THIRD WORLD
Economics
TRENDS & ANALYSIS

Published by the Third World Network KDN: PP 6946/07/2013(032707) ISSN: 0128-4134 Issue No 672 1 – 15 September 2018

Differences, questions dog attempts to start WTO e-commerce talks

Moves are afoot to launch negotiations in the WTO on electronic commerce despite opposition from many developing countries. Reflecting the differing interests surrounding this issue, the organization and outcome of a recent forum on e-commerce in Africa threw up "more questions than answers", even as African civil society groups warned against premature liberalization of the digital economy.

Also in this issue:

THIRD WORLD
Economics
Trends & Analysis

131 Jalan Macalister
10400 Penang, Malaysia
Tel: (60-4) 2266728/2266159
Fax: (60-4) 2264505
Email: twn@twnetwork.org
Website: www.twn.my

Contents

THIRD WORLD ECONOMICS
is published fortnightly by the Third World Network, a grouping of organisations and individuals involved in Third World and development issues.

Publisher: S.M. Mohamed Idris; **Editor:** Chakravarthi Raghavan; **Editorial Assistants:** Lean Ka-Min, T. Rajamoorthy; **Contributing Editors:** Roberto Bissio, Charles Abugre; **Staff:** Linda Ooi (Administration), Susila Vangar (Design), Evelyne Hong & Lim Jee Yuan (Advisors).

• **Annual subscription rates:** Third World countries US$75 (airmail) or US$55 (surface mail); India Rs900 (airmail) or Rs500 (surface mail); Malaysia RM110; Others US$95 (airmail) or US$75 (surface mail).

• **Subscribers in India:** Payments and enquiries can be sent to: The Other India Bookstore, Above Mapusa Clinic, Mapusa 403 507, Goa, India.

• **Subscribers in Malaysia:** Please pay by credit card/crossed cheque/postal order.

• **Orders from Australia, Brunei, Indonesia, Philippines, Singapore, Thailand, UK, USA:** Please pay by credit card/cheque/bank draft/international money order in own currency, US$ or euro. If paying in own currency or euro, please calculate equivalent of US$ rate. If paying in US$, please ensure that the agent bank is located in the USA.

• **Rest of the world:** Please pay by credit card/cheque/bank draft/international money order in US$ or euro. If paying in euro, please calculate equivalent of US$ rate. If paying in US$, please ensure that the agent bank is located in the USA.

Visit our web site at http://www.twn.my.

Printed by Jutaprint, No. 2, Solok Sungei Pinang 3, Sungai Pinang, 11600 Penang, Malaysia.

ICs still planning to launch e-commerce pluri-talks

WTO negotiations on the divisive issue of electronic commerce could be on the cards if developed-country proponents have their way.

by D. Ravi Kanth

GENEVA: In an attempt to paralyze the World Trade Organization's multilateral discussions on e-commerce under a 1998 work programme, trade ministers of major developed countries along with their allies from developing countries are planning to issue a political statement on launching plurilateral negotiations on the issue.

They plan "to launch" negotiations at a "breakfast meeting" on the margins of the annual World Economic Forum meeting in Davos in January, trade envoys told the *South-North Development Monitor (SUNS)*.

In November, in the face of China's stance favouring a much narrower agenda and scope for the plurilateral negotiations – opposing "free flow" of data across borders and rules to prevent localization of data – the proponents had apparently cancelled their plans to meet at Davos.

However, at a meeting on 18 December, the co-conveners of the so-called Joint Statement Initiative (JSI) group – Japan, Australia, the European Union, the United States and Singapore among others – spoke of the "possibility of a breakfast meeting" on 25 January 2019, said a participant from a major industrialized country, who asked not to be identified.

They appear intent on doing this despite the worst systemic crisis facing the WTO because of the US plan to terminate the Appellate Body as well as the intent of the major industrial countries to bury the Doha Development Agenda negotiations.

The JSI was launched on the margins of the eleventh Ministerial Conference of the WTO in Buenos Aires in 2017 after a large majority of countries had opposed tweaking the WTO's 1998 e-commerce work programme in order to launch plurilateral negotiations.

The EU, Japan, Australia and Singapore among others insisted that the Davos meeting should be held at any cost even if it is for one hour before the annual informal trade ministerial meeting hosted by Switzerland on the margins of the World Economic Forum meet.

"We are talking of a possibility of a breakfast meeting of [our] trade ministers on 25 January 2019," the participant said, clarifying that there is no "serious" divide among the JSI group members on launching the e-commerce negotiations.

However, the JSI participants would need further clarification of what negotiating approach will be adopted, the participant said, arguing that "more discussions" will be needed.

Asked to comment on China's insistence that the e-commerce negotiations should remain multilateral, open and inclusive, the participant said that "multilateral" does not mean that there has to be a consensus of all 164 WTO members. There is no great difference whether it is an open-ended plurilateral or multilateral negotiation in e-commerce, the envoy claimed, citing the example of the Telecom Reference Paper.

As part of the Telecom Reference Paper, a total of 108 WTO members had made commitments in 1996 to facilitate trade in telecommunications services. Further, 82 members have committed to the regulatory principles spelled out in the paper, which largely reflects "best practice" in telecoms regulation.

"So there is a question of definition but it is not a problem among participants," the participant maintained.

Another developed-country trade envoy, who spoke to *SUNS* on condition of anonymity, said he is more confident and almost certain about the Davos ministerial meeting. "It will be a significant move to start the e-commerce negotiations," the envoy said, adding that it should have "critical mass" by including major developing countries and not be limited to five or six members.

The e-commerce negotiations will not aim towards a "one-size-fits-all" approach, the envoy said, emphasizing that members must be free to take commitments according to their ability and acceptability.

Sharp concerns

At the 18 December JSI meeting, several developing countries had raised sharp concerns about rushing into launching negotiations without first clarifying fundamental issues such as the negotiating approaches and intended goals.

China, for example, said it wants "pro-development" outcomes from the e-commerce negotiations, according to a participant who asked not to be quoted. "The process should be open, transparent and inclusive," China was reported to have said at the JSI meeting.

But China remained silent about the need for convening the Davos meeting, the participant added. It had expressed concern over several demands that were being made at the JSI and drawn red lines as to what it would agree to, the participant added.

During an earlier JSI meeting on 31 October, China had said that "discussion shall focus on 'trade-related aspects' of e-commerce as the 1998 work programme mandated."

"Let's stick to e-commerce without substituting its concept or generalizing its expanded scope," China said, in opposition to ongoing attempts by the US, Japan, Australia, Singapore and Canada among others to incorporate rules from the failed Trans-Pacific Partnership (TPP) agreement.

Many developing countries, led by India and South Africa, have repeatedly maintained that the sanctity and integrity of any outcome on e-commerce will hinge on how members proceed according to the 1998 work programme.

The Davos meeting of the JSI group is aimed at permanently undermining the work programme, said a trade envoy from a developing country who asked not to be quoted.

The JSI participants want to launch negotiations on e-commerce at a time when the WTO is facing the worst crisis when one of its main limbs is being amputated by the US, the envoy suggested.

Little wonder that the major industrialized countries opposed a "rethink" about continuing the moratorium on levying customs duties on e-commerce transmissions at a WTO General Council meeting on 27 November, the envoy added.

In a broader context, the developed countries, particularly the EU, want a multilateral outcome at the WTO on fisheries subsidies while preferring plurilateral outcomes on e-commerce, investment facilitation, disciplines for micro, small and medium enterprises, and domestic regulation in services. They have adopted the "you are either with us or against us" approach to deny policy space for development in the developing countries.

