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## Uncertainty, controversy surround lead-up to MC11

With barely a week to go before the WTO's eleventh Ministerial Conference (MC11) in Buenos Aires on 10-13 December, question marks hung aplenty over the outcome of the meeting as consensus over a raft of substantive issues both new and longstanding continued to elude WTO member states. Adding to the challenges confronting the run-up to MC11 was a controversial decision by the host Argentine government to block participation at the conference by some 60 representatives of civil society groups – a move that has been denounced as “an outrageous and worrying precedent”.

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# No convergence on MC11 issues or outcome

The final meeting of the Trade Negotiations Committee (TNC) before the WTO's eleventh Ministerial Conference (MC11) in December brought into stark relief the lack of agreed outcomes for MC11 with just over 10 days to go. The following two articles report on WTO member states' views and assessments of the state of play delivered at the TNC meet.

by D. Ravi Kanth

GENEVA (29 NOV): An overwhelming majority of least developed and developing countries, including India and South Africa, on 28 November categorically rejected new issues to be addressed at the WTO's eleventh Ministerial Conference (MC11), which is to take place in Buenos Aires on 10-13 December, trade envoys told the *South-North Development Monitor (SUNS)*.

Among the new issues that are sought to be promoted for negotiations in the WTO after MC11 are: a mandate for establishing a working group on electronic commerce; disciplines for micro, small and medium-sized enterprises (MSMEs); and investment facilitation.

Rwanda on behalf of the African Group of countries, Guyana on behalf of the Africa, Caribbean and Pacific (ACP) Group, Cambodia on behalf of the least-developed countries (LDCs), India, South Africa, Uganda, Bolivia, Cuba and Venezuela joined in warning that there will be grave consequences if new issues are considered without completing the work on the unresolved issues in the Doha Development Agenda (DDA) negotiations.

Many of them remain alarmed at the manner in which WTO Director-General Roberto Azevedo, who is also the chair of the Trade Negotiations Committee (TNC), sought to open a window for new issues – disciplines for MSMEs and investment facilitation – to be discussed at Buenos Aires while knowing full well that there is no consensus on these two issues, said several trade envoys who asked not to be quoted.

At the 28 November final formal TNC meeting before MC11, the Director-General said "I know some members have also been developing work in limited group formats" on "MSMEs, investment facilitation and any other issue that is being discussed in a track different from the negotiating groups." He said if the proponents for these issues "want to appoint their own chairs or facilitators

at the Ministerial, that is for them to take forward."

Even though there is no consensus on new issues and these were never discussed at the TNC after investment facilitation was blocked by India at the WTO General Council early this year on grounds that it is not part of the WTO's Marrakesh mandate, Azevedo is asking some members at the WTO to start plurilateral negotiations on MSMEs and investment facilitation, said a trade envoy who asked not to be quoted.

"The Director-General who has not sincerely conducted trade negotiations as the TNC chair on the unresolved Doha Development Agenda issues is creating a dangerous minefield at Buenos Aires by shifting the entire burden to the Argentine minister Ms. Susana Malcorra who is going to chair the conference," said an authoritative source, who asked not to be quoted.

"Azevedo's game plan is not to take any blame for the manner in which he crowded the Buenos Aires agenda with old and new issues and leave everything to the Argentine government, as the host, to resolve," the source said.

In short, there are 29 draft ministerial decisions to be decided in 20 areas by trade ministers during the four-day Buenos Aires meeting.

"This is clearly a mischievous game plan of the Director-General, who ought to have told members about which issues can be taken and which issues can't be taken on the basis of the existing Doha mandate," the source said.

(The July 2004 framework accord of the General Council, which enabled the relaunch of the Doha negotiations after the failure of the 2003 Cancun Ministerial Conference, has unequivocally stipulated that no new issues are to be taken up or considered until the negotiations on the Doha Work Programme are concluded at a Ministerial Conference. – *SUNS*)

China adopted a two-leg policy in

which it remained with the large majority of developing and poorest countries on issues concerning the permanent solution for public stockholding (PSH) programmes for food security, reduction commitments for domestic support in agriculture, and development issues such as improvements in the special and differential flexibilities. Its second-leg positions include a proposal on investment facilitation and disciplines for MSMEs. On e-commerce, China more or less stayed with the large majority of developing and poorest countries which are opposing a new mandate instead of the existing 1998 work programme.

However, a group of major industrialized countries and some developing countries, led by the European Union, Australia, Japan, Korea, Chile and Argentina among others, pushed hard for an outcome on domestic support for agriculture, establishing a working party for e-commerce, disciplines for MSMEs, and investment facilitation among others.

The US, which stands largely isolated with its unilateral stance of no outcomes on the unresolved Doha issues as well as the new issues, said the Buenos Aires Ministerial must discuss issues concerning trade and development with a new perspective.

#### Four elements

Rwanda, which coordinates the African Group, said the outcome document of the Ministerial must reflect four elements: “the importance of a rules-based, fair and equitable multilateral trading system as enshrined in the Marrakesh Agreement”; “the centrality of development in the work of the WTO”; “the need to conclude the remaining elements of the Doha Development Agenda”; and “the critical importance of implementing all decisions adopted by Ministers and the General Council.”

The African Group said categorically that issues on which positions remain diametrically opposed should not be submitted to the Ministerial Conference. It emphasized “development” as the central element that needs to be resolved at Buenos Aires.

South Africa delivered a strong statement that “members’ divergent positions on issues have not been bridged and the chances for any outcome on any issues at MC11 are bleak – if at all.”

South Africa argued that “Impediments to progress are rooted in our differing views on mandates and the lack

of agreement on which issues to pursue, and how, where we have engaged, divergent negotiating positions have been evident.”

Even on fisheries subsidies, members have markedly different positions, South Africa underscored.

“A combination of wide differences and linkages in agriculture tell us that outcomes here are out of reach,” it argued. It said that it “will not agree to an outcome on export restrictions that we see as an attempt to begin to close off important space for legitimate, WTO-consistent policy.”

It warned “there is no consensus on non-DDA issues such as e-commerce, MSMEs or investment facilitation”.

“By leaving the ‘moment of truth’ to the Conference itself means we have lost the chance to construct a more manageable agenda on the few issues that may have had some minimal prospect for outcomes,” South Africa said.

Ministers will have to “contend with around 29 draft ministerial decisions, contained in Job Documents that cover more than 20 topics”, South Africa pointed out. It added that “the inconclusive discussions we have had in Geneva on each of these are likely to be replicated at MC11 – also inconclusively.”

Further, there is “the open question of a possible Ministerial Declaration”, and managing it in “a process that must be fully transparent and inclusive will be an enormous challenge”, said South Africa.

It urged members “to consider carefully whether ministers will be required to pronounce on separate decisions to carry work forward in all the areas or whether that would be accomplished by a decision akin to the Nairobi Ministerial Declaration paragraph 31 – a ‘catch-all’ approach.”

“More importantly, members need to consider whether this will be done through a possible declaration or an agreed statement – alternatively, we could agree to being silent on all these matters,” South Africa said.

“The key point, however, is that we will need symmetrical treatment for all the remaining Doha issues: either silence on all issues or a catch-all phrase that is applied to all,” South Africa said, arguing that “this would be essential for a smooth conference.”

On behalf of the G33 grouping, Indonesia said that “the establishment of a permanent solution on PSH for all developing members and [an] accessible,

simple and effective SSM [Special Safeguard Mechanism] remain priority.”

Indonesia said these two issues were supported by some developing countries and LDCs, and they shall be part of any Buenos Aires outcomes. “Any efforts that link PSH and SSM with other negotiation issues is not acceptable,” it said.

It rejected the “proposal for reducing developing countries’ flexibility by requesting them to constrain their *de minimis* and at the same time not addressing in sufficient manner AMS entitlements, Blue Box and Green Box.” Such an approach, it said, “will perpetuate or even exacerbate current structural imbalance inherited from the Uruguay Round”.

Indonesia said it sees the centrality of development in all horizontal discussions within the WTO.

#### “Gateway issue”

In a hard-hitting statement, India said that “the permanent solution for PSH is a gateway issue and we would like to caution that inability to deliver a permanent solution at MC11 may lead us to a spectacular failure at Buenos Aires and irreparable harm to the credibility of the WTO.”

On eliminating the Aggregate Measurement of Support, a large number of developing countries including the G33 and the ACP Group supported India’s joint proposal with China, India said.

India emphasized the importance of outcomes on SSM, cotton and development.

India also touched on special and differential treatment for developing countries, saying it is “a very important part of the WTO mandate which needs to be carefully preserved without differentiating among developing countries”.

On fisheries subsidies, India stressed the importance of an instrument that takes the concerns of artisanal fish workers into account. It asked for excluding “the Exclusive Economic Zone from the purview of the disciplines for unregulated, unreported fishing and prohibition of subsidies for overfished stocks.”

As regards an outcome on domestic regulation for trade in services, India said the issue cannot be discussed in isolation without addressing “the numerous difficulties which service suppliers, particularly those of developing countries, face in complying with complex regulatory regimes of developed countries related to recognition of qualifications.”



India said members must continue with the existing mandate of the 1998 work programme on e-commerce. "This is not the opportune time to enter into contentious and divisive debates by seeking ambitious outcomes in e-commerce," it cautioned. It also firmly rejected issues "like investment facilitation, MSMEs and gender which do not have mandates or place in the WTO."

Uganda urged against "impos[ing] the views of one member on the rest of the membership or [dropping] all issues of specific interest and concern of the rest to accommodate one member."

"Any outcome document shall highlight the centrality of development and special and differential treatment in the work of this Organization," Uganda said, arguing "the need to conclude the remaining elements of the Doha Development Agenda and the critical importance of implementing all decisions adopted by Ministers and the General Council."

In sharp contrast, the industrialized countries, except the United States, and

several developing countries, including Brazil, pressed for an outcome in domestic support on agriculture along with the permanent solution.

The EU, Japan, Australia, Norway, Switzerland, Korea, Hong Kong (China), Chinese Taipei, Chile, Peru, Argentina, Colombia, Nigeria, China and Russia, among others, called for addressing new issues such as disciplines for MSMEs.

Chile, which is the coordinator of the informal group on MSMEs, informed members that there are 39 proponents for addressing the issue after the Buenos Aires meeting.

The EU, Japan, Australia, Norway, Switzerland, Chile, Peru, Argentina, Colombia, Nigeria and Russia also pressed for a new mandate on e-commerce.

In sum, the Buenos Aires meeting is going to test the nerve of the developing and poorest countries and whether they can stand united in the face of dangerous games being played by the Director-General to impose new issues without resolving the Doha issues, several trade envoys said. (SUNS8586) □

tations, members have continued contacts amongst themselves, and he has continued to hold consultations with members, both in Geneva and in capitals.

"Overall, I think that there has been a lot of progress over weeks. We have seen excellent engagement. Many proposals were brought forward, many meetings held, and much hard work has been done. However, members' positions continue to diverge significantly on the substantive issues. Despite our best efforts, I don't think there will be agreed negotiated outcomes in Geneva," said the DG.

"So where does that leave us in terms of our work in Buenos Aires? While there remains a lack of clarity on what may be possible, I am hearing that there are numerous issues that members want to talk about in Argentina. I have been calling for prioritization for some months. I appreciate members' efforts here, but limited progress has been made on this front. We still have a lot of issues in play for the Ministerial – many issues to deal with, in a very concentrated time period. And, of course, they are all important issues that merit ministers' attention and consideration at the political level. We must consider how we manage this, and make provision for ministers to deal with these issues."

"For the sake of the orderly management of the meeting," Azevedo suggested, "we are considering options for appointing a few 'minister facilitators' who will work with the negotiating chairs in Buenos Aires. This will be ultimately a decision by the Chair of the Ministerial Conference."

"Based on the current situation, I think it would be reasonable to expect facilitators for: agriculture, development, rules, e-commerce, and I think we would probably have a fifth facilitator covering issues under services, and maybe some other areas (although I can't be very specific until all the work is finalized in Geneva)."

All this may need adjustments, depending on how things evolve, said the DG. "Nonetheless, I believe that five facilitators are about as much as we can handle – in part because of practical considerations, such as meeting space in Buenos Aires. Of course there may be other elements that I will pick up as appropriate together with the Chair of the Ministerial Conference and the Chair of the General Council."

"Let me say as well that I know some members have also been developing

## DG proposes "minister facilitators", chairs report on state of play

by Kanaga Raja

GENEVA (29 NOV): The WTO Director-General Roberto Azevedo on 28 November proposed the appointment of some five "minister facilitators" covering agriculture, development, rules, e-commerce, issues under services and "maybe some other areas". The "minister facilitators", he said, will be working with the negotiating chairs at MC11 in Buenos Aires.

This proposal came at the final meeting of the Trade Negotiations Committee just before MC11 gets underway.

[The manner in which so many unresolved issues are being pushed onto MC11 is reminiscent of what happened at the 1999 Seattle Ministerial Conference and its disastrous collapse. Meanwhile Azevedo's proposal for "minister facilitators" is reminiscent of what took place at the 2001 Doha Ministerial Conference, whose outcome on mandates has been such that negotiations on the Doha Work Programme remain stuck – and Azevedo appears to be manoeuvring to jettison them. On Doha, see Chakravarthi Raghavan (2014), *The Third World in the Third Millennium CE*, Vol. 2, pp. 224-247. – SUNS]

The 28 November meeting also heard the chairs of the various negotiating bodies under the Doha Work Programme reporting on the state of play so far on the key issues in the negotiations (see below).

The assessment by the DG and the chairs was followed by interventions by the members, with an overwhelming majority of developing and least-developed countries rejecting new issues including establishing a working group on e-commerce, disciplines for MSMEs, and investment facilitation. They warned that there will be grave consequences if these new issues are taken up without completing the work on the unresolved issues in the Doha Development Agenda.

### Significant activity

In his statement, DG Azevedo, who is also the chair of the TNC, noted that the last time members met to review progress on preparations for MC11 was just over a month ago, on 24 October. Since then, he claimed, there has been significant activity in a number of areas. The chairs have continued their consul-

work in limited group formats. This includes the work on MSMEs, investment facilitation, and any other issue that is being discussed in a track different from the negotiating groups. It is for the proponents in these areas to advance this work as they see fit. If they want to appoint their own chairs or facilitators at the Ministerial, that is for them to take forward."

In considering the process for the meeting, clearly openness, transparency and inclusiveness will be important. In addition, it should always be a bottom-up process. Many members have emphasized this during the preparatory work, said Azevedo.

As to how he sees the process at this point in time, the DG said: "First, the facilitators (as well as the chairs and the Secretariat) will be there simply to facilitate your work – not to drive it. Their role will be to convene meetings and facilitate conversations – but not more than that. The driving force on substance has to come from the members. Facilitators can only consult and facilitate – they can't do the job for you.

