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# Rights protection in the time of COVID-19

The United Nations' rights chief has, in a report to the UN Human Rights Council, stressed the need to promote economic, social and cultural rights in pandemic preparedness, response and recovery. One key right to uphold is the right to social security; in another report to the Council, a rights expert calls for a global fund to be established to support social protection systems in low-income countries.

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# Vaccines against COVID-19 must be considered a global public good

**The UN's top human rights official has underlined the need to protect economic, social and cultural rights while tackling the COVID-19 pandemic, including by ensuring universal and equitable vaccine allocation.**

*by Kanaga Raja*

GENEVA: Vaccines against COVID-19 must be considered as a global public good, and universal and equitable access and distribution of vaccines is likely the strongest determinant of whether and how soon the pandemic can be controlled.

This was one of the main conclusions highlighted by Michelle Bachelet, the United Nations High Commissioner for Human Rights, in presenting a report by her office to the UN Human Rights Council on the central role of the state in responding to pandemics and other health emergencies.

The Human Rights Council is currently holding its forty-seventh regular session from 21 June to 13 July.

In her presentation to the Council on 21 June, Bachelet said that for over a year now, billions of people on the planet have had their lives turned upside down virtually at the same time. The pandemic continues to pose an extraordinary threat to societies worldwide, both as a public health emergency and as a socioeconomic crisis with far-reaching consequences.

She said COVID-19 has shown that the "failure to integrate human rights-based approaches into health emergency preparedness, response and recovery efforts has serious consequences for human rights and development."

In addition to the incalculable loss in human lives, the economic cost of the pandemic has been catastrophic, said the High Commissioner. Around 255 million jobs are estimated to have been lost during 2020, nearly four times the figures of the global economic crisis in 2008. Women have been more severely affected than men in all regions and all income groups.

The estimate is that the pandemic may have pushed up to 150 million people into extreme poverty by the beginning of 2021. Global hunger is also on the rise. Over 130 million people became more vulnerable to undernourishment last year. Overall, the pandemic has either disrupted or reversed hard-won progress on achieving many of the Sustainable Development Goals (SDGs), said Bachelet.

In terms of health, this crisis has also had a catastrophic effect on other services, Bachelet said, with serious disruptions to the provision of sexual and reproductive health services and treatments for non-communicable diseases, as well as mental healthcare and routine vaccination.

She said states should ensure continued availability and accessibility of care, medicines and vaccines, protecting the primacy of public health over private profit.

"And, as I have said before, vaccines against COVID-19 must be considered as a global public good. The universal and equitable access and distribution of vaccines is likely the strongest determinant of whether and how soon we can control the pandemic," the High Commissioner underlined.

## Human rights commitment

According to the report by the Office of the High Commissioner for Human Rights that was presented at the Council on 21 June, the central role of the state during pandemics and other health emergencies is to mount a robust health response while upholding human rights.

This involves respecting, protecting and fulfilling economic, social and cultural rights, paying particular attention to universal health coverage and universal social protection as fixed pillars in all response, preparedness and recovery efforts, it said.

"The resilience of health systems and national economies has been undermined, to a great extent, by the failure to adequately invest in meeting human

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rights obligations. States should step up investment in health and social protection systems backed by multilateral, joined-up approaches based on solidarity."

These steps require renewed political will and leadership to honour the commitments made by states under human rights law and the 2030 Agenda for Sustainable Development, said the report.

Challenging the capacities of even the wealthiest countries to deal with soaring infection rates and ensure continuity of other essential health services, the COVID-19 pandemic unfolded against the backdrop of a human rights landscape marked by chronic neglect of economic, social and cultural rights, a situation which reached a low point with the global economic downturn in 2008, said the report.

Many countries resorted to fiscal consolidation, adjustment or constriction measures, incorporating reductions in social sector spending, labour market and pension reforms, regressive taxation policies and the privatization of many public services, including health services, it said. "Their cumulative effect on people in danger of falling into poverty or already living in poverty was to increase deprivation and reinforce existing social and economic inequalities, including gender-based inequality."

Today, the COVID-19 pandemic poses an extraordinary threat to societies worldwide. Although it began as a public health emergency, the crisis has had far-reaching socioeconomic consequences, said the report.

The equivalent of 255 million jobs were lost during 2020, nearly four times more than had been lost in the global economic crisis in 2008, with women more severely affected than men in all regions and income groups.