[The launch of plurilateral negotiations at the WTO, and any rules emerging therefrom as a part of the WTO, will be clearly illegal. For, in pith and substance, the proposed rules relate to already existing WTO agreements. In the case of e-commerce, the rules, as its sponsors envisage, would relate to the multilateral Uruguay Round goods agreements, the General Agreement on Trade in Services and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). In this reading, the only way for the e-commerce rules to be part of the WTO is through specific amendments in accordance with the requirements of Article X of the Marrakesh Agreement Establishing the WTO. If the rules are claimed to be part of a plurilateral WTO agreement, approval by consensus at a WTO Ministerial Conference would be needed, implying those opposed (like the African Group, India and others) remaining silent. – *SUNS*]

In short, the developed countries are now determined to secure their ambitious outcomes by cherry-picking while decimating the multilateral framework of the 164-member WTO.

Clearly, the developing and least-developed countries need to assess the dangerous implications of the concerted attempts made by the developed countries to launch plurilateral e-commerce negotiations without addressing the systemic existential issues facing the WTO dispute settlement system, including the potential demise of the Appellate Body, trade envoys said. *(SUNS8822)* ❐

More questions than answers at African e-commerce event

In light of moves to launch negotiations on e-commerce at the WTO, a recent forum on the digital economy in Africa did little to allay concerns surrounding this contentious subject, writes *Chakravarthi Raghavan*.

GENEVA: The first Africa eCommerce Week, organized by the technology division of the UN Conference on Trade and Development (UNCTAD), appears to have raised more questions than answers to development and public policy issues posed by African states and digital experts from African civil society.

The event was held in Nairobi, Kenya, on 10-14 December, with UNCTAD issuing the Nairobi Manifesto on the Digital Economy and Inclusive Development in Africa at its conclusion.

According to UNCTAD, the Africa eCommerce Week was co-organized with the African Union (AU) and the European Union (with EU and German funding), with more than 60 sessions convened to examine ways of enhancing the readiness of African countries to trade online and digitize their economies.

Over and above the open sessions – including seven main-track sessions on the seven pillars under the UNCTAD-led "eTrade for all" initiative – participants said there were closed, invitation-only sessions on specific policy issues of relevance to e-commerce and the digital economy.

The topics covered included the growing role of digital market places; implications of algorithmic bias and algorithmic discrimination in the digital economy; trade policy implications of digitalization at regional and global levels; youth innovation; the role of tech hubs; employment implications; and building online trust.

Among member states of the AU, only Nigeria signed on to the joint ministerial statement on e-commerce at the WTO's Ministerial Conference in Buenos Aires in 2017. Cote d'Ivoire and Senegal are said to be interested but have not committed to e-commerce rules at the WTO. Kenya, the host country for the Africa eCommerce Week, has never gone on record to say it is interested in e-commerce rules. The overwhelming majority of African states, as stated by them at the WTO, remain opposed.

Limited AU involvement

Judging by messages and notes received by the *South-North Development Monitor (SUNS)* from civil society groups and official participants on various sessions at the Africa eCommerce Week, the event as a whole may have solidified the opposition of most African states to any e-commerce negotiations and rules at the WTO.

While the event was said to have been co-sponsored by the AU, there was sparse attendance by African trade negotiators, according to several participants. This, some African officials said, could be partly due to the event overlapping with an AU meeting, as also lack of promised financing for African delegates from Geneva familiar with the issues or their capital-based trade officials. Instead, the EU-German funding, said the officials, had been used to get capital-based delegates from information technology ministries who were not fully aware of the ongoing efforts to negotiate trade rules on e-commerce.

According to several participants, no AU official was at the dais or spoke at the opening panel. According to some participants, only one AU official attended the event. In total, they said, there were four African Geneva-based WTO negotiators and about four African Geneva-based delegates covering UNCTAD at the event.

At one plenary session co-organized by the AU with UNCTAD and the UN Economic Commission for Africa, there was no AU official on the panel! Instead, a high-level official from the EU was invited to speak. When asked by several participants why the AU was not present on that panel, the AU representative, who was present in the audience, said that he had not been asked. Only at the final session was an AU official at the dais.

According to some civil society organizations (CSOs), when participants and member states enquired in Geneva weeks before the event about UNCTAD's collaboration with the AU in organizing the event, the response of UNCTAD officials was rather sketchy, if not evasive, and provided few details. Those who enquired were told that the AU Department of Infrastructure and Energy was directly involved. However, when asked the same question at the Nairobi event, the CSOs said, UNCTAD responded that the AU Department of Trade and Industry was directly involved.

When member states followed up directly with the AU secretariat in Addis Ababa about this, African participants said, there were strong objections from UNCTAD about these queries. Furthermore, they said, officials contacted at the AU were not aware of its association in the event as co-sponsor.

Questions over Nairobi Manifesto

Several African participants and member states also questioned the inclusion of the AU in the Nairobi Manifesto outcome document. They claimed that any statement by the AU had to undergo a specified procedure, and that this had not been done in this instance. This was confirmed by the AU official who was at the dais at the closing ceremony, who indicated that the AU has its own internal processes and member states are permitted to endorse positions and documents only through established rules and procedures.

Digital CSO experts at the meeting said the Manifesto, co-signed by the EU, is very much aligned to the EU agenda on digital trade liberalization. While there was little or no participation by AU member states on any of the main panels, the EU featured on every main panel.

Participants at the Nairobi event said that contrary to briefings in Geneva by UNCTAD to the African Group, the Manifesto was not "negotiated" but presented for the first time during the closing ceremony. There was no discussion or negotiation on the Manifesto, nor was the floor open to members to comment.

The participants cited UNCTAD as saying that the Manifesto was based on the main track/open sessions. It was not clear whether the outcomes from the closed sessions trickled into the document. However, the outcomes from the parallel sessions in which CSOs, African members and other stakeholders participated did not find their way into the Manifesto. *(SUNS8821)* ❐

"Africa must develop its own agenda for digital industrialization"

On the occasion of the Africa eCommerce Week, civil society groups from the continent issued a statement cautioning against premature digital liberalization and advocating policy space for African countries to promote digital industrialization instead. The text of the statement is reproduced below.

Electronic commerce, and digital trade and technology more generally, can stimulate development, generate jobs and help build sustainable livelihoods. However, just like previous changes in technology and trading patterns, for developing countries to benefit, they need the right policies and institutional support, both domestically and internationally.

This conference [Africa eCommerce Week] has well highlighted the opportunities of e-commerce for African entrepreneurs, but the primary challenge is to harness digital industrialization for structural transformation of the continent. Nearly all digital trade is currently dominated by a few global players from the United States and China through platforms that are not simply disrupting and re-organizing economic activity but leading to digital domination. In order to trade, we have to produce. If we expand digital trade without first improving our productive capacities, as well as closing the digital divide through improvements in our physical infrastructure as well as interconnectivity, we will be simply opening our economies even further to imports from outside the region.

Thus, further liberalization in the digital sphere, without the necessary domestic investments to improve productive capacities, will destroy jobs, decimate micro, small and medium enterprises (MSMEs), and distort development. These threats from premature digital liberalization to our economic sovereignty and future development prospects will be greatly amplified if the rapidly evolving digital economic space is governed by rules that were developed by transnational corporations (TNCs) for their own profit-making around the world, as they are proposing in the World Trade Organization (WTO) discussions on e-commerce.

There should be no negotiations on e-commerce in the WTO. As the African Group said in the WTO, they "will not support any ideas for negotiating rules, or move in a direction on developing rules on e-commerce. We believe it is entirely premature." Instead of digital liberalization leading to further digital colonialism, what we need for the structural transformation of the region in line with Agenda 2063: The Africa We Want vision is a jobs- and development-focused digital industrialization strategy.

