult stakeholders, conduct impact assessments, take action to counter reprisals, combat corruption and accept legal responsibilities by waiving "absolute immunity".

The Independent Expert believes that, since the World Bank and the International Monetary Fund (IMF) have association agreements with the United Nations, they must support the UN General Assembly, the Economic and Social Council and the UN Conference on Trade and Development (UNCTAD) in advancing the purposes and principles of the UN as set out in the UN Charter, and in advancing human rights and sustainable development, while respecting the sovereign equality of States and the principle of non-intervention in the domestic affairs of States.

It bears repeating that the member States of the World Bank and IMF are also parties to numerous UN human rights treaties, notably the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, and that they must ensure that the policies of financial institutions and the projects they support do not have adverse effects on human rights.

Bearing in mind that States have an obligation to ensure that investors and transnational corporations do not violate human rights, States should use their leverage to strengthen the human rights regime whenever they negotiate deals with governments to finance specific projects.

In that regard, the Independent Expert recalled the commitments made in 2015 by States at the UN summit for the adoption of the post-2015 development agenda and the adoption by the UN General Assembly of the Sustainable Development Goals. The Addis Ababa Action Agenda of the Third International Conference on Financing for Development, adopted in 2015, also calls upon all development banks to establish or maintain social and environmental safeguards systems.

According to the Independent Expert, his report does not aspire to tell the World Bank what it already knows or what its experts are busy trying to address. It hopes to formulate realistic recommendations, applying a human-rights-based approach.

"In that regard, the Bank's Articles of Agreement should be amended to integrate the promotion of human rights, and directives should be issued by the Board of Governors to mainstream human rights."

A revised mission statement that reconciles the economic and financial priorities with human rights is desirable. Even the words written on the great wall at the entrance of the Bank ("Our dream is a world free of poverty") serve as a call for action, he said.

The report noted that the World Bank acknowledges that "sustainable development recognizes that growth must be both inclusive and environmentally sound to reduce poverty and build shared prosperity for today's population and to continue to meet the needs of future generations. It is efficient with resources and carefully planned to deliver both immediate and long-term benefits for people, planet, and prosperity".

To that end, in 2016 the Bank adopted the Environmental and Social Framework, comprising: a vision for sustainable development, which sets out the Bank's aspirations regarding environmental and social sustainability; an environmental and social policy for project financing, setting out mandatory requirements for projects it supports; and 10 environmental and social standards, setting out mandatory requirements for borrowers and projects.

There is no shortage of opinions about the impact of the World Bank on the international order. Some observers contend that the Bank and IMF have a greater impact on world affairs than all the resolutions of the UN General Assembly and the Economic and Social Council combined, said the rights expert.

Whereas the Bank has the word "development" in its name, the question must be answered as to what development means for the purposes of the Articles of Agreement. (The World Bank is technically made up of the International Bank for Reconstruction and Development, and the International Development Association.) Hitherto, both in doctrine and in practice, the Bank has understood development to mean growth in terms of GDP, increased trade and greater consumption.

Observers have been proposing a different understanding of "development", as a more equitable distribution of wealth, food security, clean water, sanitation, healthcare, housing, education and employment.

Rights violations from Bank projects

Notwithstanding the positive developments, both the Bank and the IMF continue pressing for increased reliance on purely market-based solutions, following the perspective of "market fundamentalism" that the economist Joseph Stiglitz often decried.

In 2016, said de Zayas, there was increased cooperation among multilateral development banks, with a focus on mega-infrastructure projects, a reliance on public-private partnerships as a way to circumvent constrained fiscal space, and a continued effort to impose so-called labour flexibilization and other obsolete conditionalities on States.

"As Naomi Klein recalls in her seminal work, *The Shock Doctrine*, the main problem remains the commitment of international financial institutions to the philosophy of laissez-faire economics, reflecting Milton Friedman's Chicago school and characterized by the almost religious belief that privatization and deregulation will advance GDP, notwithstanding its endemic boom and bust cycles and its minimization of social costs."

For many years, civil society has signalled human rights abuses committed by companies benefiting from World Bank financing, with numerous publications documenting those abuses. Among the most egregious violations are land-grabbing, brutal evictions, involuntary resettlement, forced labour, child labour, sexual abuse, massive pollution, destruction of the environment, reprisals against human rights defenders, corruption and money-laundering.

The Independent Expert's report noted that ahead of the Bank spring meeting in April 2016, Oxfam released a report entitled "The IFC and tax havens", in which it revealed that 51 of the 68 companies in which the International Finance Corporation (IFC, which is part of the World Bank Group) had invested in sub-Saharan Africa in 2015 used tax havens.