"Second, facilitators will aim to hold open meetings. All members who want to participate will have a chance to do so. Moreover, I will encourage facilitators to coordinate with each other in scheduling their meetings, so that we avoid overlaps, as far as possible.

"Third, we will also look to hold informal HoDs [heads of delegation] meetings in Buenos Aires at the end of each afternoon or early evening – starting on Monday the 11th. These meetings will be a chance for facilitators to report back to everyone on their work. And they will be an opportunity for every minister to participate on every issue and assess progress achieved in the different areas. Even if you haven't attended a meeting on a particular issue, you will have a chance to make your views heard at the HoDs.

"Finally, I will be holding consultations in Buenos Aires, to help the process where I can. But let me stress that while I will hold consultations where needed, I will not convene closed-door negotiating meetings."

He said he will continue to consult with the General Council Chair, the negotiating group chairs and the MC11 Chair before finalizing preparations here in Geneva.

"Given the number of issues likely to be discussed, I think we have to be prepared for a quite fluid process in Buenos Aires. Arrangements in Ministe-

rial Conferences are always difficult. But, as I have explained, we will do everything we can to ensure that the meeting is open, transparent, inclusive – and orderly.

"It is right that we should take a bottom-up approach – true to the member-driven nature of the organization. But it is worth noting that with this approach, the responsibility to advance our work falls squarely on the shoulders of members.

"Success will require you to show flexibility and creativity. It will also require you to show restraint. If the HoDs meetings are to function as the forum for decisions, we will need to take a business-like approach. And this is very important. There will not be an opportunity for long, prepared statements. Your minister is not required to speak. We will hear the reports of the facilitators and anything that members have to say, and then take decisions in a very straightforward and executive fashion."

Azevedo maintained that MC11 is "an opportunity to: take stock of the significant progress that we have made; deliver wherever we can; and set the direction for our future work".

"Precisely how far each issue proceeds will depend on the dynamics of each negotiation. Whether you manage to agree outcomes, a work programme or neither will depend on the work in each area – and of course on the decision of the HoDs," said the DG.

"So let's see what we can do. The WTO has been on a very positive path over the last two ministerial conferences – let's continue that journey in Buenos Aires and beyond. I ask for your continued commitment, engagement and flexibility in this final stretch," he concluded.

### Progress reports

The 28 November TNC meeting also heard progress reports from the various negotiating group chairs.

According to trade officials, the chair of the agriculture negotiations, Ambassador Stephen Karau of Kenya, reported that the bases for agreements that he sees are in the areas of public stockholding (PSH) for food security purposes and export restrictions and prohibitions.

He said that a decision could be envisaged on cotton at MC11. On domestic support, he said that unless there are significant changes in negotiating positions in the next few days, it will be very difficult for members (to gain anything). They could get a limited outcome com-

prising a decision and a work programme to guide the negotiations if positions change.

On the Special Safeguard Mechanism (SSM), the chair said that proponents are continuing with the views they had up until now, and it is very hard to see how this can be taken forward.

He said that he will be holding an open-ended meeting on 4 December to look at all the issues together with the dedicated session on PSH and SSM.

The chair of the rules negotiations, Ambassador Wayne McCook of Jamaica, spoke on the three pillars of the negotiations, namely fisheries subsidies, trade remedies and horizontal subsidies.

On fisheries subsidies, he said that there have been seven original proposals. The group is looking at issues such as preamble, scope, definition, prohibitions, standstill, special and differential treatment, the issues of illegal, unreported and unregulated (IUU) fishing and overfished stocks. They will be looking as well at overcapacity and transparency.

On trade remedies, McCook said that there have been discussions based on proposals from one member on anti-dumping and countervailing measures. This is in relation to transparency, and ways in which MSMEs could gain flexibility under anti-dumping and countervailing regimes.

On horizontal subsidies, the chair said that there has been nothing to report since the last meeting.

The chair of the services negotiations, Ambassador Hector Marcelo Cima of Argentina, spoke on the four areas of discussion. There is the Indian proposal on trade facilitation in services, services market access, services elements of e-commerce, and domestic regulation.

Nothing has changed in the first three areas. On domestic regulation, a revised text has been put forward by the proponents which they say has taken on board the concerns of many developing countries over the right to regulate and policy space. The opponents were not happy with some of the elements of the proposal, including on language pertaining to the right to regulate, which they did not think went far enough. They also did not think that the language on development went far enough.

[In his written report to the TNC dated 27 November, the chair noted that on 27 July, India circulated a revised proposal on services trade facilitation, which has not yet been discussed by members. On services elements of e-commerce, the

chair noted that the EU had circulated, on 23 May, a proposal suggesting text for rules aiming to facilitate online service transactions.

[According to the chair, in view of the limited time available before the Ministerial, proponents in these two areas did not seek further meetings of the Special Session to discuss their submissions after the summer break. No outcome in the form of an agreed text can be expected in Buenos Aires in these areas, and the proponents agree with this assessment. In terms of post-MC11 work on these two topics, India and the EU have communicated their intention to re-engage on services trade facilitation and online transactions respectively after the Ministerial, he said.

[The chair said that discussions in the Working Party on Domestic Regulation (WPDR) in recent months have centred on a text proposing disciplines on domestic regulation, put forward by a group of proponents. This proposal contains seven sections: general provisions; administration of measures; independence; transparency; technical standards; development of measures; and development.

[Discussions last took place at the WPDR on 7-8 November, and divergences remain across the membership. For one, co-sponsors of the text consider that rules on licensing and qualification requirements and procedures, and technical standards would yield greater transparency and predictability, and provide important value added to existing market access commitments. They consider that their proposal is flexible, as it would allow implementation by members at different levels of development and regulatory capacity, as well as by means of diverse regulatory approaches. They also point out that LDCs would not be required to apply the disciplines.

[Second, some members expressed reservations of varying degrees of concern about different aspects of the proposals. Some conveyed general support, while pointing to a limited number of drafting and technical issues that they wished to see addressed. Others had more significant reservations about certain aspects of the text proposal, for example, in relation to the language on the right to regulate, the development provisions, the absence of specific provisions on qualification requirements and procedures, the proposed disciplines on gender equality and necessity, or the appli-

cation of the proposed disciplines to varied levels of sector-specific commitments across the membership.

[Third, some members expressed concerns of a more fundamental nature, pointing to conceptual differences. They questioned the need for the proposed disciplines and the benefits that these might bring to developing countries and LDCs. This group of members maintained that the proposed text would be incompatible with their development aspirations and limit policy space. In terms of the way forward in these negotiations, some members were of the view that work on the basis of the proponents' proposal could not lead to an outcome. Others considered the time remaining to be too short to achieve an outcome at MC11 and suggested continuing discussions after the Ministerial. Proponents said that they wanted to continue work with a view to achieving an outcome at MC11, and considered it important to raise discussions at a higher political level, said the chair.]

#### S&D proposals

The chair of the Committee on Trade and Development in Special Session, Ambassador Tan Yee Woan of Singapore, in relation to the 10 agreement-specific proposals on special and differential treatment (S&D) for developing countries, said that the differences are deep and wide.

She said that members are no closer to convergence. The proponents maintain that these are key to fostering industrialization and promoting diversification. Others say that these proposals send the wrong signals about what multilateral rules bring to development and that any deviation from these rules should only be taken in exceptional circumstances.

She said that the proponents believe that these issues should go to ministers (at MC11) because they are highly political and they are concerned about special and differential treatment. Some members said that having a discussion on trade and development more broadly would be fine.

According to the chair, other members say that convergence is not possible at MC11 or even afterwards, and that these proposals are past their expiry date, and that no member should be forced to continue to discuss this issue. Yet others have said that this is absolutely central.

[In her written report to the TNC dated 27 November, in reference to the G90 grouping's textual proposals on the 10 S&D provisions, the chair said regardless of the level of engagement, her assessment of where members stand was that the fundamental differences in position remain deep and wide, and members were no closer to bridging these differences. The proponents continued to maintain that the requested flexibilities were needed for fostering industrialization, promoting diversification and facilitating structural transformation in their economies. On the other hand, some members contended that agreeing to these flexibilities would give a wrong signal that multilateral trade rules did not foster development. Any solutions to the issues raised in the proposals must be realistic, based on facts, and deviations from rules should only be considered in exceptional circumstances and for only those who really need them. The differences with respect to "differentiation" also remained.

[According to the chair, with no clarity on the way forward and with the objective of facilitating an honest assessment on where the work stood and to solicit members' views on the way forward, she had posed the following questions to members: (i) What should we do to make progress in the remaining time available? (ii) What do we see ourselves and our ministers doing on this dossier in Buenos Aires? (iii) How can we better prepare ourselves for Buenos Aires?

[In response to her questions, the proponents indicated that they wanted work in the Special Session to be carried on towards a potential outcome on S&D at MC11. They also wanted ministers to actively engage on these proposals in Buenos Aires. They strongly believed that ministerial engagement would allow for a constructive ministerial discussion on how developing members, in particular LDCs, could be better integrated into the multilateral trading system. Some non-proponents shared the proponents' views to continue efforts to find a landing zone for MC11.

[On the other side of the fence were some members who felt that the discussion on the proposals had reached its limit and any further work on the same proposals or subsequent revisions to them would, at best, be a repetition of what had already been flagged. Given the paucity of time and the charged dynamics in the run-up to MC11, it would



only deteriorate the quality of discussion and lead nowhere. They viewed that transmitting “unripe” proposals to Buenos Aires for ministerial engagement was not the right course of action. Some members were of the view that convergence on these proposals would not be possible either at MC11 or even thereafter. Some members were prepared to continue discussion even though they did not believe convergence would be possible on the basis of the current approach and proposals, said the chair.

[At the Special Session meeting held on 20 November, while wrapping up the discussion, the chair said she indicated to members that she would hold informal consultations to achieve clarity on the way forward. These consultations were held on 22 November. The G90 reiterated the importance of ministers engaging in a discussion at Buenos Aires on S&D issues, which the Special Session had been discussing for a long time at the technical level with little results to date. They expressed a strong view that any discussion by ministers should be based on the 10 proposals that members had been discussing since September. They also stressed that the G90 proposals must be accorded the same treatment as that which would be accorded to other proposals/issues on the table across the house.

[An equally strong view held by some other members was that if at all ministerial engagement was necessary, it might be more constructive for ministers to discuss broader political trade and development issues instead of the 10 proposals. Some were against the Special Session convening in Buenos Aires. One member, in particular, was also categorically against the Special Session transmitting the proposals to MC11 for ministers’ consideration. It was however also acknowledged that it was the prerogative of any member to table any matter for consideration at the Ministerial Conference.

[The chair said although her consultations on 22 November proved useful in generating a deeper discussion of the three process-related questions that she had posed, there were no clear answers to any of them. There was broad agreement that what members were trying to grapple with were important issues. Members continued to stick to previous positions reflecting wide differences in perceptions on how these issues could best be tackled and appropriate solutions could be found. “However, I did not hear any member objecting to a discussion by ministers at Buenos Aires on development issues,” said the chair.

[After the chair said she had presented her report at the Special Session on 23 November, the G90 said that they intended to submit the 10 proposals to ministers for their action at MC11. Several members of the G90 intervened and highlighted their concerns and perceived imbalances in the multilateral trade rules and hence the need for revised S&D, particularly for the weaker members. In recounting how in the last 16 years they had come down from 88 original S&D proposals to 25 in 2015 and then only to 10 in 2017, they said they were disappointed at the lack of interest by some members to address the concerns and challenges that developing countries and the LDCs faced in their efforts to better integrate into the multilateral trading system. The G90 members also said that there was a disconnect between what the ministers had mandated in paragraphs 5, 31 and 32 of the Nairobi Declaration and what members were doing in the Special Session. The proposals should be sent to ministers at Buenos Aires because the technical debate in Geneva had not yielded any outcome. Ministerial engagement was necessary for a political decision on this dossier. They emphasized that the S&D proposals should receive equal treatment (parity) with other proposals in other areas being considered in the house. Several non-G90 members also spoke in support of the proposals and for their onward transmission to ministers at Buenos Aires, said the chair.]

## Little activity

The chair of the NAMA (non-agricultural market access) negotiations, Ambassador Didier Chambovey of Switzerland, said that there has been very little activity for the last two years. There has only been one proposal, namely from the EU, Hong Kong (China) and Chinese Taipei amongst others, relating to greater transparency when governments put in place standards under the ambit of the Agreements on Technical Barriers to Trade and on the Application of Sanitary and Phytosanitary Measures.

The chair of the TRIPS Council in Special Session, Ambassador Dacio Castillo of Honduras, referred to the three areas under discussion, namely the register of geographical indications of origin for wines and spirits, extension of the register beyond wines and spirits, and the relationship between the TRIPS Agreement and the Convention on Biological Diversity. The chair said members want these issues to be kept on the table after MC11.

The chair of the Special Session of the Committee on Trade and Environment, Ambassador Syed Tauqir Shah of Pakistan, said members want the issues here to be raised in any declaration.

The chair of the Dispute Settlement Body in Special Session, Ambassador Coly Seck of Senegal, said that members are not in a position to come out with any outcomes at MC11. (SUNS8586) □

## DG queers pitch on partial outcome on subsidized IUU vessels

The WTO Director-General stepped into the fray in a bid to nudge member states towards a partial outcome at MC11 on addressing subsidies contributing to illegal, unreported and unregulated (IUU) fishing.

by D. Ravi Kanth

GENEVA (4 DEC): WTO Director-General Roberto Azevedo on 1 December queered the pitch for a partial outcome at MC11 to prohibit subsidies for vessels contributing to illegal, unreported and unregulated (IUU) fishing, several trade envoys told the *South-North Development Monitor* (SUNS).

Even though there is no consensus on a partial outcome for IUU subsidies, Azevedo held a heads-of-delegation (HoD) meeting on 1 December and followed it up with one-on-one meetings with countries that are objecting to a deliverable at this juncture without having

clarity on the remaining issues, particularly special and differential flexibilities.

Many countries said they are ready to live with a best-endeavour outcome on IUU subsidies while continuing negotiations on all the issues, especially special and differential flexibilities, after the Buenos Aires meeting, said trade envoys who asked not to be quoted.

Prior to the HoD meeting, the chair of the Doha rules negotiations, Ambassador Wayne McCook of Jamaica, had concluded week-long talks during which sharp differences emerged among key members. The rules negotiating group

meet closed on 30 November with members insisting that their specific concerns on language should be inserted in the draft ministerial decision on fisheries subsidies.

Circulated late on 30 November in time for the HoD meeting, the draft decision contained many instances of bracketed text which indicated lack of consensus.

### Members' views

India sought to insert in the preamble specific language that referenced the Doha Work Programme (DWP) and the 2005 Hong Kong Ministerial Declaration. This was supported by a large number of developing countries, including the members of the Africa, Caribbean and Pacific (ACP) Group and least-developed countries.