Digital industrialization policy

Digital industrialization indicates the need for policies to prevent big international corporations controlling our data and to use our data in the public interest; to develop and support domestic digital businesses and platforms; to strategically promote domestic MSMEs including through technology transfer; to promote inclusion in the digital economy through full employment policies; to ensure proper taxation and investments to close the digital divide; to advance consumer welfare and privacy through data protection; to ensure public interest regulation of the digital economy and break up platform monopolies; and other pro-development strategies.

Much of this can be accomplished through domestic policies that should be developed with appropriate stakeholder input, as well as through regional integration; but policy makers require sufficient policy space to do so; restricting that space is the clear aim of plurilateral efforts currently under discussion in the WTO.

The role of the United Nations Conference on Trade and Development (UNCTAD) should not just be technical assistance, and should not follow the same ideology as the World Bank, WTO, World Economic Forum (WEF), and other neoliberal institutions dominated by developed countries. It should not be driven by the donor agenda and funding, as we see here, where the European agenda is being given undue prominence over the African Union.

We believe the African Union should be given space to drive the digitalization agenda for Africa, for the African digital industrialization development objectives and this must be consistent with the positions taken by the African Group in the WTO. The role of development partners should be supportive rather than be seen as driving the agenda.

Given the persistent poverty and lack of convergence after decades of liberalization, and the increasing power of digital platforms over our economies, we believe that UNCTAD shou

ld focus on digital industrialization and structural transformation of our economies, rather than merely facilitating online shopping and platform presence in Africa. We note with dismay a paucity of African government and African civil society representatives on the panels [at the Africa eCommerce Week].

UNCTAD must reclaim its historic role in policymaking that is centred around an integrated approach to development strategy and focused on industrialization policies. We commend UNCTAD for this year's *Trade and Development Report (TDR)*, which focused on "Power, Platforms and the Free Trade Delusion."

But this is not sufficient given the vast army of "sales representatives" marshalled by advanced countries to persuade and cajole developing countries into adopting measures that they are not ready for and that many, on their own admission, do not yet fully understand. It is unfortunate, to put it mildly, that despite repeated requests by African member states, the findings from this original piece of in-house evidence-based research by UNCTAD has been noticeable by its absence from this gathering and, as a result, key political economy issues raised by the challenges of digital industrialization have received insufficient attention.

Protecting the data resource

Sustainable development depends on the free flow of information, and we want freedom of expression. But this is different than cross-border data transfers of our most valuable natural resource to foreign corporations. Just as in previous centuries, when we lost control of our capacity to properly exploit the wealth-creating potential of commodities, we are in danger of repeating those same mistakes in the 21st century with our data. At this point, we don't properly value our data, so governments are too easily allowing it to be transferred outside the country. We need to harness the value of our data for domestic entrepreneurs, but also for community economic development in the public interest. African countries must maintain the policy space to evaluate when policies of maintaining data locally or regionally would be in the national or community interest.

The doctrine of free global flow of data is dubious, when data is also considered the key resource of a digital economy. Data must be owned by "that whom the data is about" whether an individual or a community. Data ownership frameworks should be developed urgently on this principle and employed by developing countries to promote domestic digital industry. Also, new digital businesses that work on data and business intelligence derived from it, must be owned domestically, because it is after all "our data" that underpins such business.

UNCTAD has highlighted that all countries which successfully industrialized used infant industry protections; so since Africa needs to industrialize, we will also need to be able to use tariffs strategically, along with other protections for nascent industries. We need to maintain and use the policy space to promote our MSMEs, which represent the majority of employment in our countries, including through active policies of technology transfer.

The international system of rules governing patents and copyrights have proven to facilitate tax avoidance and resulted in a huge transfer of wealth from the global South to TNCs in the North. We need systems of innovation and MSME promotion without further entrenching anti-development systems of intellectual property protectionism that least developed countries (and non-WTO

Members) in Africa are not required to implement.

Inclusive digital industrialization for development must also focus on decent job and livelihood creation and social and economic rights in the digital sphere. The most important strategy for inclusive growth from digital industrialization is a commitment to job creation towards full employment, focused on equity strategies, including strong labour rights for all workers, gender equality, and portable social protections including for platform workers.

An egregious example of the prominence of the EU agenda [at the Africa eCommerce Week] was the EU labelling high taxes and import duties as trade barriers. We oppose this as African countries should not be told by Europe that European companies should not have to pay taxes when they operate in African countries, when African companies would obviously have to contribute to the national tax base.

Digital players are taking advantage of the mobility and intangibility of digital goods and services to avoid tax and create an uneven playing field that is hurting competitors who are running traditional businesses and complying with traditional tax models. Tax planning by digital TNCs that artificially reduces taxable income or shifts profits to low-tax jurisdictions in which little or no economic activity is performed should be tackled as part of a pro-development strategy and must not be exacerbated by digital trade rules proposed at the WTO and ignored in discussions on digital trade in Africa.

Appropriate taxation is essential to build the fiscal base in African countries that we need for investments in development-focused infrastructure, including the digital infrastructure, and good quality and accessible public services. This is all the more important given that the build-up of debt (both public and corporate) in recent years is once again raising concerns about its sustainability with a number of countries in the region already facing serious levels of distress or worse.

Our current infrastructure is built to facilitate extracting commodity resources from Africa through ports, rails and road; this must be altered to focus on domestic market development and regional integration through the four pillars of transport, water, energy, and the information, communications and telecommunication (ICT) infrastructure necessary to close the digital divide. The trade facilitation drive in Africa, largely funded by donors, has focused more on facilitating imports rather than addressing the much-needed supply-side constraints.

We are concerned that the recent drive to support digitalization in Africa by developed countries is following a similar trend, which will ultimately push Africa deeper into consumers of what we do not produce. This will have far-reaching consequences on employment, revenue and digital innovation in Africa which is ultimately needed for structural transformation. African countries will not be able to achieve the Sustainable Development Goals (SDGs) without expanding fiscal supports to achieve quality accessible public services in education, health, access to water, electricity, and more.

We also need strong policies for consumer protection, including around matters of privacy and data protection. Africans are entrepreneurs, but we are also citizens with rights to privacy and consumers with rights to have our data protected and not abused by giant TNCs for private profit, or by governments against our human rights in the digital space.

Special policies are urgently required to protect the small actors, traders, farmers, small service providers, etcetera that are threatened by new globally organized digital models. This requires steps to decentralize digital economy structures and power, as well as specific policy measures to support small actors in their extremely uneven relationships with digital majors, quite like the labour laws of industrial era. Additionally, a good share of the newly created digital value must be utilized for ameliorative and redistributive measures, like social protection and public services.

An African agenda

Africa must develop its own agenda for digital industrialization. We must not copy the "ecommerce trade rules" that were developed by TNCs like Amazon and Google, for their interests to open our markets, control our data, handcuff our regulators, and constrain the role of the state in fomenting jobs and industrialization policies.

If e-commerce disciplines in the WTO were good for development in Africa, there would not be the arm-twisting of African states to join the e-commerce negotiations that we are seeing in the WTO. Neither would proponent Members and the WTO Secretariat advocate for African countries to join the e-commerce negotiations. The international nature of international organizations is thus questionable.

We believe that as the African Group remain firm in their position on e-commerce proposals at the WTO, national governments need to put in place development-oriented digital industrialization policies and agendas. This would support the realization of the AU Agenda 2063.

Given the dearth of Geneva-based African trade negotiators at this Africa eCommerce Week, any talk of an outcome document from this week's activities containing recommendations is highly inappropriate and any summary document of what transpired here should not be used to undermine the African Group position against e-commerce rules in the WTO. Any recommendations arising from Africa eCommerce Week would not be the product of discussions or consensus. Aid for Trade must not be linked to African governments joining negotiations on the new issues at the WTO.