As of October 2020, the pandemic was estimated to have pushed between 88 million and 115 million people into extreme poverty – the number could reach 150 million by 2021. South Asia and sub-Saharan Africa are projected to add 32 million and 26 million people, respectively, to those living below the international poverty line.

Constituting just over 60% of the global workforce, informal sector workers, most of whom are women, are expected to have lost 60% of their income in the first month of the crisis, and up to 81% in some regions.

Worldwide, hunger too is on the rise, with 132 million more people having become vulnerable to undernourishment in 2020.

"Overall, progress on achieving many of the Sustainable Development Goals, including Goal 3 (to ensure healthy lives and promote well-being for all at all ages) has been disrupted or reversed," said the report.

If radical steps are not taken to protect economic, social and cultural rights and support low-income countries, the outlook remains bleak, it cautioned.

More than 40 governments, including countries with pressing development needs, are expected to reduce their budgets by an average of 12% during 2021/22 compared with 2018/19, the report noted. Despite its impact on economic, social and cultural rights, austerity is likely to affect around 85% of the global population by 2022, and over three-quarters of all people may still be living under such conditions in 2025.

Already in debt distress or at high risk of developing it, low-income countries have seen their ability to respond effectively to the pandemic and its impacts hamstrung by severe fiscal limitations, said the report.

Consequently, for the developing world, there is a twofold challenge: "a balance of payments and debt crisis that may up-end development progress, and a development crisis that could erupt into a debt crisis as the state of the economy deteriorates".

Although most states are making genuine efforts to minimize the socioeconomic impact of the crisis, critical gaps remain, said the report. "Perhaps most egregious is the exclusion of women from COVID-19-related policymaking and decision-making, which has led to policies that fail, generally, to adequately address the gendered social and economic consequences of the pandemic."

The impact on older persons, persons with disabilities, persons in detention, lesbian, gay, bisexual, transgender and inter-sex persons and other populations and groups has been severe.

The report said that there are also other areas, including climate change and the environment, business and human rights, and international and unilateral sanctions, that must be addressed in any effort to build back better.

## States' responses

According to the report, the crisis caused by the pandemic has shown that the lack of investment in economic, social and cultural rights and in the implementation of the 2030 Agenda for Sustainable Development left societies insufficiently prepared for the pandemic and led to great human suffering and economic losses.

"As the socioeconomic impact of the response to the COVID-19 pandemic reverberates around the world, some states have sought to mitigate it by, for example, adopting moratoriums on evictions, broadening access to health care and essential services and, crucially, introducing economic stimulus packages." Running into the tens of trillions of dollars collectively, these packages were generally designed to stimulate short-term demand and foster long-term growth. They included social protection benefits, support for businesses and tax cuts.

However, the report said, the poorest countries have spent only 2% of their gross domestic product (GDP) on stimulus packages, while industrialized countries have spent up to 20% of their GDP on them.

Faced with collapsing trade, falling remittances, capital flight, currency depreciation and insufficient international development assistance, many poor countries have been forced to choose between providing basic services for their people or servicing their debts, said the report.

"States' responses under the pressure of the crisis have confirmed that economic, social and cultural rights can be prioritized and must be upheld both as a matter of principle and to provide protection in the event of pandemics and other health emergencies," it added.

The COVID-19 crisis and its socioeconomic consequences call for political leadership, including at the highest levels, to reverse the marginalization of economic, social and cultural rights, which are binding obligations, and prioritize their realization, the report emphasized. "States and other stakeholders should use the maximum of their available resources, including resources available through international cooperation, for the progressive realization of economic, social and cultural rights."

In this context, the report highlighted several key actions including extending new allocations of Special Drawing Rights to middle-income countries in need of liquidity; cancelling or restructuring debt or reaching agreements on debt standstills, including from private creditors; and recommitting to the target of allocating 0.7% of gross national income to official development assistance to ensure that low- and middle-income countries have the fiscal space necessary to navigate the crisis.

The report called for implementing a holistic approach to debt management and restructuring, with the participation of all actors. In the short term, the Debt Service Suspension Initiative and the Common Framework for Debt Treatments should review their criteria to ensure inclusion of those low- and middle-income countries that are currently excluded, it said.