However, the United States made clear that it will not accept any reference to the DWP or the Hong Kong Ministerial Declaration, following which the text was put in square brackets, said participants after the meeting.

The European Union inserted language for linking the outcome on fisheries subsidies to the WTO Agreement on Subsidies and Countervailing Measures (ASCM) in which the EU had already made proposals for enhanced transparency and notification requirements. It insisted that any agreement on fisheries subsidies would be part of the ASCM.

The EU-proposed text in paragraph 4 of the draft ministerial decision said that "Members re-commit to implementation of existing notification obligations under Article 25.3 of the ASCM thus strengthening transparency with respect to fisheries subsidies.

"[Members further commit to work towards additional transparency in respect of fisheries subsidies [taking into consideration the capacity constraints of developing countries including LDCs].]"

India, the ACP countries and other members opposed the EU's linking the agreement on fisheries subsidies to the ASCM on grounds that the mandate for eliminating fisheries subsidies does not refer to the ASCM.

The large majority of countries said the proposed agreement on fisheries subsidies is a standalone agreement and free from the ASCM, said an ACP participant.

Many countries said that they can live with paragraph 1 of the draft deci-

sion which says: "Building on the progress made since the 10th Ministerial Conference as reflected in documents TN/RL/W/274/Rev.1, RD/TN/RL/29/Rev.3, Members agree to continue to engage constructively in the fisheries subsidies negotiations, [with a view to] adopting, by the Ministerial Conference in 2019, an agreement on comprehensive and effective disciplines that prohibit certain forms of fisheries subsidies that contribute to overcapacity and overfishing, and eliminate subsidies that contribute to IUU-fishing recognizing that appropriate and effective special and differential treatment for developing and least developed Members should be an integral part of these negotiations."

The reason many countries insisted on paragraph 1 is that "it references two most important documents, which are essentially a synthesis of the members' proposals and language, reflecting the state of negotiations as to where we [members] are", the participant said.

But some countries were ready to accept the chair's initial formulation which referred to the W/274 document that only recognizes the core disciplines of IUU, overfished stocks, overfishing, transparency, capacity-building, and special and differential treatment.

"The document W/274 does not contain the definitions, various other elements, including scope, and it became important for developing countries to reference the outcome to both RL/29 and W/274, as they have to be read together for members to continue further work," the participant said. "If we had only reference to one document and not the other, even the partial outcome would not be possible."

Therefore, most members said they could live with paragraph 1. And many countries, particularly the ACP members, said they can accept the discipline on IUU if it includes the flexibilities, particularly special and differential treatment, said another participant.

"The problem really is that for all of us [the ACP members] to implement the disciplines on IUU and have it on our national rules will be difficult because we don't have capacity," said another ACP member.

"It also ignores our demand for special and differential treatment in respect not of illegal but also unreported and unregulated activities – we wanted a specific carve-out just in terms of implemen-

tation period for longer time, while the proposal is that we implement IUU virtually immediately, and this is an SDG-minus outcome," the participant added.

Members want the necessary safeguards to implement the agreement, the participant said. "If the decision is implemented then we have to implement it immediately – and what happens to all the transition periods we require?"

The EU and New Zealand on behalf of the Friends of Fish coalition insisted on language that overfished stocks are not negatively affected.

Many countries opposed the EU's formulation on the issue of negatively affected stocks, the participant said.

### DG's question

At the HoD meeting, Azevedo posed the question: "Do you really want a process outcome that would say we continue to work or do you want to attach to that something more, namely a partial deliverable?"

According to trade envoys present at the meeting, Azevedo said there are political questions in paragraph 2 of the draft ministerial decision on IUU and overfished stocks, and as a result if members are not able to agree on a mandatory outcome, then it is only a best-effort outcome.

The Director-General said there is less of a problem with an outcome on IUU than on overfished stocks. "If you can't finalize a hard, binding outcome on both of them, then prioritize on IUU," he suggested.

He said many delegations are going to continue working towards such an outcome only on IUU, trade envoys said.

The US said while it is interested in a comprehensive outcome, there is no time now to negotiate even an outcome on IUU subsidies. It said it cannot accept a low-ambition outcome as it would affect the overall agreement. The US demanded only an outcome on the transparency paragraph.

New Zealand said it still wants an agreement, suggesting that members conclude the work on the legal text by next year.

The EU supported New Zealand and also referenced the outcome to SDG target 14.6.

The ACP Group said they could work on paragraph 2 only if there are safeguards in respect of special and dif-



ferential treatment and so forth.

India said it cannot support an outcome on paragraph 1 and is not ready to accept paragraph 2.

The Director-General held one-on-one meetings with key members but it is not clear whether all the issues would be sorted out on 4 December.

In sum, Azevedo is taking an unusual interest in mobilizing support for an outcome on IUU subsidies while turning his back on other issues, particularly improving special and differential flexibilities as demanded by a large majority of countries, said trade envoys who asked not to be quoted. (SUNS8589) □

tive of] double standards by major developed countries that refuse to engage on issues that have been there for the past 16 years but want us to agree to new issues," said an LDC trade envoy.

The G90 want modest improvements in the following 10 agreements at Buenos Aires:

i. changes in the Agreement on Trade-Related Investment Measures (TRIMs) that will allow developing countries to deviate temporarily from the provisions of its Article 2;

ii. changes for deviating from the General Agreement on Tariffs and Trade 1994 (GATT 1994) in Articles XVIII.A and XVIII.C to achieve development objectives;

iii. changes in Article XVIII of GATT – section B concerning balance-of-payments difficulties, including quantitative restrictions;

iv. changes in the Agreement on the Application of Sanitary and Phytosanitary Measures so as to enable a longer time period for notification requirements;

v. changes in the Agreement on Technical Barriers to Trade, including a longer time period before the adoption of the measures;

vi. changes in the Agreement on Subsidies and Countervailing Measures so as to enable the developing and poorest countries to achieve industrialization;

vii. changes in the Customs Valuation Agreement to enable the LDCs to use minimum or reference values up to 10% of their tariff lines when they are in difficulty;

viii. to ensure that developing-country products of export interest are accorded meaningful market access as per the 1979 Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries ("Enabling Clause");

ix. improvements in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) for transfer of technology;

x. improvements in the guidelines for the accession of LDCs to the WTO.

The Buenos Aires meeting is thus shaping up as a battleground to decide whether the large majority of developing and poorest countries will have any significant say on their development issues or if the industrialized countries will forge ahead with their new issues, trade envoys said. (SUNS8583) □

## G90 setback as North nations refuse any outcome on S&DT

The outlook for a Buenos Aires agreement to provide greater flexibility for developing countries in implementing certain WTO rules dimmed due to persistent opposition from the developed countries.

by D. Ravi Kanth

GENEVA (24 NOV): The large majority of developing and poorest countries – the Group of 90 – suffered a setback on 23 November at the WTO after the United States, the European Union and other major industrialized countries refused to agree to any outcome on their core issues for improving special and differential flexibilities at MC11, trade envoys told the *South-North Development Monitor* (SUNS).

The G90 countries have demanded specific improvements in 10 WTO covered agreements for strengthening the "development dimension". The group had substantially lowered the number of issues from more than 40 to 10 in an attempt to secure credible outcomes on the development dimension of the Doha trade negotiations.

But major industrialized countries – the US, the EU, Japan and Canada among others – refused to engage on the 10 issues, saying they needed evidence to demonstrate how the special and differential treatment (S&DT) provisions on the 10 covered agreements did not work, said an African trade envoy who asked not to be quoted.

At a meeting of heads of delegation (HoD) which was followed by a meeting of the proponents with the WTO Director-General on 23 November, the coordinators of the ACP Group, the African Group and the least-developed countries were told that there will be no outcomes on their demands at Buenos Aires.

There was also opposition from some of the major industrialized countries to including the unresolved issues of the Doha Work Programme in the post-Buenos Aires work programme,

said a trade envoy who asked not to be quoted.

The G90 countries, according to the trade envoy, will now circulate their draft ministerial decision covering all the 10 agreements in which they have sought specific improvements. It will suggest how WTO members must carry out further negotiations on the unresolved proposals after the Buenos Aires meeting next year.

The main issue to be decided at Buenos Aires will be how the special and differential treatment issues will be treated in the post-Buenos Aires work programme and what happens to them next year, the envoy said.

The G90 countries want a clear roadmap for further negotiations on all their unresolved S&DT issues after MC11.

### "Double standards"

While the major industrialized countries rejected outcomes on the improvements in special and differential flexibilities in the 10 agreements, which have been consistently raised since the launch of the Doha Development Agenda trade negotiations in 2001, the EU, Japan, Canada and Australia among others want to launch negotiations at Buenos Aires on new issues such as investment facilitation and disciplines for micro, small and medium-sized enterprises, the envoy said.

The EU and its allies also want to establish at Buenos Aires a new working party to oversee negotiations to write WTO rules on electronic commerce.

"This is sheer hypocrisy and [prac-

## Isolated US tries to block MC11 ministerial declaration

The Buenos Aires Ministerial Conference faces the prospect of not adopting a ministerial declaration at its conclusion as the US sought to thwart an outcome document that would refer to the development dimension of the WTO.

by D. Ravi Kanth

GENEVA (23 NOV): The United States stood isolated and exposed on 22 November for its unilateral decision to block the finalization of the ministerial declaration for MC11, trade envoys told the *South-North Development Monitor (SUNS)*.

However, an overwhelming majority of countries decided to press ahead with an outcome document despite opposition from Uncle Sam, said a South American trade envoy who asked not to be quoted.

India and Rwanda, on behalf of the Group of 90 countries, delivered the strongest statements yet in defence of the development dimension and the Doha Development Agenda (DDA) negotiations and how these two issues must be protected in the face of an aggressive assault by the US and some other countries.

The drafting group for a ministerial declaration has faced massive opposition from the US to explicitly mentioning the pre-eminent role of the WTO and its importance for multilateral trade liberalization under the Marrakesh Agreement as well as to elaborating on the DDA negotiations and the development dimension.

Members of the African Group, the ACP Group and India insisted that explicit language on these two issues is imperative for developing countries, said a trade envoy who asked not to be quoted.

In the face of worsening differences on these two issues, the WTO General Council Chair, Ambassador Xavier Carim of South Africa, decided to suspend the meeting on 22 November morning and called for the convening of a heads of delegation (HoD) meeting later in the evening, the envoy said.

Carim said that he decided to suspend the ongoing work of the drafting committee for finalizing the ministerial declaration due to opposition from one member.

The chair said it is not possible to

work on the ministerial declaration at this juncture but emphasized that work on all other issues which are being currently negotiated will continue.

Intervening immediately after the chair's statement, the US said that the one member being referred to by Carim was itself. Although the US is not engaging on most of the issues, it said that there has been no progress on major issues, including on the US proposal for institutional reforms in the WTO.

Many countries had said the US proposal is not part of the mandate for the Buenos Aires meeting. While some developed countries are ready to negotiate on the transparency provisions, a large majority of developing countries had maintained that the US proposal on transparency and notification requirements changes the rights and obligations of WTO members.

### Members' positions

In a brief statement at the HoD meeting, the US deputy trade envoy Chris Wilson suggested that members are not even prepared to address the US proposals on institutional issues, including the proposals on transparency requirements in all WTO agreements and notifications. Therefore, said the US, it cannot agree to a ministerial declaration, indicating its willingness instead to consider a chair's concluding statement at Buenos Aires.

In a sharp rebuke to the US stand, Rwanda, on behalf of the G90 countries, expressed concern over the persistent position of "some members" to seriously undermine "the development dimension of the WTO and the WTO itself."

Rwanda's trade envoy, Ambassador Francois Xavier Ngarambe, said "the centrality of development in this institution is the *raison d'être* of our membership."

"Indeed," said Ngarambe, "we ex-

pect that development, in particular special and differential treatment provisions, remains at the core of both existing and future WTO agreements. This is crucial in order to adequately address economic needs of weak economies for their effective integration in the multilateral trading system."

Rwanda went on to say that the G90 "strongly reaffirms the importance of a rules-based, fair and equitable multilateral trading system as enshrined in the Marrakesh Agreement whose objectives and principles remain our guideline."

Rwanda said the G90 "reiterates its commitment to a process which must reflect the guiding principles of the WTO and DDA negotiations, namely, full member participation, inclusive, transparent, predictable, and bottom-up processes, and consensus-based member-driven negotiations."

Finally, the G90 reiterates its support to the General Council chair and remains ready for consistent and constructive engagement for a positive outcome in Buenos Aires and beyond, said Rwanda.

After Rwanda, India took the floor to deliver one of the strongest messages about the "centrality of development to the WTO, particularly the Doha Development Agenda negotiations."

Indian deputy trade envoy Aseem Mahajan said India "attaches significant importance to the centrality of the development dimension of this organization."

"The DDA and related decisions have express mandates and all the past Ministerial Conferences have reinforced the DDA issues and mandates," he said.

Moreover, "substantive work has gone into these issues for the past several years and therefore, there should be no hesitation in expressing the DDA in the ministerial declaration," India said.

"We also feel there might be differences on the perceived objectives of the Doha development agenda but there is no ambiguity regarding the steps to be taken," India said.

"What has been also worrisome to us is the debate about the relevance of these issues and the difficulties of some members to engage to take these issues way forward," India said.

The DDA and the development dimension embodying the work programme represent India's core interests as well as the interests of a large majority of the developing countries,

Mahajan said.

"Consequently, we cannot agree for any formulation in the declaration that says the Doha Development Agenda and the decisions taken in the past Ministerial Conferences are no longer relevant," India emphasized.

India urged members not to treat the declaration as an end game in itself, suggesting that "many issues stand at the core of our national interests for the forthcoming ministerial meeting."

"This fact cannot be casually undone," India maintained.

Without mentioning the US, India said actions by some members "would undermine and question the very basis of this organization."

India said if there is no agreement on the text, then the drafting group must clearly reflect "the textual positions of the members for resolution at the political level."

The European Union said it is a proponent of the ministerial declaration while suggesting that such a declaration should not be at all costs. The EU cited the 2009 ministerial meeting to drive home the message that it is fine with a chair's concluding statement.

China expressed disappointment at the US move to block the ministerial declaration.

Argentina, the host for MC11, also expressed concern over the US decision but maintained that it will continue to work for a ministerial declaration at Buenos Aires. Argentina said members must continue work on the ministerial declaration.

Cameroon raised legal issues on the usefulness of a chair's concluding statement.

A large majority of countries, particularly from Latin America, joined Argentina in emphasizing the importance of a ministerial declaration. Chile, Uruguay, Guatemala, Brazil, Mexico, Colombia and Ecuador among others reiterated their demand for a ministerial declaration as proposed by Argentina. Several other countries – Egypt, Moldova, Uganda and Bangladesh – also called for continuing work on the declaration.

In his concluding statement, the General Council chair said members should concentrate on other ministerial decisions.