The African Group in the WTO's focus, which parallels that of civil society, is on agricultural reform and removing high levels of domestic support given to farmers by developed countries; removing cotton subsidies in the US and EU that harm African cotton farmers; public food stockholding; the Special Safeguard Mechanism (SSM) to safeguard domestic farmers; special and differential treatment; and increasing flexibilities for industrial development, rather than undermining regional integration.

We look forward to working with UNCTAD, governments, the private sector, and more civil society actors on future engagements that focus more on Africa's urgent development needs. ❐

This statement was endorsed by, among others, the International Trade Union Confederation Africa (ITUC Africa); East Africa Trade Union Confederation (EATUC); Third World Network-Africa (TWN-Africa); Tax Justice Network Africa (TJNA); Southern and Eastern African Trade Information and Negotiations Institute (SEATINI)-Uganda; National Association of Nigerian Traders (NANTS); Nigeria Private Sector Alliance (NiPSA); and the African Center for Trade and Development (ACTADE), Uganda.

US seeks to permanently paralyze the AB?

The lack of proposals put forward by the US to address its own grievances against the WTO's Appellate Body has raised questions as to its ultimate intentions for the adjudicative tribunal.

by D. Ravi Kanth

GENEVA: After failing to provide any options for addressing its specific concerns about the functioning of the WTO's Appellate Body (AB), the highest body for adjudicating global trade disputes, the United States has unwittingly revealed its intentions to permanently paralyze the AB, trade envoys told the *South-North Development Monitor (SUNS)*.

At the WTO's yearend General Council meeting on 12 December, India and China pointedly asked the US ambassador to the WTO, Dennis Shea, to provide "options" for the specific issues it had raised about the functioning of the AB, especially the AB's failure to adhere to the 90-day limit for issuing findings or its supposed overstepping of the core provisions of the WTO Dispute Settlement Understanding (DSU), according to trade envoys who asked not to be identified.

At the meeting, the US simply rejected a proposal from India, China and the European Union, saying that the "trilateral" proposal intends to "change the rules to authorize and accommodate the very approaches that would make the AB even less accountable."

Shea spoke briefly about Washington's core concerns over the AB, which the US claims has strayed from adhering to the rules established in 1995. The US had made it very clear the AB members must follow these rules, he added.

But the US did not provide any "option" for addressing its specific concerns, said several trade envoys who asked not to be quoted.

"Existential crisis"

India said the "existential crisis" facing the AB is its gravest concern. "We believe that an independent, two-stage dispute settlement system is imperative for the fair enforcement of the rules of international trade," India maintained.

"The impending paralysis and possible disappearance of the Appellate Body will be a fatal blow to the credibility of the WTO," India's trade envoy, Ambassador J.S. Deepak, argued. "Without a system of enforcement of existing rules, the appetite for making new rules or for reforms would be poor."

"Therefore, an expeditious resolution of the Appellate Body crisis needs to be at the top of the agenda in the coming weeks and months," he emphasized.

In the WTO, the normal practice is that any member which has specific concern on any issue will offer possible options on how to address it, Deepak pointed out. "However, we find ourselves in the unique position where the member who has issues with the functioning of the Appellate Body has failed to put forth a single proposal to address their oft-repeated concerns."

India thanked the EU for taking the initiative to provide "concrete" textual proposals to address the US concerns. India, which is a co-sponsor of the two proposals circulated by the EU, said the underlying goal of the proposals is to "unblock the appointments to the AB by tackling the procedural concerns raised by the United States."

"Once the appointments to the AB have been unblocked, WTO members would engage in discussions on the complex substantive issue of 'rule-making' by WTO panels and the AB," India said, arguing that it would support a "calibrated approach."

It called for building trust among the WTO membership "in these difficult times" by engaging on these proposals "without putting any preconditions or linking these to other areas of the WTO's functioning."

China's trade envoy, Ambassador Zhang Xiangchen, referred to the US view that some suggestions by the EU, China and India will make the AB "even less accountable."

"Could the United States give a response to the proposal regarding which of its concerns have been addressed and which are not?" asked Zhang. "Does the United States have specific suggestions on how to address those remaining concerns?"

"If not, is it the intention of the United States to sit back and wait for the paralysis of the Appellate Body?" Zhang pointedly asked.

The US trade envoy remained mum on the specific questions raised by India and China, and merely said the US would like to engage in deep discussions with other WTO members on this issue.

At the press briefing after the General Council meeting, *SUNS* asked WTO spokesperson Keith Rockwell to clarify whether the US is seeking a "payment" to resolve the crisis it had created at the AB. Rockwell replied that he was not in a position to address the question and that it should be directly addressed to the US.

During the meeting, Zhang noted that "the crisis of the Appellate Body has lasted for more than a year without any silver lining". He said "the individual WTO member flagged its concerns over the appellate process, but provided no concrete suggestions or solutions."

"If this issue remains unresolved, the Appellate Body will cease to function after next year," Zhang said, suggesting that "the selection of Appellate Body members has become an imminent crisis facing the WTO and needs to be resolved at the earliest time."

Citing the ancient Chinese philosopher Mencius who said "laws alone cannot carry themselves into practice," Zhang said "the dispute settlement mechanism is the core pillar of the WTO."

"As India just said, [the] joint proposal marks a beginning rather than the end or the final result," the Chinese envoy said, urging the Chairman of the General Council, Ambassador Junichi Ihara of Japan, to "actively host the discussions and consultations after this meeting, so that the discussion momentum could be maintained through certain appropriate mechanism."

Raising several questions in response to the US statement, Zhang asked whether it is proper to expect "the 90-day deadline for the appellate review" when "cases have become more and more complex [and] case materials therefore also surged."

"In early years, in cases such as United States Gasoline (DS2), a small carton suffices for all case-related materials", but that is no longer the situation, he said. "Nowadays, we probably need dozens of cartons to pile relevant materials for almost every case."

Zhang pointed out it is the reality that the AB cannot finish its work on time. "Given the United States' position to oppose the increase of resources, what should we do?" he asked pointedly.

"We are struggling to find a way, for example, in the future when we select Appellate Body members, may we look for those who are able to read 10 lines at a glance or can we ask the Appellate Body members to work 16 hours, sleep 5 hours and eat for 3 hours per day?"

On the AB's purported "over-reach," China said it wants the AB to "stay in line with its mandate, rather than expanding its adjudications," but "members do not have consensus over criteria to determine whether the over-reach occurs."

Commenting on the issue of precedent, another US concern, Zhang said, "When the Appellate Body made adjudications in previous disputes, I don't know why these judgments cannot be used as reference." He asked why members should "waste time and resources to redo the analysis of the already analyzed legal issues".

"It also runs against the judicial economy principle, which directly conflicts with the positions of the United States to enhance the efficiency of dispute settlement," the Chinese envoy maintained.

EU proposals

At the General Council meeting, a large majority of industrialized, developing and least-developed countries rallied around the EU's two proposals, saying they offer a way forward for breaking the impasse in the AB crisis.

The EU said while the co-sponsors acknowledge the concerns raised about the AB, it is important to fill the vacancies in the AB and amend certain provisions of the DSU. It then elaborated on the suggested amendments to the DSU contained in its proposal:

(i) a transitional rule for ensuring that an outgoing AB member is allowed to continue with the approval of the members;

(ii) enhanced consultations for extending the 90-day time limit for findings by the AB;

(iii) issues of law covered in the panel report and legal interpretations developed by the panel, in the meaning of Article 17.6 of the DSU, do not itself include the meaning of the municipal measures;

(iv) the AB shall address each of the issues raised on appeal by the parties to the dispute to the extent this is necessary for the resolution of the dispute; and

(v) to address the AB's approach in treating its own reports effectively as precedent that panels are to follow absent "cogent reasons," annual meetings would be held between the AB and WTO members to discuss systemic issues or trends in the jurisprudence.