The report also said that the pace at which the pandemic gained ground has left many governments unable to respond adequately. The high demand for health services quickly outstripped supply, leading, for example, to severe pressure on intensive care facilities and to shortages of vital equipment and supplies such as ventilators and oxygen. Although vaccines might offer an important route to controlling the pandemic, new variants of the virus responsible for COVID-19 have already begun to complicate efforts to reduce transmission at the community and global levels.

It is likely, however, that the stronger determinant of whether and how soon control is achieved is the universal and equitable distribution of vaccines, said the report. The dominant approach taken by some wealthy countries has been to favour the protection of their own populations as opposed to privileging a more coordinated response that would ideally target vulnerable groups in all countries first and follow evidence-based guidance for a subsequent rollout. Access to vaccines is not only an important component of the right to health, it is a requirement that engages the immediate responsibility of states.

The report noted that the availability and accessibility of good-quality health facilities, goods and services on the basis of non-discrimination remains a challenge, especially in developing countries. Structural and societal discrimination, the marginalization of entire communities, groups and populations, prohibitive healthcare costs and the failure to address other underlying determinants of health have driven much of this deficit and pose a serious challenge to achieving universal health coverage by 2030.

The COVID-19 pandemic has also highlighted the resource constraints under which many health systems have been operating, particularly in developing countries, which have tended to bear the highest burden of disease.

In 2020, more than half of the global population still lacked access to adequate essential healthcare. There are wide disparities between regions and among populations: 56% of the global rural population, compared with 22% of the global urban population, lack health coverage. In addition, as many as 18 million health workers are needed to address the global shortage of personnel.

The report called on states to ensure availability and accessibility of essential medicines and vaccines. To that end, states should protect the primacy of public health over private profit, in line with their commitments to support research and development of vaccines and medicines, as well as preventive measures and treatments for communicable diseases, especially those that have a disproportionate impact on developing countries.

## Inequality

The report also said that the positive vision that the 2030 Agenda paints lies in sharp contrast to the current reality, where the COVID-19 pandemic and the accompanying socioeconomic crisis have aggravated existing inequalities between and among countries, added tens of millions to the count of those already left behind, and undermined progress towards achieving the 2030 Agenda as a whole and its Sustainable Development Goals specifically.

"The socioeconomic crisis has devastated businesses, industries and livelihoods. It has exposed the flaws of the existing political, economic and social system and, once more, the burden of hardship has not been evenly borne."

Following the pandemic, in 2020, hundreds of millions of workers lost around $3.7 trillion in earnings, while some of the world's richest individuals increased their wealth by an estimated $1.9 trillion, said the report.

"Populations and groups already subjected to poverty and marginalization and to multiple and intersecting forms of discrimination on grounds such as income, gender, location, race, religion and age continue to sink deeper into deprivation."

Although social protection systems help prevent and reduce poverty, nearly three-quarters of the global population are either not covered or only partially covered by social security systems. Only 22% of unemployed persons receive unemployment benefits and only 35% of children worldwide enjoy effective access to social protection.

"Vaccines have become the newest frontier in the struggle for equality, demonstrating that the divide between rich and poor countries remains as stark as ever," the report emphasized.

It noted that with several vaccines cleared for use by regulators in several countries, a handful of wealthy countries have received more than 87% of all vaccine doses while developing countries have received 0.2%. "This situation not only undermines the solidarity and cooperation that must underpin an effective and responsive multilateral system primed for the optimal protection of human rights, it is also inefficient in the context of a global pandemic."

The report said the pandemic has shown that the failure to integrate human-rights-based approaches into health emergency preparedness, response and recovery efforts has serious consequences for human rights and development.

Among the recommendations highlighted by the High Commissioner for Human Rights for "building back better" are that the global approach to pandemics and other health emergencies should be coordinated and be in line with the International Health Regulations (2005), the International Covenant on Economic, Social and Cultural Rights, and the 2030 Agenda.

"Efforts should be directed, among others, to increasing manufacturing capacity and ensuring equitable global access to COVID-19 medicines, vaccines, therapies and health technologies; pooling and sharing knowledge, intellectual property and data; participating in global initiatives aimed at supporting equitable, non-discriminatory access to health facilities, goods and services such as the COVID-19 Technology Access Pool; and strengthening health systems."