In crux, the Buenos Aires meeting seems now to be poised for an ugly battle between one member, the United States, on one side, and the rest of the members on the other for preserving the DDA project and the development dimension

of their demands. If the rest of the WTO membership, in particular the developing nations, blink in the high-voltage

negotiations in Buenos Aires, then they will never be able to have any meaningful say in global trade. (SUNS8582) □

## South nations throw down gauntlet on e-commerce at MC11

The WTO membership remained divided over how to approach the contentious issue of e-commerce at MC11, split between those which wanted to continue with the existing WTO work programme of discussions and others which called for upgraded negotiations.

by D. Ravi Kanth

GENEVA (22 NOV): A large majority of developing and poorest countries, including India and South Africa, on 21 November threw down the gauntlet on electronic commerce at the WTO, challenging the European Union, Japan and other countries that want to change the existing mandate on e-commerce at MC11, trade envoys told the *South-North Development Monitor (SUNS)*.

At a meeting on e-commerce convened by the WTO General Council chair Ambassador Xavier Carim of South Africa on 21 November, the large majority of developing and many least-developed countries made clear they will only adhere to the existing, non-binding 1998 work programme that requires WTO members to explore e-commerce from all areas, and would not engage in, but oppose, any programme for negotiating rules and disciplines on e-commerce.

### E-commerce proposals

The proponents, led by the EU, Japan and other developed countries, delivered long statements as to why there has to be a change in the e-commerce mandate and why members must agree to establishing a working party that "shall conduct preparations for and carry [out] negotiations on trade-related aspects of electronic commerce on the basis of proposals by members."

In a restricted document issued on 21 November, Japan along with Costa Rica, Hong Kong (China) and Chinese Taipei called for "establishing a Working Group on Electronic Commerce" that "shall assess whether the clarification or strengthening of the existing WTO rules is necessary."

The joint proposal said the Working Group shall "assess the priority needs of developing country Members, particu-

larly those of LDCs, with respect to, inter alia, issues relating to the development of infrastructure for electronic commerce, enabling services and technical assistance and capacity building."

The proposal also suggested that the Working Group shall "examine opportunities, challenges, and barriers for access to electronic commerce by micro, small and medium sized enterprises, including small producers and suppliers."

Effectively, therefore, micro, small and medium-sized enterprises (MSMEs) were also included in the proposal.

In another proposal, some of the same proponents along with Australia, Brunei Darussalam, Canada, Colombia, Korea, Laos, Malaysia, Moldova, Myanmar, New Zealand, Nigeria, Panama, Qatar, Singapore, Chinese Taipei and Thailand proposed horizontal processes to carry out "focused work and holistic discussions on e-commerce."

The proponents said "members should reflect and build on the discussions since MC10, and identify possible (i) improvements to processes, and (ii) issues of interest, if any, that they would like to take forward."

"The outcome of these discussions should be captured in the MC11 Ministerial Decision on E-commerce. Ministers at MC11 should give clear direction for future work in e-commerce, with development at the core, and set out a clear, updated framework/process through which future work could be undertaken," the proponents argued.

In short, the proponents have tabled different proposals with differing language and goals but all leading towards their stated objective of changing the 1998 work programme, said a trade envoy who asked not to be quoted.

"But the large majority of developing and least-developed countries saw



the writing on the wall, particularly attempts to mislead them through different proposals,” said a trade envoy who asked not to be identified.

India and the African Group countered the proponents with their own draft ministerial decisions on e-commerce.

India, for example, issued a restricted proposal on 20 November in which it called for continuing the work under the e-commerce work programme adopted on 25 September 1998.

India proposed that ministers “instruct the General Council to hold periodic reviews in its sessions of July and December 2018 and July 2019 based on the reports that may be submitted by the WTO bodies entrusted with the implementation of the Work Programme and report to the next session of the Ministerial Conference.”

India also drew a linkage between the “moratorium on electronic transmissions” and the “decision on moratorium on TRIPS Non-Violation and Situation Complaints”, suggesting that the two moratoriums be simultaneously adopted without any change for another two years.

Intervening several times during the 21 November meeting, India made clear that it will not accept any change from the existing process until members explore all the issues on a non-binding basis, said a participant who asked not to be quoted.

At the meeting, the African Group led by Rwanda and other countries from the region such as South Africa, and Uganda delivered equally strong messages.

In its proposal, the African Group explained why it wants to adhere to the 1998 work programme. It set out its case by acknowledging and recognizing the rapid growth in e-commerce. It said it remains “committed to addressing the uneven spread of global electronic commerce and risk of disruptive impacts.”

More importantly, countries in Africa want to overcome “the digital and technological divide underlying digital trade and electronic commerce,” the African Group said.

The Group underscored the need for “diverse national measures” to build “national capabilities, with a view to promote inclusive, equitable and sustainable growth.”

It pointed out that there is a funda-

mental “need to clarify the treatment of electronic commerce in relevant WTO Agreements, and the broad interest of Members to continue examining all trade-related issues relating to global electronic commerce.”

The African Group reminded the EU and other proponents that “half of the world’s population” remain offline.

Therefore, “taking particular account of the economic, financial, and development needs of developing countries”, the exploratory work on e-commerce under the 1998 work programme must continue without any change, the African Group insisted.

The African Group set out the following markers:

A. To continue the work under the work programme on e-commerce since the last Ministerial Conference, based on the existing mandate and guidelines, in the relevant WTO bodies as set out in paragraphs 2 to 5 of the work programme.

B. To address all open issues in the relevant bodies, as provided for in paragraphs 2 to 5 of the work programme, including but not limited to definition, classification and technological neutrality.

C. To discuss, in the relevant bodies, the manner in which members can preserve their right to regulate e-commerce and consideration of all measures to promote national digital industrial development with a view to promoting inclusive, equitable and sustainable growth.

D. To undertake, in the relevant bodies, a thorough examination of the opportunities and risks associated with digital transformation and e-commerce.

E. To discuss, in the relevant bodies, measures members have taken and may take to develop their national institutional regulatory capacity that ensure: the protection of information of all members and their citizens, including but not limited to mandatory disclosure of data; the disclosure of source codes; access to and transfer of technology.

F. To continue, in the relevant bodies, the practice of national experience sharing of, inter alia: the historical development of the digital industry; the challenges and measures adopted to promote digital economy and e-commerce.

G. To instruct the General Council to hold periodic reviews in its sessions of July and December 2018 and July 2019

based on the reports that may be submitted by the WTO bodies entrusted with the implementation of the work programme and report to the next session of the Ministerial Conference.

On extending the moratorium on tariffs on e-commerce imports, the African Group said it “is still discussing it in view of the revenue implications of the current moratorium on customs duties, particularly in the context of increasing digitization of goods and services.”

Therefore, the “renewal of the moratorium should not be seen as automatic”, the African Group made clear.

### “Dialogue of the deaf”

The 21 November meeting, however, turned out to be an instance of “dialogue of the deaf”: the proponents of e-commerce negotiations were not prepared to even listen to the points raised by the African Group and India among others, said a trade envoy who asked not to be quoted.

Significantly, the United States, which had put forward the most ambitious proposals on e-commerce two years ago, remained silent at the meeting. “The US is not going to fight for anything and probably they want to continue with things as they are and watch the situation,” said a trade envoy from South America who asked not to be quoted.

But the meeting revealed that the “divergences between the two sides are so wide that the notion that they can be bridged in the next two weeks is irrational and misplaced,” said a trade envoy who asked not to be quoted.

The EU however appears determined to take the issue to Buenos Aires regardless of the fallout, the envoy suggested.

In his concluding remarks, the General Council chair said there are eight proposals on the table with differing options, and that ministers will not have time to go through eight proposals at Buenos Aires as they will be preoccupied with various other issues. He urged the two sides to hold consultations to see if they can bridge their positions.

It is clear that the developing countries must remain ready to fight it out on e-commerce at Buenos Aires as the EU and other developed and some developing countries are going to press for an outcome based on their proposals, several trade envoys said. (SUNS8581) □

## MC11 e-commerce battle lines drawn across three camps

Stepping up negotiations on e-commerce at the WTO would only jeopardize whatever progress developing countries have made in digital industrialization, cautions *Parminder Jeet Singh*.

NEW DELHI: The battle lines on e-commerce at the WTO's eleventh Ministerial Conference (MC11) at Buenos Aires are now drawn across three camps.

The first camp comprises those who want to advance the global digital business and economy model with unhindered data flows and little or no technology and data regulation. This model was shaped in and by the US, and its key tenets are represented in the Digital Dozen document of the US and in the Trans-Pacific Partnership (TPP) accord's e-commerce chapter. At the WTO, however, it is currently entities like the EU and Japan that are its leading proponents.

(The US position under the Trump administration appears rather ambiguous, and it is not clear whether it is in favour, promoting it, opposing it, or keeping quiet and allowing others to push and then reap the benefits. – *SUNS*)

The second camp is made up of most African countries (as the Africa Group in the WTO) and India. This group want a standstill on e-commerce at MC11. They seek to continue e-commerce discussions as per the existing 1998 mandate within relevant WTO bodies with a view to examining its nexus with existing WTO agreements in areas of trade in goods, trade in services and intellectual property, and its relationship with development.

The third camp is a group of some developing countries like Malaysia, Thailand, Nigeria and Bangladesh which are keen to explore how the WTO can help them with the "global digital trade opportunity". Although perhaps without being quite clear what the opportunity is or what the WTO can do to help them with it, these countries want faster movement on e-commerce, but without yet opting directly for a working party in the WTO that can begin laying the ground for negotiations on trade rules as demanded by the EU and others.

This "middle camp" seeks elevation of the e-commerce discussions in the WTO from the relevant subsidiary bodies to a horizontal level, in the WTO General Council, and also a likely special mandate for the WTO Director-General to facilitate proactive movements in this

area.

Implicit in these positions is recognition of e-commerce as a special new area, or a "new issue" in WTO parlance, beyond its location vis-a-vis existing agreements. Such a speeding up of e-commerce-related processes in the WTO will then set up the conditions for commencing trade negotiations in this area. (China is supporting this "middle position" but its context and reasons are unique and not discussed in this article.)

### Dangerous position

It is in this "middle position" that the danger lies.

Every WTO Ministerial Conference tries to achieve some substantial outcomes, with the WTO Director-General and the host country having a special interest in this, along with those with actual stakes in particular outcomes. As such, there is a fear that, in these closing days of efforts towards concrete outcomes at MC11, acceptance of the above "middle position" will be sought as a compromise from those currently resisting it.

There is some danger that those now resisting may give in because: (1) developing countries already have internal divisions on this issue; and (2) unlike issues like agriculture and fisheries subsidies, there is no immediate concrete problem that will be faced by anyone in agreeing to the "middle position."

It is therefore important to understand fully the immense problems that are contained in this "middle position" and that will face developing countries and hobble them and their future.

Countries promoting this position are those that have some existing foothold in the IT/software space. Most of them also have emerging digital startups that promise openings towards a strong digital economy. (India is similarly placed but has been wise to see through the trap towards which such self-image may lead. However, this also makes India relatively more susceptible to making a last-minute compromise on the "middle position", which needs to be guarded against.)

Two things are important to understand for those developing countries that are championing e-commerce at the WTO.

The first is that the digital industry is fundamentally different from the IT and software industry. These countries have been participating in global value chains of the IT/software industry or aspire to do so. IT and software are core technical services that follow global templates. Digital services, on the other hand, are data-based services of a non-technical kind, though they employ software as their infrastructure. And data, unlike software templates, is essentially local, as arising from real people, social interactions, machines and other artefacts and the natural environment. These data-based digital services cater to "physical" traditional sectors, from shopping and transportation to education, health and agriculture.

Comparative advantages and business models in IT and digital areas are very different from one another. WTO e-commerce discussions have very little to do with the IT/software industry and global technology flows. They have everything to do with the digital industry and data flows – data being the central resource of the digital industry.

Some limited data flows that may be involved in traditional IT/software services (or traditional business process outsourcing) are such data whose ownership is never in question. But new-age digital companies collect data from "outside" sources, which they do not own, and often transport them beyond national borders. This renders the ownership of such data, and the economic value arising from it, very unclear.

This data and value outflow is happening as much from the "middle position" countries as from other developing countries. In fact, due to the relatively greater digital maturity of some of them, the outflow of data and digital value is much more in their case than for less digitally mature countries.

What triggers the interest of the "middle position" countries in getting on with e-commerce discussions at the WTO is the fact that they have a budding digital start-up industry that they set great store by. However, the second important point that these countries need to note is that precisely because they already have a budding digital industry with a potentially bright future, they have most to lose from WTO-based digital trade liberalization.

Any movement to ease the entry

into, and domination of, their markets by global digital business will simply destroy their nascent digital industry. Those countries which do not yet have such a domestic industry are actually correspondingly less endangered at the current juncture.

There is nothing that global discussions, negotiations or agreements can do to strengthen the budding digital industry of this “middle group” of countries. On the contrary, the fear of considerable harm is much more real. What these countries need instead are sound digital industrial policies that can lead to the building of a strong domestic digital industry, employing their native strengths (strengths which are now wrongly pulling them towards WTO-based e-commerce discussions).

These countries can also explore regional markets based on such strengths. But if indeed a Thailand or Nigeria is thinking that its companies will outdo an Uber or Alibaba globally, on third-country turf, it really needs to do a detailed examination of the global digital industry and its business models. It will be good enough for now if their digital start-ups can compete with US and Chinese digital corporations even within their own borders. They should really be focussing on this more immediate problem, paying heed to the ominous writing on the wall that is emerging in this respect.

### The writing on the wall

We are in the early days of a digital start-up chimera. But it won't take long to realize that domestic digital start-ups in all these countries are going to require some level of protection and support locally, rather than trade agreements that would enable US and Chinese digital corporations to come marching in and take over all the digital space.

India has as good a position in terms of a digital industry as any of these countries, if not better. Indian digital companies, many of them with over \$1 billion valuation, recently got together to form a lobbying group to advocate for policy support to ensure that homegrown digital companies dominate the local Internet market. This is a sector that till very recently had been a big proponent of liberalization and globalization. Such a drastic shift on their part is extremely instructive. These very new developments in India are a screaming warning to other developing countries that have built some mass of a domestic digital indus-

try or aspire to do so.

The CEO of an Indian e-commerce company in competition with Amazon observed: “A significant amount of capital is being dumped in India to win market share. We should create a digital economy. But not by creating an unfair playing field for local companies against those companies coming from other countries.” (See <http://www.moneycontrol.com/news/business/startup/founders-of-flipkart-ola-makemytrip-to-launch-a-nationalist-lobby-group-2400289.html>)

And the CEO of the Indian competitor to Uber has this to add: “What's happening in ... our industries [is that] there is narrative of innovation that non-Indian companies espouse but the real fight is on capital, not innovation. The markets are being distorted by capital.” (See [http://economictimes.indiatimes.com/articleshow/55862027.cms?utm\\_source=contentofinterest&utm\\_medium=text&utm\\_campaign=cppst](http://economictimes.indiatimes.com/articleshow/55862027.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst)).