The EU said "in view of the urgency of the matter, and in order to allow for the AB appointments to be taken swiftly, the co-sponsors propose that these amendments be adopted by the General Council as soon as possible."

The EU also explained its second proposal, which calls for an increase in the number of AB members to nine and a longer term of 6-8 years; allowing outgoing AB members to discharge their duties until their places have been filled; and launching an automatic selection process in advance of the expiry of the term of office of the outgoing member.

In conclusion, it is clear as daylight that the US is unlikely to address the impasse it had unilaterally created, in order to ensure permanent paralysis of the AB. The US stance on the AB should serve as an eye-opener to developing and poorest countries that even as the AB crisis remains unresolved, grand rule-making reforms are being foisted on them, several trade envoys told *SUNS*. *(SUNS8817)* ❐

DDA issues must be addressed before considering WTO reform

Amid a developed-country-led push to bring new topics onto the WTO negotiating table, many developing countries have called for priority to be accorded instead to unresolved issues under the Doha Development Agenda.

by D. Ravi Kanth

GENEVA: A large majority of developing and least-developed countries have insisted that the outstanding Doha Development Agenda (DDA) issues must be addressed before considering any new reforms at the WTO.

At an informal Doha Trade Negotiations Committee (TNC) meeting on 10 December, South Africa on behalf of the African Group, India, Malawi on behalf of the Africa, Caribbean and Pacific (ACP) Group, Uganda and several South American countries reminded the proponents of WTO reforms to address first the issues set out in the Doha work programme.

South Africa said, "Our Group [the African Group] will continue to pursue outcomes on the core developmental issues in line with the Doha mandate, notably in respect to agricultural domestic support, cotton, public stockholding and fisheries subsidies."

It asked the chairperson of the Doha agriculture negotiations, Ambassador John Deep Ford of Guyana, to respect the "previous ministerial decisions as well as to ensure that the pace and structure of the work next year takes into account the challenges faced by smaller delegations".

The African Group, according to South Africa, will continue to seek an outcome on proposed improvements in special and differential treatment for developing countries.

It expressed "frustration" over continued opposition to "advancing on issues of longstanding interest to us."

South Africa warned that "as we consider the way forward, the issues we raise are critical components of our work, and how they are treated will have a bearing on other matters under consideration."

It urged "all WTO members to implement all the Decisions in favour of LDCs [least-developed countries] in order to help them integrate more fully and sustainably into the multilateral trading system."

South Africa asked the developed countries to "desist from making requests on African acceding countries that are incompatible with their level of development and capacity, and that these countries receive technical support before, during and after their accession [to the WTO]."

India said several issues of the Doha mandate must be addressed before approaching new issues. "Mandated issues in agriculture like Public Stockholding for Food Security (PSH) for all developing countries and LDCs, fisheries and services need to be taken forward with a sense of focus."

India inveighed against attempts by industrialized countries and their allies to undermine multilateral issues such as the proposal on the negative impact of the e-commerce moratorium on members' policy space to protect domestic industry and the proposal to improve the disciplines on domestic regulation for facilitating movement of short-term services providers in Mode 4 of the General Agreement on Trade in Services (GATS).

Continued priority

On behalf of the ACP Group, Malawi reiterated that the "Doha Development Agenda issues continue to remain a priority for the ACP Group despite some signs of the issues being neglected and sometimes even forgotten in the organization."

The ACP Group expressed sharp concern over the lack of resolution to its proposals to improve the special and differential treatment flexibilities. "Being the main demanders and beneficiaries, we have proposed and recommended a way forward in the process which will prioritize LDCs and SVEs' [small vulnerable economies] interests in the process, then discuss flexibilities as needed for other developing countries."

"In the near future, we expect to further engage with members moving forward and therefore, call upon all members to remain open in this engagement process if we are to take any meaningful steps in addressing the real imbalances in global trade which more particularly affect the LDCs and SVEs," Malawi said.

"We have more than a decade of work resulting in principles emerging in the differentiated flexibilities designed in the 2008 Chair's texts for agriculture and NAMA," the ACP Group maintained.

The ACP Group also demanded that members adhere to the old negotiating framework on services as was set out in the 2005 Hong Kong Ministerial Declaration.

"On domestic regulation, the Group welcomes the renewed multilateral discussions within the context of the Working Party on Domestic Regulation, " it said. "We reiterate that any discussions on domestic regulation must prioritize issues of interest to developing countries and LDCs and fully recognize our countries' right to regulate."

On agriculture, the ACP Group said it recognized the active engagement pursued in the agriculture negotiations through presentation of analytical papers and presentations under the different pillars. "In general, the ACP Group maintains that there is need for members to take steps to eliminate trade-distorting domestic supports that maintain gross imbalances including AMS [Aggregate Measurement of Support] entitlements, cotton, and take decisions on food security and other areas of most importance to weaker developing countries and LDCs which deserve priority attention."

In their interventions, the developing countries did not comment on the plurilateral Joint Statement Initiatives on e-commerce, domestic regulation for services, investment facilitation, disciplines for micro, small and medium enterprises, and trade and gender.

In conclusion, the tension between the unfinished Doha-mandated issues and the new plurilateral initiatives was evident at the informal TNC meeting. *(SUNS8815)* ❐

US under fire for spawning "protectionism" and "unilateralism"

A review meeting at the WTO on US trade policy saw Washington criticized for measures seen as reflecting "protectionism" and "unilateralism".

by D. Ravi Kanth

GENEVA: China and several other countries on 17 December held the United States singularly responsible for spawning "protectionism" and "unilateralism" in the global trading system over the last 12 months, trade envoys told the *South-North Development Monitor (SUNS)*.

On the first day of the two-day Trade Policy Review (TPR) of the US at the WTO, more than two dozen countries inveighed against the US for the spate of unilateral and protectionist measures unleashed by the Trump administration under the pretext of "America First" trade policies, including its intention to permanently paralyze the highest adjudicating body for global trade disputes, the WTO's Appellate Body (AB).

China likened the US to "a top dog" in the international trading system, urging Washington to behave with responsibility and not out of narrow interests. "Whether it is a small family or an international organization, a top dog should act like a top dog. It cannot only see a narrow spectrum of its own self-interest, and it certainly should not do whatever it wishes at the sacrifice of the others," the Chinese ambassador to the WTO, Zhang Xiangchen, pointedly told his American counterpart Dennis Shea.

Ahead of the 14th TPR of the US, the WTO secretariat had issued a 238-page report chronicling all the major US trade policy developments, including the additional duties imposed under Section 232 national security provisions and the so-called crowbar measures imposed under the Section 301 provisions.

In his introductory statement, Shea said "the WTO the US helped create, and the WTO we seek, is in key respects not the WTO we have today".

He said the WTO dispute settlement system, particularly the AB, has strayed from its mandate by seeking "to add or diminish WTO rights and obligations of Members in a broad range of areas." He characterized the approaches and findings of the AB as amounting to an "activist approach."

Shea further said the WTO is "not well equipped to handle the fundamental challenge posed by China, which continues to embrace a state-led, mercantilist approach to the economy and trade." He charged China with pursuing an "array of non-market industrial policies and other unfair competitive practices aimed at promoting and supporting its domestic industries while simultaneously restricting, taking advantage of, discriminating against, or otherwise creating disadvantages for foreign companies and their goods and services."