In fact, UNCTAD estimates that developing countries lose $100 billion annually in tax revenue, from which lost revenues and uninvested earnings yield a total development finance loss in the range of $250-300 billion.

"It is time for the Bank to blacklist projects with companies that fail to pay their taxes," said de Zayas.

According to the rights expert, there is ample evidence that projects financed by the Bank cause harm to millions of people.

A 2015 report by the International Consortium of Investigative Journalists states that from 2009 to 2013, the Bank pumped $50 billion into projects graded the highest risk for "irreversible or unprecedented" social or environmental impacts. The report also indicates that the Bank and IFC have financed governments and companies accused of human rights violations, including murder and torture. In some cases, they continue to finance those borrowers notwithstanding the evidence.

"Among the vulnerable groups that have suffered as a consequence of major prospecting, mining, logging and hydroelectric enterprises are indigenous peoples whose lands have been taken away or devastated though industrial activity, without consultation and without their free, prior and informed consent."

In 2015, the International Consortium of Investigative Journalists determined that 3.4 million persons had been physically or economically displaced by projects funded by the Bank, including Ethiopian Anuak, who faced a violent campaign of mass evictions funded through the diversion of funds from a Bank-supported project.

Human Rights Watch has also highlighted instances in which the Bank failed to observe its own policy of protecting indigenous peoples' rights. For example, it documented the forcible transfer of the semi-nomadic Nuer people in the Gambella region of Ethiopia, noting an operational link between World Bank projects and a government relocation programme known as "villagization". The matter came before the Bank Inspection Panel, which indeed found that the Bank "did not carry out the required full risk analysis, nor were its mitigation measures adequate".

Civil society has also drawn attention to labour rights violations in connection with World Bank projects.

The report noted that in the past, IFC has failed to properly measure the risks of oil and mining projects, such as in the case of the Chad-Cameroon pipeline. In that case, a law intended to earmark oil revenues for education, healthcare and other social needs was gutted in Chad and the Bank ultimately had to suspend its loan to the country.

Public-private partnerships

The rights expert also pointed out that many civil society organizations have protested the Bank's apparent commitment to the promotion of public-private partnerships, notwithstanding the challenges they pose to the regulatory space of governments, especially in the fields of clean water and sanitation, health services and education.

In fact, the year 2016 was characterized by an intensified push for mega-projects and public-private partnerships. "However, experience shows that public-private partnerships have not served developing countries well," said de Zayas.

The report cited an example where it appears that the flagship health public-private partnership of IFC threatens to disrupt healthcare programmes in Lesotho. In 1999, the Queen Mamohato Memorial Hospital, a new hospital run by the private sector and financed through an IFC loan, was built to replace the old main public hospital in Lesotho. Lesotho finds itself locked into an 18-year contract that is already consuming more than half of the country's health budget, while producing high returns to the private partner.

"That constitutes a dangerous diversion of scarce public funds from primary health-care services in rural areas, where three quarters of the population live. Not only are health public-private partnerships high risk and costly, they fail to advance the goal of universal and equitable health coverage," said the rights expert.

In another case, in August 2016, the Minister of Education of Uganda announced the closure of 63 nursery and primary schools operated by Bridge International Academies, a private education services provider partly financed by IFC. The Minister stated that the decision was based on "danger from poor hygiene and sanitation on the life and safety of the innocent children".

Elsewhere in Europe, after examining the use of public-private partnerships in Portugal, the Organization for Economic Cooperation and Development (OECD) warned that public-private partnerships "should be chosen only when they represent good value for money, not because they allow the government to escape budget restrictions by building up off-balance sheet liabilities."

Worryingly, however, OECD has continued to endorse public-private partnerships, stating that "the government should consider expanding its remit to local public-private partnerships and water, sewage and waste sectors".

De Zayas noted that in 2002, the Bank started the Doing Business project, with the mandate to rank countries on how their national regulations operate in favour of the "ease of doing business". From its inception, he said, the project was criticized for promoting deregulation and the lowering of social and environmental standards.

The Bank responded by removing the project's "employing workers" indicator from its scoring methodology, because it undermined labour standards and internationally recognized workers' rights.

The Oakland Institute has decried that and other flawed benchmarks, including the "paying taxes" indicator, which rewards the reduction of all types of corporate taxes, including environmental and social taxes levied to protect citizens and the planet.

According to the rights expert, the most recent Doing Business report actually notes as "good reforms" the abolition of environmental protection fees for corporations in Spain and Vietnam, and praises the reduction of private sector taxes in a total of 28 countries.

Another example of incomprehensible interference in the necessary regulatory space of States is the bad score given to Tanzania as "punishment" for introducing a workers' compensation tariff to be paid by employers, and the bad grade accorded to Malta for increasing employers' maximum social security contribution.