Bachelet also called on states to adopt as best practice, irrespective of crisis situations but especially during pandemics and other health emergencies, the interpretation and implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) in line with the right of World Trade Organization members to protect public health and, in particular, to promote access to medicines for all.

The High Commissioner also recommended that debt relief should be extended to all countries in need, even middle-income countries, for example, by cancelling or restructuring debt or reaching agreements on debt standstills from all stakeholders, including from private creditors, in order to provide developing countries with the necessary fiscal space. *(SUNS9372)*

# Global social protection fund needed to support low-income countries

A UN rights expert has advocated the setting up of an international fund to strengthen social protection in low-income countries, saying that this would not only advance the right to social security but also make economic sense.

*by Kanaga Raja*

GENEVA: A global fund for social protection needs to be established to increase the level of support to low-income countries, in order to help them both to establish and maintain social protection floors in the form of legal entitlements, and to improve the resilience of social protection systems against shocks, a UN human rights expert has said.

In a report to the UN Human Rights Council, Olivier De Schutter, the Special Rapporteur on extreme poverty and human rights, said that such a fund is affordable, whether funding comes from official development assistance (ODA) or from other sources, including unused or new Special Drawing Rights (SDRs).

"Moreover, social protection should be seen as an investment with potentially high returns, since it leads to building human capital, has significant multiplier effects in the local economy, and contributes to inclusive growth and to resilience in times of crisis," he said.

The global fund can be established building on the already existing structures that have developed on an ad hoc basis to provide support for the universalization of social protection floors, he said. "The challenge now is to strengthen those structures – not to weaken or duplicate them – in order to ensure that they work more effectively with one another, and to scale up the level of support while ensuring that such support is also adaptive to future shocks."

## Unmet commitment

According to the report by De Schutter, all states have committed to guarantee income security throughout people's lives. However, that pledge remains unfulfilled, at a huge human cost to their populations. "One reason for that failure is the insufficient level of support going to developing countries, in particular, low-income countries, which remain unable to overcome the financing gap for the establishment of social protection floors."

The Special Rapporteur underlined that the right of everyone to social security is firmly established in international law. The commitment to ensure basic income security and access to healthcare throughout people's lives was reiterated in the International Labour Organization (ILO) Social Protection Floors Recommendation No. 202, adopted unanimously by governments and social partners at the 101st session of the International Labour Conference, held in 2012.

That commitment also forms part of the Agenda 2030 for Sustainable Development. Target 1.3 of Sustainable Development Goal 1, on poverty eradication, is aimed at implementing national social protection systems, and target 3.8 of Goal 3, on good health and well-being, is aimed at achieving universal health coverage.

However, according to the Special Rapporteur, a considerable gap remains between those pledges and the realities on the ground.

Before the onset of the COVID-19 pandemic, only 29% of the global population were covered by the full range of guarantees referred to in ILO Recommendation No. 202, excluding healthcare. The majority of people – 55%, or 4 billion people – were without any form of social protection whatsoever, while another 16%, or 1.2 billion people, enjoyed only partial protection. Only 35% of children, approximately one in three, benefited from child allowances enabling them to receive childcare, nutrition and education.

These global figures hide important differences between the kind of benefits examined and between regions, said De Schutter.

At the global level, 67.9% of the older population are covered by some form of old-age pension, whereas only 21.8% of unemployed workers are eligible for unemployment benefits.

At the regional level, in the regions of Africa and Asia-Pacific, 29.6% and 55.2% of the population, respectively, are covered by old-age pensions, whereas unemployment benefits are available to 5.6% and 22.5% of the population, respectively.

In contrast, in the region of Europe and Central Asia, where coverage is in general the most advanced, a total of 95.2% of the population are covered by old-age pensions. However, even in this region, gaps remain: for instance, only 42.5% of the population are covered by unemployment benefits.

"The overall picture is nevertheless clear: too little was invested in social protection in the past," said the Special Rapporteur.

The COVID-19 pandemic therefore caught countries off-guard, he said, and the emergency responses of countries to the social impacts of the pandemic remained largely insufficient.

A total of 2.7 billion people worldwide have not received any support to face the crisis and, as a result, the World Bank estimates an additional 88 million to 115 million people were pushed into extreme poverty by the COVID-19 crisis in 2020 alone, with an additional increase of between 23 million and 35 million expected in 2021.