Shea said the WTO's negotiating arm

is not capable of reaching agreements of critical importance in the modern economy. Besides, the lack of transparency has damaged members' ability to identify opportunities to negotiate new rules for raising market efficiency, he added.

The US envoy claimed that Washington remains committed to "reforming the global trading system in ways that lead to fairer outcomes for US workers and businesses and more efficient markets for countries around the world."

"US trade policy is driven by a pragmatic determination to use the leverage available to the world's largest economy to secure these objectives," he said.

"Our trade policy," said Shea somewhat unabashedly, "is steadfastly focused on the national interest, including retaining and using US sovereign power to act in defence of that interest."

He said the US will pursue a new national security strategy to protect its people, and added that it will not turn "a blind eye to violations, cheating or economic aggression."

Shea also spoke about the US' trilateral initiative with the European Union and Japan to "address non-market-oriented policies and practices", including forced transfer of technology, and formulate new rules on industrial subsidies and state-owned entities.

The US, he said, is "giving serious thought to the problem of differentiation" to put an end to the "self-declared status" of a developing country to avail of special and differential treatment.

Call for responsibility

In its intervention on the WTO secretariat report as well as on the US' introductory statement, China drew reference to three aspects of US trade measures: the imposition of "Section 232 measures on steel and aluminium products, allowing protectionism to be at large under the pretext of the so-called national security"; application of "Section 301 measures to vastly increase tariffs, bringing back to life the ghost of unilateralism that has been dormant for decades"; and blocking "the selection of Appellate Body members, practically digging out the crown jewel of the multilateral trading system."

Chinese envoy Zhang said that "for all members", it is hard to accept tariff increases on steel and aluminum prod-

(continued on page 16)

Taking away the ladder

Successful developing economies progressed by making use of policy options that had been employed by the rich countries themselves – policy options which the latter now seek to foreclose.

by Jomo Kwame Sundaram and Anis Chowdhury

The notion of the BRICS (Brazil, Russia, India, China and, later, South Africa) was concocted by Goldman Sachs's Jim O'Neill. His 2001 acronym was initially seen as an acknowledge-ment of the rise of the South.

But if one takes China out of the BRICS, one is left with little more than RIBS. While the RIBS have undoubtedly grown in recent decades, their expansion has been quite uneven and much more modest than China's.

Growth spurts in South America's southern cone and sub-Saharan Africa lasted over a decade until the Saudi-induced commodity price collapse from 2014, while the post-Soviet Russian economy contracted by half during Boris Yeltsin's first three years of "shock therapy" during 1992-94.

Unsurprisingly, Goldman Sachs quietly shut down its BRICS investment fund in October 2015 after years of losses, marking "the end of an era", according to Bloomberg.

The recently celebrated rise of the South and developing-country convergence with the industrial economies has largely remained an East Asian story.

Increasingly, that has involved China's and South Korea's continued ascendance after Japan's financial "big bang" and ensuing stagnation three decades ago. They have progressed and grown rapidly for extended periods precisely because they have not followed rules set by the advanced economies.

Industrial policy – involving state-owned enterprises (SOEs), technology transfer agreements, government procurement, strict terms for foreign direct investment and other developmental interventions – was condemned by the Washington Consensus promoting liberalization, privatization and deregulation favouring large transnational corporations.

Well-managed SOEs, government procurement practices and effective protection conditional on export promotion accelerated structural transformation. And when foreign corporations were allowed to invest, they were typically required to transfer technology to the host economy.

Countries have progressed by using industrial policy judiciously when sufficient policy space was available, as was the norm in most developed countries. But such successful development practices have been denied to most developing countries in recent decades.

The North now emphasizes the dangers of industrial policy, subsidies, SOEs and technology transfer agreements, in order to justify precluding their use by others.

Instead, corporate-led globalization continues to be sold as the way to develop and progress. Some advocates insist that participation in global value chains will provide handsome opportunities for sustained economic development despite the evidence to the contrary.

Major industrial economies appear intent on tightening international rules to further reduce developing countries' policy space under the pretext of reforming the multilateral trading system in order to save it.

Trump and other challenges to this neoliberal narrative do not offer any better options for the South. Nevertheless, their nationalist and chauvinist rhetoric has undermined the pious claims and very legitimacy of their neoliberal "globalist" rivals on the right.

Infrastructure finance

The UN Conference on Trade and Development (UNCTAD)'s *Trade and Development Report 2018* emphasizes the link between infrastructure and industrialization. It argues that successful industrialization since 19th-century England has crucially depended on public infrastructure. Infrastructure investment is thus considered crucial for economic growth and structural transformation.

However, the ascendance of the neoliberal Washington Consensus agenda has undermined not only public interventions generally, but also state revenue and spending in particular, especially in the developing world. But even the World Bank now admits that it had wrongly discouraged infrastructure financing, which it now advocates.

Most Western-controlled international financial institutions have recently advocated public-private partnerships to finance, manage and implement infrastructure projects. The presumption is that only the private sector has the expertise and capacity to be efficient and profitable. In practice, however, states borrowed and bore most of the risk, e.g., of contingent liabilities, while private partners reaped much profit, often with state-guaranteed revenues.

For China, infrastructure, including both its construction and financing, has been central not only to the country's own progress but also to its international development cooperation.

China's financial redeployment of its massive current account surplus has created an alternative to traditional sources of investment finance, both private and public. Chinese infrastructure finance on preferential or concessionary terms has been enthusiastically taken up, not least by countries long starved of investible resources.

Not surprisingly, this has resulted in over-investments in some infrastructure, resulting in under-utilization and poor returns to investment. The resulting debt burdens and related problems have been well publicized, if not exaggerated by critics with different motivations.

Now threatened by China's rise, Western governments and Japan have suddenly found additional resources to offer similar concessionary financing for their own infrastructure firms.

Thus, not unlike in the US-Soviet Cold War, the perceived new threat from China has created a new bipolar rivalry. That has inadvertently created policy space and concessions reminiscent of the post-Second World War "Golden Age" for Keynesian and development economics. *(IPS)* ❐

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

The movement fighting inequality is growing

Jenny Ricks **throws the spotlight on an emerging global coalition leading the charge against inequality from the grassroots up.**

The world's political and economic elites, who will once again gather at the Swiss mountain resort of Davos for the annual World Economic Forum (WEF) meeting on 22-25 January, have become all too predictable. It's not difficult to predict what they will say, because they always say what's in their interests.

They will again say that they understand why people in so many parts of the world are angry about inequality, and once again they will promise to fix the enormous gap between the elite few and the rest of us. But they will not fix the inequality crisis because inequality isn't a flaw in the system, it's in the design, and those at the top intend to keep it that way.

But what history has taught us is that all major equalizing change, from fighting against slavery to fighting for women's rights, comes about when people outside the elites organize and challenge those in power.

Organizing for change

The solutions to tackling inequality therefore rest instead with a very different group of people from those in Davos, those who will be holding protests and events on mountains of a very different sort – the mountains of garbage and of open pit mines that millions of the world's people call home.

And the number is growing. In cities from Manila to Guadalajara, ordinary people will mobilize and gather in their thousands to demand and present solutions to rising inequality. They are demanding an end to the age of greed that has seen extreme wealth and power skyrocket to epidemic proportions.

Tackling inequality will take a step forward during that week, but it will happen because people are not waiting for answers, they are organizing for change – in spite of Davos, not because of it. Their solutions will include jobs, minimum living wages, decent public services, fair taxes, land rights for women and much more.