This may be taken as an advance notice for other developing countries trying to further digital industrialization and support their digital start-ups. If this is happening in India, which has one of the most advanced domestic digital industries in the developing world outside China, it is easy to see it coming for others as well. Promoting e-commerce at the WTO would simply bring that apocalypse closer and render the damage irreversible.

Delegates often mention the homily that there can be no harm in talking things over, and that this applies to e-commerce at the WTO as well. However, initiating discussion on e-commerce as a new issue in the WTO under horizontal arrangements, and with possible new mandates for the WTO staff, would simply take developing countries towards traps that they should be very familiar with.

Whether it is trade in agricultural goods, trade-related intellectual property or almost any other area, the North was allowed to develop the initial frameworks and concepts when Southern countries could not yet properly articulate their interests. Once the initial vocabulary and ground rules are set, they are difficult to change in any fundamental way. Post facto “development agendas” have not helped much, because they have to manoeuvre in the limited space that is available within entrenched dominant frameworks.

We are now in the same situation with e-commerce, and in great danger of

repeating the problematic history of ceding the initial framework-making to the North. The digital leaders know their digital business game well. They have mapped out the digital geo-economic future and have assiduously been working on global concepts and frameworks that anchor these. In this regard, developing countries are still groping in the dark.

Hoping that it is WTO discussions that will provide developing countries further clarity in this area will be in vain. Trade governance venues like the WTO are for hard-nosed bargains. Developing countries will need to develop their understanding of digital business, its geoeconomics and different possible governance frameworks at other fora. And then come well-prepared to the WTO.

The United Nations Conference on Trade and Development (UNCTAD) has recently become active in the area of e-commerce and development, though it needs to nuance its understanding and frameworks in this regard. But that is the right kind of space in which to do such initial work.

Meanwhile, a standstill must be ensured at the WTO. The existing mandate gives enough space for all the initial discussion that may be necessary in this area. We need not get into new processes and new definitions at the WTO. To repeat, they are even more dangerous to those countries that have already commenced digital industrialization, some of which ironically are the ones that are promoting the elevation of the e-commerce agenda at the WTO.

### E-transactions

E-transaction infrastructure is a different matter. The “middle position” countries apparently look to possible gains like improved and easier cross-border e-transactions that could help their digital industry. First of all, however, as argued, they really need to assess the competitiveness of their digital companies outside their borders vis-a-vis US and Chinese global corporations. We have seen little positive evidence from India, for instance, in this regard. Domestic digital companies are increasingly being nudged out even within India's borders. The same is the case in the countries pushing the “middle position”, which they should take note of. Their global competitiveness will not improve with improved global e-transactions and reduced digital regulatory space for nations. It will improve if their domestic



industry can first develop sufficient strength within their borders.

This is the model that China followed, as the only challenger to the US' global digital hegemony. Northern countries like to speak of "evidence" – this is the only evidence we have of a successful digital industrialization other than in the first mover, the US. Developing countries (other than China) should therefore not be trying to help global digital corporations further decimate their incipient digital industry by promoting e-commerce at the WTO.

They should first develop infrastructure for e-transactions, and other digital infrastructure, within their borders. This has to be done as private as well as public infrastructure, as India has been doing. Such infrastructure in developed countries is in any case very good, if the plan is to improve e-trade with them (for which, as discussed, favourable conditions do not exist for developing-country businesses).

And for promoting such trade with peer developing countries, this has to be done by building a strong domestic industry and then promoting regional markets that can provide some space and good prospects for developing-country digital businesses. The EU is promoting its regional Digital Single Market. Exchanging best practices on e-transaction infrastructure, including the role of the public sector in its development, among developing countries and with Northern countries, is the way to go.

These arguments have been made in light of the currently limited global prospects of developing countries' digital industry – one which centres on data to provide new digital services. And if some countries promoting e-commerce at the WTO think that it will transform their manufacturing, trading or other services sectors, the outlook is as doubtful. These countries need first to have digital industrial policies to develop a robust domestic digital sector serving their manufacturing, services, trade and other sectors.

Promoting e-commerce at the WTO is a disastrous recipe that will decimate the digital gains that these countries have been making, and enable global corporations from the two global digital leaders to take control of all aspects of their economy.

It is strange that e-commerce is sold in the name of micro, small and medium-sized enterprises (MSMEs) and small traders, mostly even without asking them. Major associations of small businesses in India like the Bhartiya Udyog

Vyapar Mandal, which is an apex body of around 1,700 associations, have opposed global liberalization of e-commerce through the WTO.

Let us not repeat history, and in a few decades be ruing that around 2017-18 a few digital leaders in the North plus China shaped the e-commerce agenda and frameworks at the WTO and developing countries were too uninformed at the time to protect their interests.

As is advised in the game of cricket,

if you do not know the pitch conditions, play defence. It would not help to analyze the game and the conditions after you get out. Developing countries have often found themselves in such a position. With regard to e-commerce, they can still avoid this fate. (SUNS8586) □

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## E-commerce and the WTO

The corporate technology giants are seeking to rewrite the rules of the digital economy through WTO disciplines on e-commerce. *Deborah James* explains why the Big Tech agenda must be resisted.

WASHINGTON DC: In the early 1990s, transnational corporations (TNCs) in the agriculture, services, pharmaceuticals and manufacturing sectors each got agreements as part of the World Trade Organization (WTO) to lock in rights for those companies to participate in markets under favourable conditions, while limiting the ability of governments to regulate and shape their economies. The topics corresponded to the corporate agenda at the time.

Today, the biggest corporations are also seeking to lock in rights and handcuff public interest regulation through trade agreements, including the WTO. But today, the five biggest corporations are all from one sector – technology – and are all from one country – the United States. Google, Apple, Facebook, Amazon and Microsoft, with support from other companies and the governments of Japan, Canada and the European Union (along with some developing countries aligned with them), are seeking to rewrite the rules of the digital economy of the future by obtaining within the WTO a mandate to negotiate binding rules under the guise of "e-commerce."

### Corporate wishlist

However, the rules they are seeking go far beyond what most of us think of as "e-commerce." Their top agenda is to ensure free – for them – access to the world's most valuable resource – the new oil, which is data. They want to be able to capture the billions of data points that we as digitally connected humans produce on a daily basis, transfer the data wherever they want, and store them on servers wherever they want, most of

which are in the United States. This would endanger privacy and data protections around the world, given the lack of legal protections on data in the US.

Then they can process the data into intelligence, which can be packaged and sold to third parties for large profits, akin to monopoly rents. The data is also the raw material for artificial intelligence, which is based on the massive accumulation of data in order to "train" algorithms to make decisions. In the economy of the future, whoever owns the data will dominate the market. These companies are already being widely criticized for their monopolistic and oligopolistic behaviours, which would be consolidated under these proposals.

Consider Google, which has become the largest collector of advertising revenue thanks to its ability to analyze and repackage our data. And think about Uber: it is the biggest transportation company in the world, yet it does not own cars and it does not employ drivers. Its main asset is the massive amount of data it has on how people move around cities. And with that "first mover" advantage, and with its army of lawyers and its massive scale, it can outcompete or simply buy up competitors around the world. The disruption Uber has caused in the transportation sector will shortly be seen in just about every sector you can imagine. The implications for jobs and workers are difficult to overestimate.

Another key rule these corporations are seeking would allow digital services corporations to operate and profit within a country without having to maintain any type of physical or legal presence. But if an online financial services firm

goes bankrupt, how can depositors seek redress? If the rights of a worker (or contractor) for the company are violated, or a consumer is defrauded, how can they get justice? And if the company does not have a domestic presence, how can it be properly taxed so that it is on a level playing field with domestic businesses? Most countries require foreign services suppliers to maintain a commercial, physical presence in the country for these very reasons, but Big Tech just sees it as a barrier to trade (and unaccountable profit). Public interest regulations would be seriously undermined.

But that's not all. Big Tech also does not want to be required to benefit the local economies in which they profit. There are a series of policies that most countries employ to ensure that the local economy benefits from the presence of TNCs: requiring technology transfer, so they can grow their own startups; requiring local inputs, to help boost local businesses; and requiring the hiring of local people, to promote employment. But although every developed country used these strategies in order to develop, they now seek to "kick the ladder away" so that developing countries cannot do the same, exacerbating inequality between countries.

The business model of many of these companies is predicated on three strategies with serious negative social impacts: deregulation; increasing precarification of work; and tax optimization, which most would consider akin to evasion of taxes. All of these downward trends would be accelerated and locked in were the proposed rules on "e-commerce" to be agreed in the WTO.

### "Digital colonialism"

Since proponents of "e-commerce" rules in the WTO first tabled proposals last year, they have sought to convert an existing mandate to "discuss" e-commerce into a mandate to "negotiate binding rules" on e-commerce in the WTO. They have justified their proposals on the basis that e-commerce will promote development and benefit micro, small and medium-sized enterprises (MSMEs) – as if promoting e-commerce and having binding rules written by TNCs are the same thing.

But developing countries have focused their demands on increasing infrastructure, access to finance, closing the digital divide (obtaining affordable access), increasing regulatory capacity, and other concerns that will not be addressed by new rules on e-commerce in the WTO. A group of 90 countries have long put

forward proposals in the WTO that would give them more flexibility to implement national policies to promote development, but their proposals are regularly ignored in the negotiations.

Meanwhile, MSMEs are able to participate in e-commerce now, but they are less likely to reap the benefits of scale, historic subsidies, strong state-sponsored infrastructure, tax avoidance strategies, and a system of trade rules written for them and by their lawyers if e-commerce rules in the WTO were to be adopted. What MSMEs need are policies along the lines of a digital industrialization strategy, but the policies envisioned by proponents are more likely to result in what is being termed the new "digital colonialism."

### New negotiation strategies

At this point, proponents have scaled back their ambitions due to massive resistance from the African bloc and some Asian and Latin American members. Now they are proposing more seemingly technical issues, such as e-payments, e-signatures and spam. But these issues actually belong in other fora than the WTO, such as the UN Conference on International Trade Law (UNCITRAL) or the International Telecommunication Union (ITU) where legal and technical experts rather than only commercial interests were long ago able to help governments establish better rules.

Perhaps as a Plan B, proponents are claiming that "technological neutrality" already exists in the WTO. This would mean that if a country "committed" financial services in the WTO – meaning that it agreed to have financial services

subject to rules limiting regulation in that sector – then cross-border online banking – with all of the potential cybersecurity threats of hacking, or unstable financial flows wreaking havoc on local banking systems – would already be committed. But this is a preposterous idea, and WTO member states have not agreed to it, despite the intent of some countries to establish it as an accepted principle.

Proponents are also pushing to renew a waiver on tariffs on electronically delivered products. But there is no economic rationale as to why digitally traded products should not have to contribute to the national tax base while those that are traditionally traded usually do. Big Tech may actually obtain this waiver, however, since it is often "traded" for a waiver that helps stabilize the generic pharmaceuticals market in developing countries, which helps guarantee access to life-saving medicines for millions of people.

The outcome of the WTO Ministerial Conference taking place in Buenos Aires in December will depend on strong resistance by developing-country members to this new corporate Big Tech agenda. They should be aided by a strong resistance from civil society to further imposition of pro-corporate rules that encroach on our daily lives. □

*Deborah James is the Director of International Programs at the Center for Economic and Policy Research (www.cepr.net) and coordinates the global Our World Is Not for Sale (OWINFS) network. This article first appeared in Spanish in América Latina en Movimiento [No. 528-529, October-November 2017, issue titled "Internet ciudadana o monopolies"] (The people's Internet or monopolies), which is published by Agencia Latinoamericana de Información (ALAI, www.alainet.org/en).*

## E-commerce at MC11 is effort to hijack basic Internet governance issues

The push for e-commerce negotiations in the WTO should be viewed in the light of a global digital order which has enabled growing corporate concentration and eroded democracy.

by Chakravarthi Raghavan

GENEVA: As issues relating to the monopolistic/oligopolistic control over information and data by the Silicon Valley technology giants and their platforms are beginning to attract adverse public and political attention around the world, these technology platforms are attempting to hijack the issue of Internet governance and democracy by writing trade

rules at the WTO under the rubric of "e-commerce".

Communication scholars and specialists have been studying and focussing on this issue for a while, but some recent incidents and actions by these platforms have now brought the issue to the centre of political debate in various countries in relation to its implications for democ-

racy, pluralism and democratic governance.

The latest example is a case where tweets from *The Hindu* were not appearing in Twitter's search results. *The Hindu* is a leading English language daily newspaper in India and its Twitter account has over 4.5 million verified followers. When *The Hindu's* Internet desk took up the matter with Twitter, its tweets began appearing again in the search results. (See the following article by *The Hindu's* Readers' Editor A.S. Panneerselvan: "Journalism and algorithmic accountability", <http://www.thehindu.com/opinion/Readers-Editor/journalism-and-algorithmic-accountability/article20556111.ece?homepage=true>)

Twitter admitted to *The Hindu* digital team that the @the\_hindu handle got "inadvertently" caught in its spam filter. Funnily though, real spam seems to escape the spam filters of most email service providers/platforms and floods the inboxes of email users, often resulting in recipients' mailboxes becoming full and unable to accept new genuine messages. So much for the ability of these tech giants and platforms (Google, Facebook, Twitter, Microsoft) to filter out spam!

In an email communication to this writer, Prof. Dean Baker, Co-Director of the Washington DC-based Center for Economic and Policy Research (CEPR), comments that *The Hindu* case is an "amazing story".

"There are a variety of different issues here," Baker says. "But most immediately, these huge platforms (Google, Facebook, Twitter) need to be regulated in the same way the phone company was regulated when it had a monopoly."

"The phone company could not 'accidentally' deny service to a political party or organization it didn't like. We need similar rules for these platforms. They also should not be allowed to use their platforms as springboards to other lines of business. That isn't the whole story of a democratic media, but it seems a simple first step."

On *The Hindu* Twitter issue, Richard Hill, a civil society activist and independent consultant based in Geneva, Switzerland, and formerly a senior official at the International Telecommunication Union (ITU), notes that "many of us have noticed that much of the news we read is the same, no matter which newspaper or web site we consult: they all seem to be recycling the same agency feeds. To

understand why this is happening, there are few better analyses than the one developed by media scholar Robert McChesney in his most recent book, *Digital Disconnect*."

McChesney is a Professor in the Department of Communication at the University of Illinois at Urbana-Champaign specializing in the history and political economy of communications. He is the author or co-author of more than 20 books.

#### Review of *Digital Disconnect*

In reviewing McChesney's book, Hill says (the review cited below was originally published online at [boundary2.org](http://boundary2.org) with the title "The Internet vs. Democracy", and is reproduced here in full with permission):

"Many see the internet as a powerful force for improvement of human rights, living conditions, the economy, rights of minorities, etc. And indeed, like many communications technologies, the internet has the potential to facilitate social improvements. But in reality the internet has recently been used to erode privacy and to increase the concentration of economic power, leading to increasing income inequalities.