"This is the lesson from the crisis: in order to strengthen the resilience of societies against shocks, we need to do more to fulfil the right to social security," said De Schutter.

In addition to the lack of sufficient political will, a range of causes explain the lack of progress in the realization of the right to social security, he said. Because informal work remains predominant in many low-income countries, contributory schemes only provide protection to a small proportion of the workforce. In addition, the capacity of national administrations, in particular social security and tax administrations and labour inspectorates, is in many cases insufficient. Further, the large gaps that exist in population registries constitute a major obstacle in many low-income countries.

"These obstacles are real. They affect the ability of low-income countries to mobilize domestic resources in order to finance social protection, and their ability to deliver social protection effectively to their populations," said the Special Rapporteur.

"International solidarity should play a greater role in overcoming these obstacles. International solidarity, however, is not a substitute for domestic reforms, or for increased mobilization of domestic resources. Rather, it is a precondition for both," he said.

He underlined that low-income countries should be supported in their efforts to establish social protection floors, and a new international mechanism should be set up to that effect. "The proposal for a global fund for social protection is not that taxpayers from rich countries pay for social protection in poor countries. It is, rather, to kick-start a virtuous cycle in which international support matches domestic efforts and contributes to capacity-building in low-income countries."

The question is not simply whether low-income countries can afford to build social protection floors, De Schutter said. Instead, the question is whether those countries should remain locked in a "low-cost, low-human development" model of growth, or whether they should instead opt for an inclusive model of growth.

## Closing the financing gap

According to the Special Rapporteur, the effort to achieve universal social protection floors is affordable.

For developing countries as a whole, the total cost of providing social protection benefits in 2019 was estimated by the ILO to represent $792.6 billion, or 2.4% of their gross domestic product (GDP). These costs are calculated on the basis of the four main social protection benefits: child allowances, maternity and disability benefits, and old-age pensions, but excluding unemployment benefits and healthcare.

Among low-income countries, defined as the 32 countries with an annual per capita gross national income (GNI) of less than $1,026, the cost was $31.1 billion, or 6.4% of their GDP.

According to the report by the Special Rapporteur, the financing gap – defined as the difference between the cost of the four social protection benefits considered and the baseline spending on social assistance – was estimated at $527.1 billion, or 1.6% of GDP for all developing countries.

However, only 5.6% of the amount of this gap, representing $26.8 billion, concerned low-income countries.

The most recent ILO estimates now take into account the impacts of the COVID-19 crisis and include the financing needs for health.

The rights expert said that a total sum of $77.9 billion, including $41.8 billion for healthcare, would be needed to allow low-income countries to guarantee income security to their population of 711 million, as pledged in ILO Recommendation No. 202.

While that represents 15.9% of their GDP – an altogether unaffordable amount for low-income countries – it is a modest sum for rich countries collectively, he said. Indeed, it represents less than half of the $161.2 billion provided in ODA by the 30 Organization for Economic Co-operation and Development (OECD) countries that are members of its Development Assistance Committee in 2020, representing 0.32% of their combined GNI.

If only half of that amount went to support the establishment of social protection floors in low-income countries, that would practically cover the financing gap, said De Schutter.

He added that if rich countries were to fulfil their pledge, initially made in 1970 and reiterated in the Sustainable Development Goals, to raise their ODA levels to 0.70% of their GNI, the additional financing provided would be sufficient to fill the gap.

In addition, said the Special Rapporteur, funding sources other than ODA could be explored. In this context, he noted that both the United Nations Conference on Trade and Development (UNCTAD) and the Commission on Global Economic Transformation have advocated for expanding the fiscal space of developing countries in order to help them alleviate the impacts of the COVID-19 pandemic by a new allocation of SDRs, for the equivalent of $1 trillion to $3 trillion, compared with the equivalent of $288 billion currently in circulation.

He said even a relatively modest amount of 655 billion SDRs ($931 billion), which could be issued immediately without requiring parliamentary approval at the national level, would allow low-income countries to better meet the urgent social needs of their populations without having to fear for the effects on their external balance, and to alleviate the burden of servicing their foreign debt.

## Social protection as an investment

De Schutter said that social protection plays a stabilizing role in times of economic downturn because of its poverty-alleviation impacts and its ability to raise consumption levels of low-income households.