The people leading the change are part of an emerging global grassroots movement, the Fight Inequality Alliance, that aims to counter the excessive concentration of power and wealth in the hands of elites, and advance a more just, equal and sustainable world. The alliance unites social movements, environmental groups, women's rights groups, trade unions and NGOs across the world.

In Mexico, the city of Guadalajara will host a walk called "From el Colli to Davos". It will start from a hill where rural and indigenous migrants settle informally, expelled from the city and deprived of opportunities and services for a better life. It will culminate with a number of cultural activities, including a hip-hop and art contest and gathering people's demands for change.

Speaking from Guadalajara, Fight Inequality campaigner Hector Castanon says: "Guadalajara has the second richest municipality in Mexico and is home to Central American migrants and displaced rural and indigenous communities that have left everything behind due to a lack of opportunities and organized crime.

"Salaries are under the poverty line, there is limited access to basic resources, poor public services and high crime rates. All of this has moved people to organize to solve their needs and exercise their rights."

In Zambia, there will be a festival in Shang'ombo, one of the poorest and most neglected districts in the country. The festival will highlight how politicians and elites make promises here during election campaigns and then forget the people, as well as people's stories of inequality and their solutions. It will feature music stars Petersen Zagaze, BFlow and Maiko Zulu.

In explaining why she will be part of the event, Zambian youth activist Mzezeti Mwanza says that despite the country's natural resources, the majority of Zambians live below the poverty line and that "none of us are equal until all of us are equal".

In Kenya, the Dandora slum in Nairobi will play host to the Usawa Festival (or Equality Festival), where hip-hop star Juliani will perform and alliance members will create a space for people to bring forward their solutions to inequality.

Njoki Njehu, Africa Coordinator for Fight Inequality, said, "Kenyans living the realities of inequality are organizing together – rural and urban, young and old, women and men. We understand the problems and have concrete proposals to end inequality. The solutions start with us. We have the answers."

In the Philippines, there will be a festival between two adjoining communities, Baseco and Parola in Manila, that contrast starkly with the high-rise landscape of the city centre. Through music, cultural activities and discussion, people will raise their experiences of inequality and their demands for change.

The Fight Inequality Alliance's third global week of action takes place from 18-25 January, with events like these in more than 30 countries across the globe. For solutions to inequality, adjust your gaze from Davos to the other mountains. *(IPS)* ❐

Jenny Ricks is the global convenor of the Fight Inequality Alliance. Follow the alliance on Twitter at https://twitter.com/FightInequalit1

Strings attached

Policy conditions tied to IMF loans and their adverse effects

New research finds that International Monetary Fund (IMF) loans come saddled with increased conditionality, which could undermine development prospects, debt sustainability and human rights, including the right to health, in borrower countries.

by Gino Brunswijck

The International Monetary Fund (IMF) practice of attaching policy conditions to its loans for crisis-hit countries continues to trigger outrage and protest. This article investigates the conditions attached to the IMF loans for 26 country programmes that were approved in 2016 and 2017. In at least 20 of those countries, people have gone on strike or taken to the streets to protest against government cutbacks, the rising cost of living, tax restructuring and wage bill reforms pushed by IMF conditionality.

They have good reason to complain. The fact that the IMF imposes reforms undermines sovereignty, democratic decision-making and ownership for reforms in affected countries. The type of reforms that the IMF imposes through programme conditionality affects governments' ability to provide public services, their capacity to fulfil their human rights obligations towards citizens, and ultimately impacts on people's living conditions.

Eurodad study

A new study by the European Network on Debt and Development (Eurodad) on IMF conditionality assesses first how intrusive IMF programmes are. We took a thorough look at the IMF's conditionality databases, as well as at relevant programme documents, in order to assess how many conditions the IMF is actually imposing. We counted the conditions for loans approved in 2016-17 and compared the findings with our previous study that covered IMF programmes approved in 2011-13.

We found that the number of IMF conditions is increasing. This finding stands in stark contrast to the IMF's own stated intentions of streamlining conditionality and focusing on macro-critical conditionality.

● The average number of structural policy conditions per loan is 26.8 conditions for 26 countries, including those in reviews. The programmes approved in 2011-13 had only 19.5 conditions per loan. In addition, this research also counted quantitative conditionalities, which previous Eurodad research did not. These accounted for, on average, an additional 8.7 quantitative conditions per programme.

● Conditionality can significantly increase after a programme has been approved, due to conditionalities added during reviews. Even countries that start with modest conditionality requirements can be confronted with a high conditionality burden in less than two years following loan approval, caused by "conditionality escalation".

● The IMF is increasingly using "hidden" forms of conditionality. Besides the explicit conditionality that appears in databases and annexes to loan documents, the IMF bundles conditionality. Policy measures embedded in the narrative of IMF programme documents are de facto conditionality even though they are not explicitly so.

● The largest IMF facilities in terms of loan volume continue to have a large number of conditions attached. The two main types of IMF programme – Extended Fund Facility and Stand-By Agreement – account for 83% of the total value and have an average of 30.3 conditions per loan.

Looking at the type of conditions, the study finds that the IMF programmes continue to be pro-cyclical and oblige borrowers to implement austerity: 23 out of the 26 programmes are conditional on fiscal consolidation. The majority of borrower countries are forced to restrict their spending and/or increase their taxes as a result of the loans, contradicting IMF claims that its programmes do not emphasize fiscal contraction. Shrinking fiscal space constrains the ability of governments to deliver on their development commitments and human rights obligations.

Comparing cases over time, we found that the majority of countries in our 2016-17 sample were repeat borrowers from the IMF. This suggests that programme conditionality has in most cases been ineffective, perhaps even counter-productive, when it comes to restoring long-term debt sustainability. From this, we can conclude that IMF programme design is based on overly optimistic views on debt sustainability. Most of the countries that faced payment difficulties would have been better off restructuring their debts in order to create fiscal space, instead of requesting IMF bailout loans that came with harsh austerity conditions attached.

In a second step, this research identified knock-on effects of IMF conditionalities on health system financing and access to health services. The adjustment measures potentially directly affecting healthcare are those mandating budget cuts and public sector employment reductions. Budget constraints as a consequence of loan conditionality risk compromising a country's capacity to scale up public investment to provide essential health services, while public employment reductions have a heavy impact on the health sector and the enjoyment of the rights to health.

Eurodad's research found:

● In the absence of debt relief, countries struggle to finance health services; debt service costs as a share of the total budget are higher than health spending in eight of the countries studied. Rapidly growing debt service costs threaten to crowd out health spending.

● In many countries, for instance Chad and Gabon, austerity measures have sparked cuts in the health sector, which has had a grave impact on health service delivery and health personnel. This has reduced access to health services for the population as out-of-pocket payments have increased.

● Long periods of austerity risk causing protracted underinvestment in social services. For instance, in Guinea and Sierra Leona – which are both emerging from crippling health crises brought on by the Ebola epidemic – the current programmes call for wage bill freezes or reductions.

● All low-income countries face challenges in terms of raising sufficient resources for health systems to reach the essential requirements for universal health coverage. However, the social spending floors that are part of IMF programmes, and that are supposed to shield vulnerable groups, are at levels below what is needed to guarantee basic healthcare.

Key findings

The number of loan conditions is an important indicator of the extent of IMF influence over a borrowing country's economic policies. This research found that the number of conditions per loan is on the increase, despite the IMF's stated objective of streamlining conditionality.

Overall we have counted 227 quantitative conditions over 26 programmes – or 8.7 per programme. Most quantitative conditions were in the area of fiscal policy.

For structural conditionality, we found a total of 26.8 structural conditions per programme on average after unbundling, composed of 17.9 (466 conditions) structural conditions on average upon programme approval and 7.3 per review on average (232 conditions). This shows that conditions added during programme reviews increase the overall conditionality burden of the recipient country substantially. For instance, the Central African Republic started out with eight structural conditions at the time of programme approval. However, three subsequent reviews have added another 22 conditions.