One might have expected that democracies would have harnessed the internet to serve the interests of their citizens, as they largely did with other technologies such as roads, telegraphy, telephony, air transport, pharmaceuticals (even if they used these to serve only the interests of their own citizens and not the general interests of mankind).

But this does not appear to be the case with respect to the internet: it is used largely to serve the interests of a few very wealthy individuals, or certain geo-economic and geo-political interests.

As McChesney puts the matter: 'It is supremely ironic that the internet, the much-ballyhooed champion of increased consumer power and cutthroat competition, has become one of the greatest generators of monopoly in economic history' (p. 131 in the print edition).

This trend to use technology to favour special interests, not the general interest, is not unique to the internet. As Josep Ramoneda puts the matter: 'We expected that governments would submit markets to democracy and it turns out that what they do is adapt democracy to markets, that is, empty it little by

little.'

McChesney's book explains why this is the case: despite its great promise and potential to increase democracy, various factors have turned the internet into a force that is actually destructive to democracy, and that favours special interests.

McChesney reminds us what democracy is, citing Aristotle (p. 53): 'Democracy [is] when the indigent, and not the men of property are the rulers. If liberty and equality ... are chiefly to be found in democracy, they will be best attained when all persons alike share in the government to the utmost.'

He also cites US President Lincoln's 1861 warning against despotism (p. 55): 'the effort to place capital on an equal footing with, if not above, labor in the structure of government.' According to McChesney, it was imperative for Lincoln that the wealthy not be permitted to have undue influence over the government.

Yet what we see today in the internet is concentrated wealth in the form of large private companies that exert increasing influence over public policy matters, going so far as to call openly for governance systems in which they have equal decision-making rights with the elected representatives of the people. Current internet governance mechanisms are celebrated as paragons of success, whereas in fact they have not been successful in achieving the social promise of the internet. And it has even been said that such systems need not be democratic.

What sense does it make for the technology that was supposed to facilitate democracy to be governed in ways that are not democratic? It makes business sense, of course, in the sense of maximizing profits for shareholders.

McChesney explains how profit maximization in the excessively laissez-faire regime that is commonly called neoliberalism has resulted in increasing concentration of power and wealth, social inequality and, worse, erosion of the press, leading to erosion of democracy. Nowhere is this more clearly seen than in the US, which is the focus of McChesney's book. Not only has the internet eroded democracy in the US, it is used by the US to further its geo-political goals; and, adding insult to injury, it is promoted as a means of furthering democracy. Of course it could and should



do so, but unfortunately it does not, as McChesney explains.

The book starts by noting the importance of the digital revolution and by summarizing the views of those who see it as an engine of good (the celebrants) versus those who point out its limitations and some of its negative effects (the skeptics). McChesney correctly notes that a proper analysis of the digital revolution must be grounded in political economy. Since the digital revolution is occurring in a capitalist system, it is necessarily conditioned by that system, and it necessarily influences that system.

A chapter is devoted to explaining how and why capitalism does not equal democracy: on the contrary, capitalism can well erode democracy, the contemporary United States being a good example. To dig deeper into the issues, McChesney approaches the internet from the perspective of the political economy of communication.

He shows how the internet has profoundly disrupted traditional media, and how, contrary to the rhetoric, it has reduced competition and choice – because the economies of scale and network effects of the new technologies inevitably favour concentration, to the point of creating natural monopolies (who is number two after Facebook? Or Twitter?).

The book then documents how the initially non-commercial, publicly-subsidized internet was transformed into an eminently commercial, privately-owned capitalist institution, in the worst sense of 'capitalist': domination by large corporations, monopolistic markets, endless advertising, intense lobbying, and cronyism bordering on corruption.

Having explained what happened in general, McChesney focuses on what happened to journalism and the media in particular. As we all know, it has been a disaster: nobody has yet found a viable business model for respectable online journalism.

As McChesney correctly notes, vibrant journalism is a pre-condition for democracy: how can people make informed choices if they do not have access to valid information? The internet was supposed to broaden our sources of information. Sadly, it has not, for the reasons explained in detail in the book. Yet there is hope: McChesney provides concrete suggestions for how to deal with

(continued on page 26)

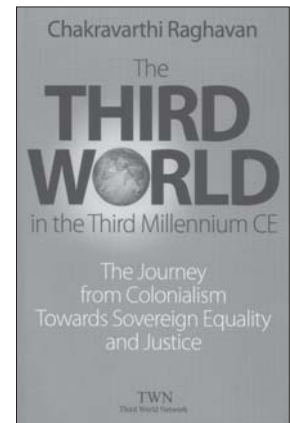
## The Third World in the Third Millennium CE

### The Journey from Colonialism Towards Sovereign Equality and Justice

By *Chakravarthi Raghavan*

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

In this collection of contemporaneous articles written over a span of more than three decades, *Chakravarthi Raghavan* traces the course of dialogue, cooperation and confrontation on the global development front through the years. The respected journalist and longtime observer of international affairs brings his inimitable blend of reportage, critique and analysis to bear on such issues as South-South cooperation, corporate-led globalization, the international financial system, trade and the environment-development nexus. Together, these writings present a vivid picture of the Third World's struggle, in the face of a less-than-conducive external environment, for a development rooted in equity and justice.



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# PR disaster for MC11 as host denies accreditation to many NGOs

The Argentine host government dropped a bombshell in the final stretch of the run-up to MC11 by barring some 60 representatives of local and international non-governmental organizations from participating in the conference. We publish below three contemporaneous reports, run in chronological order, documenting the developments as they unfolded, from the seemingly shifting official narrative surrounding the ban to the reactions to what has been seen as “an outrageous and worrying precedent”.

by Chakravarthi Raghavan

GENEVA (30 NOV): With just 10 days before the WTO Ministerial Conference convenes in Buenos Aires, the Argentine hosts have created a public relations disaster for the WTO by taking the unprecedented step of denying accreditation (and entry into Argentina) for about 63 persons from some 20-30 civil society organizations.

All of them are persons duly accredited by the WTO for the conference. Two of the organizations are business groups (a US corn business group and an Argentine spirits business association).

The groups denied accreditation by the host include some prominent civil society organizations like the Americas regional office of UNI (the global umbrella trade union for private sector services), Friends of the Earth, the Transnational Institute and 11.11.11 (the coalition of development NGOs in Belgium).

Deborah James of Our World Is Not for Sale (OWINFS), an umbrella global network of some 250 civil society groups, noted that based on the experience of its members who have attended international meetings of the WTO, the United Nations and other fora, the hosts have never denied entry except for at most one or two specific persons, with at least some justification provided. Previous WTO Ministerial Conferences in Singapore, the United States, Qatar, Mexico, Hong Kong (China), Switzerland, Indonesia and Kenya, she said, did not see similar such repression.

Nick Dearden of Global Justice Now from the UK, one of the groups denied accreditation, said: “We have participated in many previous Ministerial meetings without any problems, but now our entire four-person delegation has had their accreditation revoked – in spite

of the fact that we have been engaging our government on the WTO for years, and have non-refundable tickets and hotels [for the conference in Buenos Aires].”

## “Unexpected development”

The WTO’s Head of External Relations, Bernard Kuiten, has been contacting the affected groups and representatives about the Argentine government refusal, and advising them not to travel to Argentina as they are likely to be stopped at immigration and sent back.

In identical messages (seen by this writer, courtesy of some affected NGOs) sent out by Kuiten to each affected NGO or individual, he says: “The WTO has duly accredited your NGO as an eligible participant of WTO’s 11th Ministerial Conference in Buenos Aires from 10 to 13 December 2017. However, we are informed by the host government that for unspecified reasons, the Argentine security authorities have decided to deny your accreditation.

“We have made repeated enquiries about this unexpected development, but we have little to no hope that a solution will be found. We therefore discourage you from travelling to Argentina so as to avoid being turned away upon entry into the country.

“We asked the Argentine authorities to contact you directly and inform you of their decision but to avoid that it does reach you at too late a stage, we have decided to contact you now.

“We apologize for the inconvenience that the Argentine decision may cause. We are unfortunately not in a position to provide any explanation or background and suggest you contact the Argentine authorities directly on credita-

cion.es.mc11@mrecic.gov.ar.”

In conversations or exchanges with some of the groups, the WTO officials involved appear very upset and have advised those affected that “it is 100 per cent Argentine government decision.”

The officials said they had been going back and forth with the Argentine government for the last two weeks, and the issue had gone right up to WTO Director-General Roberto Azevedo, who had a meeting with the Argentine minister at the country’s mission to the WTO, but that the Argentine government has refused to budge.

Officials confess they could make no sense of the host’s actions. Some of those being denied accreditation are serious researchers the WTO has been dealing with for years, some from the time of the Marrakesh meeting in 1994 (which adopted the agreement establishing the WTO).

The WTO officials said they have never seen such a development for all their meetings over the last 15 years. The only instance they could recall was at the time of the Hong Kong Ministerial Conference in 2005 when French activist farmer Jose Bove was denied entrance. (At that time, the then WTO Director-General Pascal Lamy intervened and got him in.) The WTO officials were quoted by some NGOs as saying that the Argentine government officials seemed really scared regarding security for MC11.

In this writer’s experience with the UN in New York (1962-71) and with UN organizations and specialized agencies in Geneva (1978 to now), we have seldom come across such a large-scale denial by a host government on “security grounds”.

The standard UN-host country agreement for such conferences has a provision enabling the host, for “national security” reasons, to deny entry to those accredited for the conference – diplomats and delegates from member countries, journalists, representatives of other inter-governmental organizations and observers, NGOs etc. But this provision is invoked only in very, very exceptional instances.

## Personal experience

Going back into the distant past, this writer had a somewhat similar experience in Argentina, way back in 1978 at the time of the UN Conference on Technical Cooperation among Developing Countries held in Buenos Aires.

The UN General Assembly had

called for such a conference, and the UN Development Programme (UNDP) was asked to organize it. The head of UNDP at the time was Bradford Morse. Morse made an effort to generate some “out of the box” ideas, reaching out to sources other than normal UN and UN specialized agency bureaucracy. One of the organizations he contacted was the Swiss-based International Foundation for Development Alternatives (IFDA).

The IFDA President, the late Marc Nerfin, who was also the vice-president of Inter Press Service (IPS), organized a consultation meeting at Nyon, Switzerland, and I was one of the participants. Among the various ideas that came up at that meeting was one I suggested: that UNDP, with the help of other relevant UN agencies, should take steps to promote infrastructure for direct communication and transportation among the developing countries instead of having such channels go through Europe or North America.

Morse was taken up with the idea and, knowing I would be going to Buenos Aires as a journalist, invited me to participate in some parallel expert panel meetings and discussions.

At that time, Argentina was under a military dictatorship, the authoritarian Peron regime having been overthrown in a coup d'état by the military (with the connivance of the US government). The repressive military government headed by General Jorge Rafael Videla had “disappeared” a large number of opposition activists and others.

I went to Buenos Aires accredited as a correspondent for the IPS Third World News Agency. When I presented my credentials at the conference hall, an Argentine army officer sitting behind the registration desk scrutinized my papers and told me, “We don't recognize any Third World here.”

With all my knowledge and experience of UN organizations and their conferences, I was flabbergasted and thinking of what I should do. Just then, Morse was entering the conference building, saw me and waved to me. I quickly waved back and called out to him, asking him to come and sort out my problem.

I explained to him what the army person at the registration desk had told me in refusing accreditation. Some UN officials, seeing Morse, came forward, and Morse instructed them to get my papers processed and badge prepared. He waited with me, and when the badge came, pinned it on my coat and then took

me with him into the conference.

My local Argentine colleagues and friends however got worried and cautioned me to be very careful, lest I be “disappeared”.

The next day, I was chairing a panel of experts (on communications and transportation), and Morse was with me on the rostrum. I made a few opening remarks and threw the floor open to comments by the participants. A few experts from other developing countries briefly spoke or intervened, but the large number of Argentine and other Latin American participants remained silent. A note came to me from the floor pointing to the

presence of Argentine military inside the room and said this inhibited floor interventions. After consulting Morse, I requested the military men to leave the meeting, which they did reluctantly.

But through the remaining 3-4 days of the conference, the military men kept an eye on me and my movements, meetings with delegates etc. Morse, who had also noticed it, detailed one of the UN's own security persons to make sure that I would be safe in Buenos Aires during the conference days, and to see me off to the airport and my emplaning to fly back to Europe. (SUNS8587) □

## Don't hold MC11 in Argentina unless NGO ban is rescinded, WTO urged

by Kanaga Raja

GENEVA (1 DEC): A global network of non-governmental organizations and social movements has called on the Argentine government to rescind its unprecedented decision to deny the accreditation already issued by the WTO to over 60 civil society representatives who were planning to attend the WTO's eleventh Ministerial Conference in Buenos Aires.

In a letter to WTO Director-General Roberto Azevedo and the WTO members on 30 November, the groups also called on Azevedo and the WTO General Council not to hold the Ministerial in Argentina unless the participation of the civil society groups in question is reinstated.

“If any host country starts limiting access and does so arbitrarily and without having to explain any motives, not only is this conference's integrity being attacked, but a key principle of international diplomacy is being violated. The WTO should not accept such a blatant violation of well-established international norms,” the groups charged.

The Argentine government's move, purportedly on “security” grounds and just days ahead of MC11, to revoke the accreditation of the civil society representatives, including trade unionists, development advocates, digital rights activists and environmentalists, has been viewed by trade observers as a major public relations disaster for the government and the WTO.

According to the groups, the Argentine government had refused accreditation to those already accredited by the WTO, and advised the WTO that the experts will not be allowed into the coun-

try to participate in the Ministerial or related events.

The majority of the organizations that were rejected are working together through the Our World Is Not for Sale (OWINFS) network, the groups said. Others banned included some Argentine civil society groups and other independent civil society organizations from member countries.

Asked at a media briefing if any delegation had raised the issue of the NGO ban at the WTO General Council meeting on 30 November, WTO spokesperson Keith Rockwell confirmed that no delegation had taken the floor on this issue.

Rockwell clarified that 64 representatives from 19 NGOs had been denied accreditation by the Argentine authorities.

Asked if there had been any previous instance of such a large-scale denial of accreditation to NGOs attending a WTO Ministerial Conference, Rockwell explained that “Article 5.2 of the Marrakesh treaty [which established the WTO] spells out that the [WTO] Secretariat has responsibility for interacting with non-governmental organizations.”

“There was a General Council decision taken in 1996 that said the Secretariat must apply its criteria in the selection of NGOs that they choose to accredit for the Ministerial Conferences, and the basis for this is that these NGOs in some way have interest in the WTO,” he said.