Social protection also allows households to increase their savings, protecting them from having to sell productive assets in times of crisis and from being driven into destitution because of catastrophic health payments.

"It is also critical to ensure inclusive and sustainable growth, favouring a form of development that is more equally shared, with more significant poverty-reduction impacts," he said.

Perhaps even more significant, social protection contributes to a more competitive economy and has significant multiplier effects.

Social protection leads to increased school enrolment and success, improved health outcomes and higher labour market participation rates, thus benefiting local economies at large.

"Providing income support to people throughout their lives is therefore not only a human rights obligation. It makes economic sense as well," De Schutter explained.

According to the report by the Special Rapporteur, at the individual and household levels, social protection allows families to invest more in the education of children.

For instance, cash transfers reduced child participation on family farms in Ethiopia, Kenya, Lesotho and Zimbabwe, while school enrolment rates for girls increased significantly in countries such as Ecuador, Lesotho, Pakistan and Turkey.

In Latin America and Africa, conditional cash transfer programmes have also been found to reduce the probability of school absenteeism and grade repetition, increasing attendance and educational attainment among boys and girls alike, including in Brazil, Colombia, Ghana, Mexico and Nicaragua.

The contribution of social protection to food security is also well documented, said De Schutter. While the Bolsa Familia programme in Brazil is perhaps the most studied example, many other cases have shown increases in caloric intake, number of meals per day and food production as a result of social assistance schemes. For instance, in Ethiopia, the Social Cash Transfer Pilot Programme decreased by 0.24 the number of months in which households suffered from food shortage and increased by 0.6 the number of times children and adults ate per day.

"It has been estimated that for every dollar transferred to households in African countries, $0.36 is used on food expenses, which illustrates the contribution of cash transfers to improved food security."

Moreover, contrary to a common prejudice, social protection does not discourage the search for employment, said De Schutter. Instead, it increases labour market participation, particularly among women. This has been shown for conditional cash transfer programmes in Latin American countries, including Mexico, and in Uganda.

"Social protection is therefore an investment, which in the medium and long term can not only pay for itself, but also deliver high dividends," said the Special Rapporteur.

"A virtuous cycle can thus emerge, in which international support through the global fund provides an incentive for beneficiary countries to invest more in social protection, leading in turn to more inclusive growth and more resilient economies, allowing over time for the increased mobilization of domestic resources."

The Special Rapporteur said that the instruments provided by the global fund for social protection can facilitate that in three ways: by providing technical assistance, encouraging domestic resource mobilization, and supporting increased investments in social protection.

He summarized that a number of levers exist that could be used to expand the fiscal space available to fund social protection, including as a result of strengthened international cooperation.

"Such possibilities could be explored in the context of the preparation of country proposals submitted as part of a request for support from the global fund," he said.

While the global fund should not compete with, nor develop as a substitute to, existing forums where obstacles to resource mobilization for the financing of social protection are discussed, its inclusive nature and its role as a platform connecting financing for development to the universalization of social protection floors can help mobilize action and encourage progress, he added.

According to the Special Rapporteur, the global fund for social protection should build on the existing mechanisms that support country efforts to establish social protection floors, and should neither replace such mechanisms nor duplicate ongoing efforts.

"The governance structure of the global fund should also bring together a range of others beyond Governments, in order to increase the legitimacy of the initiative, facilitate coordination, and improve accountability."

In this context, De Schutter proposed that the governance of the global fund could include five bodies: a high-level political alliance, a board, a secretariat, a multi-partner trust fund and an independent accountability unit. The role of country-level coordination should also be emphasized, he said. *(SUNS9375)*

# Developed countries unlikely to deliver on mandated issues at MC12

## At a recent WTO meeting, member states outlined their respective, and often differing, priorities for the trade body's agenda in the run-up to its 12th Ministerial Conference in November.

*by D. Ravi Kanth*

GENEVA: India has called for an expeditious outcome in the text-based negotiations on the TRIPS waiver proposal by end-July as the WTO's response to the COVID-19 pandemic.

The proposal seeks to temporarily suspend certain provisions in the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) in order to ramp up production of COVID-19 vaccines, therapeutics and diagnostics across countries.

At an informal WTO Trade Negotiations Committee (TNC) meeting on 25 June, India said the WTO has not delivered a positive message about the launching of negotiations on the TRIPS waiver in the past nine months, while several other negotiations have altogether been dragging on for years.