In addition, we found that the proposed policy measures described in the programme documents add to the reform burden of loan recipient countries. For instance, 21 countries plan to implement wage bill reform as part of programme policies, while only seven countries have wage bill reforms listed in structural conditionality.

Two particular qualitative findings from our analysis of IMF loan conditionality should be highlighted. The first is that IMF programmes are overall ineffective in restoring debt sustainability in the long term. The majority of countries in the sample are repeat borrowers: 24 out of the 26 countries were involved in another IMF programme in the previous 10 years. Of these, 12 had another programme during the previous three years. These findings suggest that the IMF lends to countries with protracted sovereign insolvency, rather than a temporary liquidity problem, reflecting that its loans prop up unsustainable debt.

The second finding is that the IMF programmes continue to be pro-cyclical, meaning that they push further fiscal cuts in times of crisis, when countries actually need fiscal stimulus to support their economic recovery. Eurodad found that 23 out of the 26 programmes explicitly state fiscal consolidation in the programme objectives, policies and strategies. Fiscal austerity has been found to undermine economic activity and development objectives as well as human rights. Occasionally, the IMF itself admits that its conditionality has done more harm than good. In the case of Greece, the IMF issued a famous mea culpa, as programme designers had underestimated the "fiscal multipliers" of budget cuts – of conditionality-imposed austerity – on the economy, which triggered a deep recession.

Conditionality and health services

There are many pathways through which IMF conditionalities impact on health systems and access to health services – in particular, debt service payments, fiscal deficit reduction and limitations on public sector employment. Loan conditionality can reduce fiscal space in a way that compromises a government's ability to scale up public investment for providing the essential health services needed to ensure the enjoyment of the right to health.

The prioritization of debt service payments risks absorbing essential funding for health services. In the absence of debt relief, countries may well struggle to finance health services as well as other social services. Eurodad found that debt servicing crowded out health spending in eight of the countries studied.

Our research found that the majority of countries are likely to restrict their spending or raise taxes to comply with fiscal deficit targets. Overall budget cuts can have knock-on effects on health budgets through spending cuts or reduced public sector employment, which – in the absence of sufficient development aid – risks increasing reliance on out-of-pocket payments for health services.

There is an urgent need to drive up investment in health in general to address basic health needs and in health personnel to overcome staff shortages, which are most pronounced in developing countries. An estimated additional $274 billion per year is needed to reach Sustainable Development Goal (SDG) health targets by 2030.

The IMF claims that the effects of fiscal adjustment for vulnerable groups will be cushioned by social spending floors. However, these appear too low to fund accessible health services for all and guarantee the right to health. A review of the level of social spending floors for low-income countries in our sample found that all 10 LICs have spending floors that are lower than the $86 per capita target necessary for guaranteeing a minimum level of key health services for their population, merely one dimension of social spending.

Conclusions

The number of IMF conditions – including those promoting austerity – has increased in recent years. This is in stark contrast to IMF claims that they have been "streamlined". IMF programmes are becoming ever more intrusive as the number of conditions per programme grows. Economic policies and necessary reforms should be democratically owned. Real democratic ownership should be more than the mere acceptance of a set of economic reforms by a borrowing government in dire economic circumstances. It should be the result of a process involving stakeholders such as parliaments and civil society organizations.

While the IMF claims that its programmes do not focus uniquely on fiscal consolidation, the majority of programmes are geared towards just that: 23 out of 26 programmes. However, austerity measures have been found to undermine development objectives and human rights, including the right to health. Nevertheless, the IMF continues to use its influence to promote controversial austerity measures as part of its loan conditionality, with potentially severe impacts on the poor and health systems.

The high number of repeat borrowers suggests that lending-with-conditionality by the IMF has been ineffective in terms of restoring debt sustainability in the long term. Heavily indebted countries should therefore give preference to debt restructuring instead of requesting bailout loans from the IMF. Fiscal space gained through debt restructurings can be used to scale up investments in health services.

Recommendations

A fundamental change in approach is needed. The Eurodad study makes the following recommendations:

● Creating fiscal space through debt restructuring must be the first option when countries face a protracted debt problem, instead of lending with conditionality. The IMF's debt sustainability assessments should be complemented with independent Human Rights Impact Assessments (HRIA), in order to assess debt burdens and their implications on countries' abilities to finance internationally agreed development goals and to fulfil their human rights obligations. These HRIA, conducted before approving loans and designing programmes, should guide the IMF and its member states' policy choice towards debt restructuring, or borrowing from the IMF, or a combination of both.

● The IMF should respect democratic ownership and stop applying conditions to loans other than the repayment of the loan on the terms agreed. In this respect, the IMF should extend the use of instruments such as the Flexible Credit Line and Precautionary and Liquidity Line, and remove the remaining ex ante conditionality attached to them. Requiring no conditionality other than the repayment of the loans on the terms agreed is a far better model to deal with temporary balance-of-payments and liquidity needs. ❒

Gino Brunswijck is Senior Policy and Advocacy Officer with the European Network on Debt and Development (Eurodad). The above is extracted from a Eurodad briefing "Unhealthy conditions: IMF loan conditionality and its impact on health financing" (November 2018), which is in turn based on a longer report of the same title. Both the briefing and the report are available at Eurodad.org.

(continued from page 10)

ucts based on dubious national security concerns. "We do not believe that the United States is not aware that its unilateral 'Section 301' measures are inconsistent with the WTO commitments [and] we cannot side with the statement that putting the Appellate Body in a paralysis will make it more effective."

"In a competition, we cannot expect ourselves always to come out as the winner; in a cooperation, we cannot expect only to take and not to give; and in a negotiation we cannot reach a mutually acceptable result by exerting pressure," said Zhang.

"Whether it is a small family or an international organization, a top dog should act like a top dog. It cannot only see a narrow spectrum of its own self-interest, and it certainly should not do whatever it wishes at the sacrifice of the others," the Chinese envoy maintained.

Quoting Winston Churchill, Zhang said that "the price of greatness is responsibility ... it has been, it will become indisputable in the future – the people of the United States cannot escape world responsibility."

Japan's trade envoy Junichi Ihara regretted the Section 232 measures on steel and aluminium, stating that such measures have a negative impact on the multilateral trading system. He added that "tit-for-tat trade restriction will not benefit any country."

He also expressed concern over rules-of-origin provisions in the United States-Mexico-Canada Agreement (USMCA) recently signed as a replacement for the North American Free Trade Agreement (NAFTA).

EU trade envoy Marc Vanheukelen said "the multilateral trading system is in a deep crisis and the United States is at the epicentre for a number of reasons." Given the huge importance of the US to many trading partners, "any turns in US trade policy deeply affect its trading partners," he maintained.

The US stance that the rules of global trade have been tilted against American workers and businesses is not sustainable as the US was the key actor in agreements such as the General Agreement on Trade in Services (GATS) and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), Vanheukelen said. He added that Brussels doesn't share the US assessment about the Appellate Body.

Switzerland said when a traditional free-trader and a bedrock of open markets suddenly resorts to unconventional ways and means, it does not augur well for the global trading system.

India raised several concerns about the US trade policy measures without mentioning the Section 232 duties on steel and aluminium. It spoke about the difficulties faced by its skilled professionals in the US market.

In sum, there is a growing recognition among members at the WTO that the US remains part of the problem behind several ills in the international trading system. Yet, many countries are willing to genuflect towards US demands that would deny the policy space for developing countries to industrialize. *(SUNS8820)* ❒