The Independent Expert also addressed the issue of credit rating agencies, saying that every exercise of power, including economic power, must be subject to democratic controls, transparency and accountability.

"Many countries believe that inadequate or even deliberately false credit ratings and questionable rating processes were key contributors to the Asian financial crisis, and more recently to the global financial crisis of 2007/08."

It is obvious that reforms are necessary, but it appears that the Bank is not yet tackling the impact of those institutions, whose ratings influence the Bank's decisions to grant or deny loans. It is the view of the Independent Expert that the Bank has a responsibility to test the reliability of the ratings by private sector agencies, or develop its own rating mechanisms and institutions that can perform more objectively and effectively.

The way forward

The Independent Expert welcomed the many positive measures already taken by the World Bank to address systemic and extrinsic problems and encouraged the Board of Governors to strengthen Bank governance and accountability through enhanced and facilitated access to justice when abuses occur.

"Bearing in mind that multilateral development banks, including the World Bank, receive large injections of public money, their biased approach in support of the private sector in developed and developing countries must be transformed into a human rights-based approach that carefully weighs the needs of the populations concerned," he however said.

The Independent Expert believes that a fundamental rethink is necessary and should result in an explicit definition of new priorities that puts the interests of billions of human beings who are deprived of the necessities of life ahead of those of foreign investors.

The rules of the game must be changed so that loans are not granted on purely economic considerations and that the loan conditionalities henceforth aim at advancing the well-being of the populations concerned.

The Independent Expert points to "the impressive rhetoric and the beautiful publications of the World Bank" and suggests that fewer resources should be devoted to public relations and the packaging of the product, and much more to risk assessment, monitoring and implementation.

To that end, the Independent Expert proposed a change of paradigm that would require not only amending the Articles of Agreement of 1944 (adopted at Bretton Woods, New Hampshire, and last amended on 16 February 1989) but also clear directives from the Board of Governors.

Pursuant to Article V, section 8(a) of the Articles of Agreement, the Bank should cooperate with international organizations having specialized responsibilities in related fields, including the UN Economic and Social Council and UNCTAD, which have proposed plans of action to advance development and human rights.

At present, Article IV, section 10 of the Articles of Agreement could be interpreted as an obstacle to that paradigm change. That obsolete provision stipulates that "the Bank and its officers shall not interfere in the political affairs of any member; nor shall they be influenced in their decisions by the political character of the member or members concerned".

However, there is no reason to consider the promotion of human rights and environmental protection to fall under the scope of the prohibited "political activity" of the Bank, said de Zayas.

Bearing in mind that the Bank's Articles of Agreement and the Agreement between the United Nations and the Bank were adopted prior to the adoption by the UN General Assembly of the Universal Declaration of Human Rights, and before the entry into force of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and many other human rights treaties, it is not unreasonable to expect that the human rights obligations of member States of the Bank should be advanced and not hindered by Bank policies, he added.

Article XIII of the Agreement between the United Nations and the Bank stipulates that the agreement is subject to revision and both parties are authorized to make supplementary agreements.

"That is a window of opportunity for the Bank to commit itself to certain key principles of the United Nations, including respect for the sovereignty of all States and non-interference in the domestic affairs of States."

That requires acceptance of the fact that States, particularly developing countries, need flexibility and policy space to implement social policies aimed at ensuring food security, raising the standard of living, strengthening labour laws and ensuring access to water and education, which some privatization projects financed by the Bank have been known to undermine.

Any amendment to the association agreement should strengthen the cooperation between the Bank and the UN, particularly with UNCTAD, said the rights expert.

"In addition to amending its Articles of Agreement, the World Bank must take full responsibility for the outcomes of its investments and implement preventive and corrective measures to ensure effective participation by all stakeholders and protection of human rights defenders on the ground."

If the Bank really has development at heart, it will change the conditionalities away from privatization, deregulation and lower corporate taxation and put the emphasis on reducing military expenditures, ensuring that progressive tax legislation is enacted and enforced, that tax havens are outlawed, and that a financial transactions tax is adopted and the revenues used to build "a world free of poverty" through international solidarity, de Zayas concluded. *(SUNS8532)* ❐

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[The stand of the developed countries on SDT appears to be challenging some of the fundamental principles of the economic and social provisions of the UN Charter, the Havana Charter (including its trade policy chapter that was applied provisionally as GATT 1947), Part IV of GATT, the Marrakesh Agreement, and the Doha Ministerial decisions and work programme. This developed-country stance jeopardizes the multilateral trading system and its main beneficiaries till now, namely the developed countries themselves. – *SUNS*] *(SUNS8534)* ❐