Due to fierce opposition from the United States and the European Union to the mandated issues, the WTO's 12th Ministerial Conference (MC12), to be held in Geneva in end-November, is not likely to deliver on the core multilateral issues, including on a permanent solution for public stockholding programmes for food security in developing countries, said people who asked not to be quoted.

At the TNC meeting, many developing countries pressed for outcomes on the public stockholding programmes and on the special safeguard mechanism (SSM).

The WTO is also unlikely to restore the functioning of its Appellate Body (AB) anytime soon, as the US has linked the AB issue to fundamental reforms of the WTO, implying that it wants a "payment" from the over 100 countries that have repeatedly called for filling the vacancies at the AB and getting it up and running again, said people after attending the TNC meeting.

The US also said categorically that it sees "very little scope for negotiated outcomes" at MC12, echoing several discordant notes that could undermine the trade body, said people who asked not to be quoted.

It suggested that a successful MC12 would be about "focusing on the contribution of the WTO to the pandemic recovery, and beginning to fix the institutional challenges that are preventing substantive outcomes through negotiations."

Effectively, the US intervention implies that other WTO members must agree to its reform proposals on differentiation among developing countries for availing of special and differential treatment; on enhanced transparency and notification requirements; and on a severely weakened AB, said people who preferred not to be quoted.

While the US struck discordant notes on several issues, several members – Indonesia, India, New Zealand and South Africa, among others – cautioned that without the AB, there is little purpose in negotiating new trade agreements, said people who took part in the TNC meeting.

### Responses sought

During the meeting, WTO Director-General Ngozi Okonjo-Iweala sought members' responses on the following three issues: (1) the contribution of the WTO to the COVID-19 pandemic; (2) agriculture; and (3) the dispute settlement system.

She highlighted the controversial trade and health initiative seen as being based on her "third way" approach. The trade and health initiative is being advanced by the Ottawa Group of countries.

She suggested that the delay in finalizing an appropriate response to the pandemic will result in more mutations and undermine economic recovery.

Given the likely K-shaped global economic recovery, where some countries will have a speedy recovery while others will remain trapped in a vicious cycle of economic problems, she said it is important to address the problem of access to vaccines.

She emphasized the need to address supply-side constraints, transparency-related issues, export restrictions, and working with the manufacturers for ramping up production of vaccines.

She said members must also address issues concerning transfer of technology and know-how, and intellectual property issues, including the ongoing negotiations in the TRIPS Council.

She touted other initiatives such as working with the heads of the International Monetary Fund, the World Health Organization and the World Bank on how to use the proposed $50 billion from the IMF's issuance of new Special Drawing Rights.

In response to the three issues highlighted by the Director-General, WTO members expressed differing views in their nuanced statements at the TNC.

Many developing countries said the response to the pandemic as well as the permanent solution for public stockholding programmes for food security must be concluded at MC12.

### "Meaningful and balanced outcomes"

Indonesia's Ambassador to the WTO Syamsul Bahri Siregar called for "meaningful and balanced outcomes" on agricultural domestic support, the permanent solution for public stockholding programmes for food security, and a simple special safeguard mechanism.

He said the WTO must deliver a robust message at MC12 on the permanent solution for public stockholding programmes in that it is on the side of "the weak and vulnerable" sections of society.

He also called for a concrete solution to the impasse at the AB to provide legal certainty, emphasizing that there is little point in negotiating new agreements without an enforcement mechanism in which the AB remains the final point for resolving trade disputes.

South Korea cautioned that time is running out on finalizing the deliverables, stressing that success at MC12 is vital for the future of trade.

Its Ambassador Taeho Lee said that identifying the actions to be taken to address the current "crises," namely, the pandemic crisis and the resulting economic crisis, is imperative.

He said South Korea is participating in the text-based negotiations on the TRIPS waiver as also on the EU's intellectual property flexibility proposals.

India said that it supports the Director-General's vaccine-access initiative with emphasis on the issues of "investment, research and development, manufacturing capacity and regulatory challenges." However, its top priority is the conclusion of an agreement on the TRIPS waiver by end-July.

"We are not waiting for an outcome until MC12, we want an outcome by end-July," stressed Indian Ambassador Brajendra Navnit.