“I can say, without any equivocation or doubt, that has been the way we have applied this,” he said. “It is not a ques-



tion of whether this is a pro or anti [WTO issue]. As you well know, we have had plenty of people come to our meetings who are not necessarily fans of what we do and we accredit them.”

According to Rockwell, “the Argentines have had an issue with this. They raised it with us. We have been discussing it with them. For reasons that are theirs, they made this decision and that’s where we are.”

Asked again if there had been any previous instances in Ministerial Conferences of such large-scale denials of visas for NGO representatives by the hosts, Rockwell replied, “No.”

Rockwell also said three journalists from sub-Saharan Africa had their visa applications denied by the Argentine authorities. According to him, no reasons were given by the authorities. He could not immediately identify the journalists or their affiliations.

Rockwell explained that the accreditation process is very different for journalists and for NGOs; the NGO process is much more structured and deadlines are much tighter. Journalists have a very hard time making accreditation deadlines and very often require technical assistance to get it done, he added.

“I can’t tell you on that front whether in the past governments have denied access to a visa for an individual journalist. I can’t tell you that because I don’t know. We can’t really follow everyone’s visa situation,” Rockwell said.

#### NGO letter

In their letter to the Director-General and WTO members, the NGOs under the OWINFS network said the affected civil society delegates, many of whom have attended multiple WTO Ministerial meetings in the past, were sent a note from the WTO Secretariat on 29 November notifying them that the Argentine government had denied the accreditation already issued by the WTO.

These included NGOs from Argentina (Instituto del Mundo del Trabajo, Fundacion Grupo Efecto Positivo and Sociedad de Economia Critica), Belgium (11.11.11), Brazil (Brazilian Network for People’s Integration, REBRIP), Chile (Derechos Digitales), Finland (Siemenpuu), Indonesia (Institute for National and Democracy Studies), the Netherlands (Transnational Institute), the Philippines (People Over Profit) and the UK (Global Justice Now), as well as delegates registered with international organizations including UNI global

union, UNI Americas and Friends of the Earth International.

The majority of the rejected organizations work together through the global OWINFS network, which works for a sustainable, socially just and democratic multilateral trading system, they said.

“It has also not gone unnoticed that of the 20 organizations we understand have been banned, only two are from corporations, while the overwhelming number of corporate representatives will be allowed,” the groups noted.

They pointed out that the standard agreement between international organizations and the host country of an international conference provides for accreditation, visas and entry to all those the international organization accredits – diplomats, media, observers from intergovernmental and non-governmental organizations, etc.

The groups said while the agreement has a provision for the host, only on exceptional security considerations, to refuse entry, based on the experience of the more than 250 members of the OWINFS network who have attended international meetings of the WTO, the UN and other fora, hosts have never denied entry, except for at most one or two specific persons, with at least some justification provided.

“Previous WTO Ministerial meetings in Singapore, the United States, Qatar, Mexico, Hong Kong, Switzerland, Indonesia and Kenya did not see similar such repression,” the groups underlined.

“Thus, we call on the Argentine government to reverse the bans, and on the Director-General and the WTO membership not to hold the Ministerial in Argentina unless the participation of the civil society groups is reinstated.”

The groups said it is ironic that this occurred on the same day that Argentina was celebrating the transfer of the presidency of the G20 grouping of major world economies from Germany to Argentina.

“The banning of registered WTO delegates is an outrageous and worrying precedent, not just for the WTO meeting itself, and also for the G20 presidency of Argentina, but also for all future international meetings,” they warned.

#### “Extreme concern”

Meanwhile, some Argentine NGOs also sent a letter on 30 November to Argentine President Mauricio Macri in which they registered their “extreme con-

cern” over the NGO ban.

The letter was signed by Nobel Peace laureate Adolfo Perez Esquivel; Nora Cortinas and Mirta Baravalle of The Mothers of the Plaza de Mayo; and Beverly Keene, Coordinator of SERPAJ, a Latin American human rights organization.

The Mothers of the Plaza de Mayo is an association of mothers whose children were “disappeared” during the military dictatorship in Argentina from 1976 to 1983. They started marching in protest in 1977 at the Plaza de Mayo in Buenos Aires, which is in front of the presidential palace.

In their letter to Macri, the Argentine NGOs rejected these “unilateral and authoritarian measures that violate fundamental rights of the individuals and organizations involved, curtailing democratic participation in an arena in which matters of global concern that affect all of society are discussed.”

“They only serve to show the world that your government has nothing but contempt for the rule of law, human rights and democratic co-existence.”

“According to the information received, your government has alleged motives of ‘security’, without further explanation, in what can clearly be interpreted as an attempt to prevent the participation of voices that are critical of the policies that your government and others seek to advance in the context of this Ministerial,” they charged.

In more than 20 years of WTO existence, no host government has ever taken decisions of this nature and breadth. Many of the organizations and delegates whose accreditation is now being denied have participated actively in Ministerial Conferences and other institutional arenas of the WTO since its very creation. They have also participated in parallel spaces of discussion and mobilization in different countries the world over, the letter pointed out.

The Argentine NGOs told the president that the “attitude of your government contravenes regular diplomatic practice for the international conferences of multilateral organizations. In offering to host the MC11, the government of Argentina has agreed to allow the full complement of participants registered by the international organization in the meeting – including country delegates, media, non-governmental organizations, and others.”

“It is inadmissible that the Argentine Government now arrogates the power to decide who can or cannot participate in

the WTO meeting, ignoring the decades of precedents and the official mechanism established by the WTO and agreed by Argentina as the host country for this purpose.”

They also pointed out that “this curtailing of the presence and participation of civil society calls into serious doubt the capacity of the Argentine Republic to take on, in addition, the presidency of the G20, in particular when the whole world is aware of the context of social conflict and repression that the policies of your government are generating.”

The letter noted that in addition to the actions informed by the WTO and social organizations from around the world, there is the assassination of Rafael Nahuel just days ago, the disappearance followed by death of Santiago Maldonado, the persecution of indigenous communities and the militarization of the territories where the upcoming activities of both the G20 and the WTO will take place.

Caravans of National Guard troops have been mobilized over recent days towards the Andean district and oppressive measures of exclusion and control

are announced for the time of the Ministerial in Buenos Aires.

“We call on your government to reverse these measures immediately and to comply with its human rights obligations as well as those of citizen participation, converting to reality the transparency it proclaims. We ask the Director General of the World Trade Organization to cancel the Ministerial Conference, and move it to another country, if this extremely serious and problematic situation is not promptly resolved,” the NGOs urged.

Meanwhile, the General Council of the International Trade Union Confederation (ITUC) adopted a resolution on 1 December strongly condemning the decision of the Argentine government to revoke the accreditation of more than 60 participants, among them 10 trade union representatives. It requested the government to swiftly repeal this revocation. The Council said it is also deeply concerned now that Argentina is the host of the G20, and urged that such a practice not be replicated in the G20 summit and related events. (SUNS8588) □

While the WTO was thus advising and notifying affected NGOs, the Argentine government itself kept silent and neither contacted the persons concerned nor made any public announcement.

In its 3 December edition, Argentine daily *Página 12* spoke of the “unusual decision of the Argentine government to censor the participation of entities and people accredited to the next WTO Ministerial Conference”, and said the details made it “closer to a scandal” and an attempt to censor participation of individuals based on an assessment of their views.

*Página 12* cited the Argentine Foreign Ministry’s diplomatic cable to its embassies and consulates throughout the world instructing them to deny visas to representatives of civil society organizations whose stances on the WTO and MC11 were viewed by the foreign office as “more disruptive than constructive”.

Whatever the merits of this subjective assessment, however, it clearly was not a criterion that could fall under the “national security” exception provision of the standard hosting agreement for such conferences between the international organization concerned (in this case the WTO) and the host government.

The reasons advanced by the Argentine government sparked outrage among not only affected individuals and their organizations but also several governments of European countries where the NGOs are located. Many of these individuals are academic researchers in good standing, whose papers are often even published or taken note of by these governments. (One of the Argentine NGOs banned is a respected labour research group whose papers have been published and/or made use of by the Argentine Labour Ministry itself!)

Several of the governments apparently instructed their embassies in Buenos Aires to take the matter up with the host country, and the embassies of EU nations reportedly met jointly with Argentine Foreign Office officials. These discussions perhaps forced the host government to realise the untenability of its position. Over the weekend, the official narrative changed.

#### New press note

In a press note issued by the Foreign Ministry, dated 2 December but made public on 3 December, the justification for the ban was amended. Instead of advancing the earlier claim of the “disruptive” nature of the individuals and/or organizations, it was now claimed that the dis-accredited organizations had

## Ever-changing narrative on Argentine NGO ban for MC11

by Chakravarthi Raghavan

GENEVA (4 DEC): The narrative and official explanations advanced by the organs of the Argentine government for the banning of 60-odd individuals from some 20 non-governmental organizations accredited to MC11 by the WTO have been getting curiously and curiously, making a mockery of the “national security” claims based on which the ban has been imposed.

A large number of the affected organizations and individuals are part of the global Our World Is Not for Sale civil society network, whose coordinator Deborah James had addressed a letter to the WTO Director-General Roberto Azevedo and WTO members on 30 November calling on them to shift the MC11 venue if Argentina does not change its mind.

On 3 December, James sent a follow-up letter to Azevedo reminding him that the groups had received no response and pointing out that the Argentine action was a violation of the host-country agreement and norms.

James urged the Director-General to take steps “to immediately correct this situation, intervene with the government

of Argentina to reverse its decision; and if the government maintains its violation of the host country agreement, to bring this issue immediately to the [WTO] General Council and reschedule the meeting when a proper host can be found.” (More on this below.)

#### “Closer to a scandal”

Apparently for nearly two weeks, there had been considerable back-and-forth between the WTO in Geneva and the Argentine authorities in Buenos Aires. But the information about the ban became more widely known only on 29 November when the WTO’s NGO liaison official began notifying individuals affected, repeatedly insisting that though the WTO had accredited them, it was the host government that was denying accreditation for “unspecified reasons”, and that the WTO had been unable to get any explanation nor did it have any hope the ban would be reversed. The WTO warned the affected individuals not to travel as they were bound to be stopped at immigration by Argentine authorities and deported.

made explicit calls for violence on social media.

The key paragraph in the press note said: "The team organizing security for this conference alerted the WTO about some individuals registered by the WTO under some NGOs who had made explicit calls for violence on social media, expressing their tendency to produce schemes of intimidation and chaos."

A representative of an Argentine NGO (name withheld lest it be banned too) said: "To the best of my knowledge, that is a false imputation of criminal behaviour and falls under the qualification of libel (Article 109 of the Argentine Criminal Code, aggravated by being committed by a public official, *idem* Article 117bis)."

The NGO also drew attention to some odd aspects of the release. The language was somewhat unusual for Foreign Ministry documents, containing several style and grammatical errors that shouldn't be expected from a press editor/spokesperson. For example:

- In Spanish the name of a month is "never" capitalized, but it was in the release.

- "11va" used in the release is the wrong abbreviation in Spanish for "eleventh" (Ministerial Conference).

- There were long, breathless paragraphs made up of just one sentence.

- The usage of "y/o" (and/or) may be typical of "police baroque" but is impermissible in learned Spanish unless intended to specifically prevent an ambiguity.

- There was incorrect placement of commas.

- There was confusing wording (not as in "deliberately ambiguous", but as if written by someone halfway through middle school).

- The release was full of grammatical mistakes.

The following five paragraphs highlight contents of the press release:

On the occasion of MC11 of the WTO soon to be held in Buenos Aires, several precautions have been taken on organizational matters, including issues related to the accreditation of attendees.

The security team of the organization of this Ministerial Conference anticipated to the WTO the existence of some enrolled attendees, registered by that Organization [the WTO] on behalf of some NGOs, who had made explicit calls to manifestations of violence through social networks, expressing their will to generate schemes of intimidation and chaos.

Based on the qualification of such records, the local organization has under-

stood it opportune to indicate that the people associated with such disruptive and/or violent proposals could not be accredited to access the Ministerial Conference meeting venue.

In this context it should be remembered that the organization of the Conference has already accredited 213 NGOs for the Buenos Aires event, which make up a core of 593 people, while only 60 registered by 18 NGOs have not been [accredited].

The number of accredited [individuals? NGOs?] doubles the quantity of those participating in the last four Ministerial Conferences.

(To avoid accusations of distortion, the above cites translations, provided by a local NGO, from the original Spanish into English of the relevant paragraphs in full.)

The list of dis-accredited organizations (contained in the Foreign Office cable accessed and published by *Página 12*) is extensive: Access Now, Attac France, Attac Norway, Coalition of the Flemish North-South Movement, Digital Rights, Positive Effect Group Foundation, Global Justice Now, World of Work Institute, J. Godio-Untref, Lifelong Education & Development, Oxfam Germany, Rede Brasileira pela Integracao dos Povos, UNI Americas, Argentine Federation of the Spirit Drinks Industry, People Over Profit, Siemenpuu, Society of Critical Economics, the International Maize Alliance, Transnational Institute, Friends of the Earth International, UNI Global Union Indonesia, The Redemption Health Foundation for Sustainable Rural Development and Conservation.

Some of these organizations, and the persons mentioned, have been known to this writer over many years, and none of them fit the descriptions mentioned by the intelligence services of the host country.

The ban and the manner in which it has been imposed, including references to the Argentine intelligence services, have resulted in some local NGOs and journalists digging up and drawing the attention of colleagues abroad to some past unsavoury episodes and allegations linked to Argentine President Mauricio Macri.

#### NGO outrage

In the OWINFS follow-up letter to the WTO Director-General, James has reminded him of their earlier letter to which they had received no response.

She added: "We fully understand that in the case of the banned civil society representatives, that they had been duly accredited by the WTO, and that the

decision to revoke the accreditation lies with the Argentine government. We also understand that the WTO pushed back on the blacklisting, and that you have engaged the government to try to convince them to reverse their position. We appreciate this.

"However, at this point, we find that not enough action has been taken by the WTO to guarantee the proper functioning of the Ministerial. As we stated in our letter, 'if any host country starts limiting access and does so arbitrarily and without having to explain any motives, not only is this conference's integrity being attacked, but a key principle of international diplomacy is being violated.' We further find that 'the banning of registered WTO delegates is an outrageous and worrying precedent, not just for the WTO meeting itself, and also for the G20 presidency of Argentina, but also for all future international meetings.'...

"[T]he Argentine government's only public explanation has been that they found that the targeted organizations were 'more disruptive than constructive', which not only is incorrect, but does not fall within the international norms or host country agreement for refusing accredited participants.

"And today, we find posted on the website of the Foreign Ministry, a statement accusing the listed organizations of having 'hecho explicitos llamamientos a manifestaciones de violencia a traves de las redes sociales, expresando su vocacion de generar esquemas de intimidacion y caos.'

"This is outrageous libel. It is impossible to justify that organizations such as the Instituto del Mundo del Trabajo or REBRIP or UNI Americas or CNCD-11.11.11 (an umbrella organization with 90 members including Caritas, Oxfam, Medecins du Monde, Rotary Club for Development, Conseil de la Jeunesse Catholique, etcetera) are 'disruptive' or 'violent.' None of the organizations we know have expressed calls to violence on social media. If the Argentine government is using this claim as its justification, it should be required by the WTO to offer proof (which of course does not exist).

"We have understood through various channels that the Argentine government may be reviewing groups on a 'case by case' basis, asking the home governments of the respective organizations for verification. This may be helpful for some groups, because some of the targeted organizations are funded partially by their governments, such as Siemenpuu (Finland) or Transnational Institute (the Netherlands); another as-



pect which makes the accusations against them laughable. However, we find that the requirement that a government verify [non-governmental] organizations to participate, to be repugnant. While not every banned group is known to us, we demand that ALL organizations which are accredited to the WTO, are duly allowed to participate in the meeting.

"In all of our organizations' and allies' experience with international meetings of multilateral member-state organizations, none of us have ever witnessed such a wholesale, and meritless, banning of accredited organizations from an international meeting.

"We find only one related situation was in 2006 at the World Bank-IMF annual meeting in Singapore, 27 civil society delegates accredited to the official meeting and dozen others that wanted to attend the parallel meeting were denied entry in Singapore. Under pressure from the civil society community, then-President of the World Bank, Paul Wolfowitz, and then-Managing Director of the IMF, Rodrigo Rato, declared publicly that the Singaporean government had 'shot itself on the foot', and met with the Prime Minister to request that all those granted accreditation be admitted, in accordance with standard diplomatic practice for governments hosting international meetings. Because they took public leadership regarding the meeting of their organizations, 22 of the 27 were allowed in.

"Since officially accredited civil society groups are an integral part of the conference itself, the host country is bound by the host country agreement to let them in. A violation of the terms of the host country agreement that deprives the conference of duly accredited participants should not be acceptable by the international organization (the WTO in this case) and if a single legitimate participant is not allowed entry this should be a reason to move the conference to another location. This should be done in defence of the integrity of not just your organization but any other multilateral member-state conference, where the host country cannot block delegates that it doesn't like.

"Since the people in the list are not a threat to Argentine security, then the list has been constructed for other reasons, like for example a judgement of the banned persons and organizations' views. This seems like a far more credible underlying reason, given that half of the blacklisted groups are members of the OWINFS network and many others are well known to us. At the same time,

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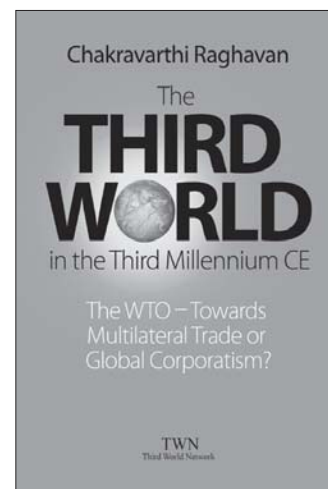
## The Third World in the Third Millennium CE

### The WTO – Towards Multilateral Trade or Global Corporatism?

By Chakravarthi Raghavan

THE second volume of *The Third World in the Third Millennium CE* looks at how the countries of the South have fared amidst the evolution of the multilateral trading system over the years. Even at the General Agreement on Tariffs and Trade (GATT) gave way to the World Trade Organization (WTO) as the institution governing international trade, this book reveals, the Third World nations have continued to see their developmental concerns sidelined in favour of the commercial interests of the industrial countries.

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# Beware public-private partnerships

Public-private partnerships are often expensive, risky and unfavourable to the public interest.

by Jomo Kwame Sundaram

Public-private partnerships (PPPs) are essentially long-term contracts, underwritten by government guarantees, with which the private sector builds (and sometimes runs) major infrastructure projects or services traditionally provided by the state, such as hospitals, schools, roads, railways, water, sanitation and energy.

PPPs are promoted by many developed-country governments and some multilateral development banks – especially the World Bank – as the solution to the shortfall in financing needed to achieve development including the Sustainable Development Goals (SDGs).

Since the late 1990s, many countries have embraced PPPs for areas ranging from healthcare and education to transport and infrastructure, with problematic consequences.

They were less common in developing countries, but that is changing rapidly, with many countries in Asia, Latin America and Africa now passing enabling legislation and initiating PPP projects.

Nevertheless, experiences with PPPs have been largely, although not exclusively, negative, and very few PPPs have delivered results in the public interest. However, the recent period has seen tremendous enthusiasm for PPPs.

Undoubtedly, there has been some success with infrastructure PPPs, but these appear to have been due to the financing arrangements. Generally, PPPs for social services, e.g., for hospitals and schools, have much poorer records compared with some infrastructure projects.

One can have good financing arrangements, e.g., due to low interest rates, for a bad PPP project. All over the world, private finance still accounts for a small share of infrastructure financing. However, concessional financing arrangements cannot save a poor project although they may reduce its financial burden.

PPPs often involve public financing for developing countries to “sweeten”

the bid from an influential private company from the country concerned. “Blended finance”, export financing and new aid arrangements have become means for governments to support their corporations’ bids for PPP contracts abroad, especially in developing countries. Such business support arrangements are increasingly passed off and counted as official development assistance (ODA).

## Undermining rights

PPPs often increase fees or charges for users of services. PPP contracts often undermine consumer, citizen and human rights, and the state’s obligation to regulate in the public interest. PPPs can limit government capacity to enact new policies – e.g., strengthened environmental or social regulations – that might affect certain projects.

PPPs are now an increasingly popular way to finance “mega-infrastructure projects”, but dams, highways, large-scale plantations, pipelines and energy or transport infrastructure can ruin habitats, displace communities and devastate natural resources. PPPs have also led to forced displacement, repression and other abuses of local communities and indigenous peoples. There are also growing numbers of “dirty” energy PPPs, exacerbating environmental destruction, undermining progressive environmental conservation efforts and worsening climate change.

Typically, social and environmental legislation is weakened to create attractive business environments for PPPs.

In many cases, PPPs are the most expensive financing option and hardly cost-effective compared with good government procurement. They cost governments – and citizens – significantly more in the long run than if the projects had been directly financed with government borrowing.

It is important to establish the circumstances required to make efficiency

gains, and to recognize the longer-term fiscal implications due to PPP-related “contingent liabilities”. Shifting public debt to government-guaranteed debt does not really reduce government debt liabilities, but obscures accountability as it is taken “off-budget” and no longer subject to parliamentary let alone public scrutiny.

Hence, PPPs are attractive because they can be hidden “off balance sheet” so they do not show up in budget and government debt figures, giving the illusion of “free money”.

Thus, despite claims to the contrary, PPPs are often riskier for governments than for the private companies involved, as the government may be required to step in to assume costs if things go wrong.

## Marginalizing public interest

Undoubtedly, PPP contracts are typically complex. Negotiations are subject to commercial confidentiality, making it hard for parliamentarians, let alone civil society, to scrutinize them. This lack of transparency significantly increases the likelihood of corruption and undermines democratic accountability.

PPPs also undermine democracy and national sovereignty as contracts tend to be opaque and subject to unaccountable international adjudication due to investor-state dispute settlement (ISDS) commitments rather than national or international courts. Under World Bank-proposed PPP contracts, national governments can even be liable for losses due to strikes by workers.

Thus, PPPs tend to exacerbate inequality by enriching the wealthy who invest in and profit from PPP projects, thereby accumulating even more wealth at the expense of others, especially the poor and the vulnerable.

The more governments pay to private firms, the less they can spend on essential social services such as universal social protection and healthcare.

Hence, PPP experiences suggest not only higher financial costs but also modest efficiency gains.

One alternative, of course, is government or public procurement. Generally, PPPs are much more expensive than government procurement despite government-subsidized credit. With a competent government doing good work, government procurement can be efficient

and low-cost. Yet, international trade and investment agreements are eroding the rights of governments to pursue such alternatives in the national interest.

With a competent government and an incorruptible civil service or competent accountable consultants doing good work, efficient government procurement has generally proved far more cost-effective than PPP alternatives. It is therefore important to establish under what circumstances one can achieve gains and when these are unlikely. (IPS) □

*Jomo Kwame Sundaram, a former economics professor and United Nations Assistant Secretary-General for Economic Development, received the Wassily Leontief Prize for Advancing the Frontiers of Economic Thought in 2007.*

(continued from page 18)

the issue, drawing on actual experiences in well functioning democracies in Europe.

The book goes on to call for specific actions that would create a revolution in the digital revolution, bringing it back to its origins: by the people, for the people. McChesney's proposed actions are consistent with those of certain civil society organizations, and will no doubt be taken up in the forthcoming Internet Social Forum, an initiative whose intent is precisely to revolutionize the digital revolution along the lines outlined by McChesney.

Anybody who is aware of the many issues threatening the free and open internet, and democracy itself, will find much to reflect upon in *Digital Disconnect*, not just because of its well-researched and incisive analysis, but also because it provides concrete suggestions for how to address the issues." (SUNS8580) □

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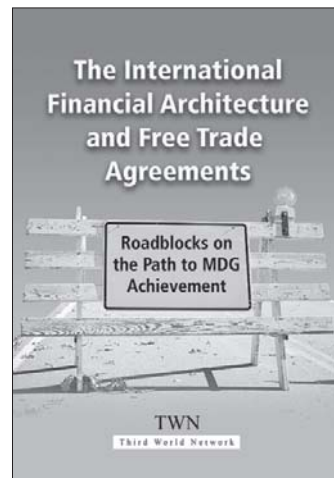
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## The International Financial Architecture and Free Trade Agreements

Developing countries' efforts to meet the Millennium Development Goals (MDGs), a set of development and anti-poverty targets adopted by the international community, are confronted with a host of challenges, not least those posed by an unfavourable international economic setting.

This book puts together two Third World Network papers which look at how the global financial and trade systems may impede realization of the MDGs. The first paper considers how key elements in the international financial architecture – IMF loan conditionalities, the debt burden and capital account liberalization – can hinder the implementation of national MDG strategies. The second paper examines the potential adverse impacts of trade liberalization and other provisions in international trade treaties on developing-country prospects for achieving the MDGs.

The analysis in these papers underlines the urgent need to address



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the financial and trade constraints on progress towards attaining the MDGs in the developing world.

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(continued from page 24)

the government of Argentina is hosting the International Chamber of Commerce for a joint trade fair. Given that only two of the blacklisted groups are trade associations, that means that other companies such as DHL, UPS, Fedex, the Global Express Association, the International Chamber of Commerce, the World Economic Forum, the International Federation of Pharmaceutical Manufacturers Association, Philip Morris, the European Services Forum, the Semiconductor Industry Association, etcetera have not had their accreditation denied by the Argentine government and will be able to advocate for their views during the meeting.

"Thus, Argentina is exerting an undue pressure on the Ministerial Conference, by choosing to censor some views and favour others (those accredited and accepted). Since those censored views would be related to the issues being discussed at the conference, and might coincide with some parties' positions, the presumption of good faith on which all diplomatic agreements are based would be distorted, and thus the outcome of the conference would be distorted and thus lack legitimacy. Specifically, many of the banned organizations support the policy proposals of developing countries, in favour of the G90 proposals on development and the G33 proposals on public stockholding, while opposing proposals that are intended to benefit the (permitted) corporations named above, such as on e-commerce, investment facilitation, and domestic regulation.

"Lack of good faith and attempt to distort the conference outcome by the country that not only hosts the conference but chairs its proceedings, added to a violation of the host country agreement, are serious offences that the WTO Director-General should have brought to the attention of the General Council, with a request to delay the conference until a proper host could be found or, alternatively, host it in Geneva.

"Since this was not done, it appears that the WTO agrees with the view of Argentina that its national security is under threat, and that the WTO does not oppose the distortion of the conference outcome.

"We urge you to immediately correct this situation, and to intervene with the government to reverse its decision; and if the government maintains its violation of the host country agreement, to bring this issue immediately to the General Council and reschedule the meeting when a proper host can be found." (SUNS8589) □

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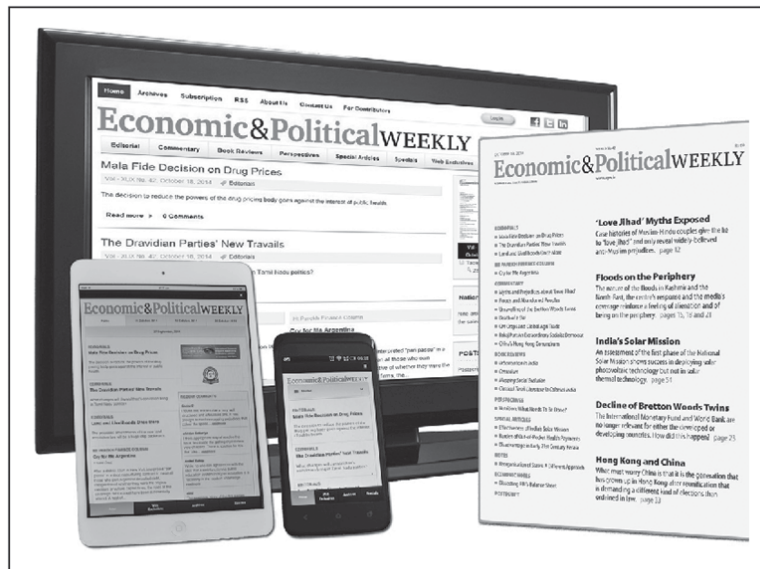
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## PUTTING FOOD FIRST

### Towards a Community-Based Food Security System in Indonesia

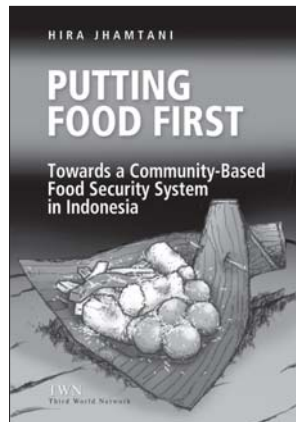
by Hira Jhamtani

Ensuring that every person in one of the world's largest and most populous nations has enough food on the table is understandably an undertaking of great import.

*Putting Food First* examines the food security situation in Indonesia with a view to determining how this can be done.

This book draws attention to serious shortcomings in food production and distribution in the country, which led to many cases of malnutrition, especially among children, in 2005. These flaws are ultimately rooted in policy failures, not only in the agriculture sector per se but also in the related spheres of trade, industrialization, rural development and environmental and natural resource management.

Recognizing the multidimensional nature of the problem, the author puts forward a set of short-and long-term policy recommendations aimed at attaining food security within a broader national framework of sustainable development. Realization of this goal will entail a shift from the existing industrial, monoculture-oriented farming system to a community-based and ecologically sound agriculture which indeed "puts food first".



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