Navnit cautioned that the delay in arriving at an outcome on the waiver has resulted in the loss of about 4 million lives, adding that there is a felt need for ramping up the manufacturing of vaccines. He said that India, as a co-sponsor of the waiver proposal, is willing to discuss the list of products that would be covered by the waiver.

He also suggested that a framework agreement be adopted at MC12 on what members can contribute from services such as the mobility of health professionals and telemedicine services.

Navnit said a permanent solution on public stockholding programmes for food security should be a main deliverable at MC12. He rejected approaches involving "tokenism", particularly in regard to a proposed decision on the World Food Programme (WFP)'s non-commercial purchases of food grains from countries in which there are no export restrictions at this juncture.

In response to India's sharp statement on the WFP issue, the Director-General, who is supposed to not side with the views of any particular group, suggested bringing the WFP chief to the WTO for convincing members about the difficulties the WFP is facing in countries due to export restrictions, said people who asked not to be quoted.

Navnit said that the historical asymmetries in domestic farm subsidies must be addressed on a priority basis.

He also called for the functioning of the AB to be immediately restored, arguing that without a functional AB, there is little value in negotiating new agreements.

South Africa's Ambassador Xolelwa Mlumbi-Peter said the WTO's response to the pandemic is the most important priority for MC12, stating that the WTO's credibility hinges on finalizing a robust outcome for boosting the production of diagnostics, therapeutics and vaccines.

She raised concerns about the lack of transparency in the voluntary licensing contracts that have been signed between pharmaceutical companies during the pandemic, adding that such contracts must not confine developing-country manufacturers to "fill and finish" responsibilities.

> "We are not waiting for an outcome [on the TRIPS waiver] until MC12, we want an outcome by end-July."

Mlumbi-Peter said that as long as members don't resolve the supply-side issues, governments will end up with self-defeating vaccine nationalism. She said the only sustainable way for ramping up production is through the TRIPS waiver.

She also proposed a mechanism for addressing future pandemics at the WTO at MC12.

On agriculture, South Africa called for outcomes on domestic support, public stockholding programmes for food security, and the special safeguard mechanism for developing countries.

## Downbeat

The US adopted somewhat downbeat positions on agriculture and the dispute settlement system, while echoing ambiguous messages as regards the response to the pandemic.

The pandemic, according to the US, creates an opportunity for members to consider "how the WTO and its committees can be realigned to contribute to strengthening global recovery and advancing preparedness for the future."

It welcomed the text-based negotiations on the waiver at the WTO's TRIPS Council, emphasizing the need to be realistic about the scope of what is achievable.

It said it is focused on the supply of vaccines as well as having the vaccines reach as many people as possible.

"We should not overload the agenda of this important priority [access to vaccines] by trying to force negotiations on unnecessary issues," the US said. However, it did not clarify what the "unnecessary issues" were.

On agriculture, the US, Canada, the EU and Australia, among others, ruled out any outcome on the mandated issue of the permanent solution for public stockholding programmes for food security.

The US said while it concurs with the Cairns Group proposal on agricultural domestic support, which calls for disciplining all forms of trade-distorting domestic support and for all members to make proportionate cuts, a large majority of developing countries remain opposed to disciplining certain forms of support, including some of the most trade-distorting forms like market price support schemes.

The EU and the Ottawa Group led by Canada remained on the same page about the Group's trade and health initiative, which is seen by some as a replica of the Director-General's "third way" approach. Canada claimed that the trade and health initiative is supported by more than 50 countries.

The EU, which is also a member of the Ottawa Group, touted its own recent proposal to remove the difficulties involved in invoking the compulsory licensing provisions of the TRIPS Agreement (see following article), insisting that it is adopting a "holistic" approach.

The EU said its proposal is not the same old medicine that has been tried and tested, but seeks to address issues that were identified as to why compulsory licensing has not worked in the past.

The Cairns Group of agricultural exporter countries led by Australia, New Zealand and Canada among others called for a framework agreement at MC12 to start negotiations on addressing domestic farm subsidies. *(SUNS9376)*

# EU's TRIPS proposal fails to provide a way forward

## Many WTO members have voiced doubt as to whether an EU proposal on compulsory licensing is adequate to overcome the intellectual property barriers impeding supply of vaccines and other COVID-19 medical products.

*by D. Ravi Kanth*

GENEVA: The European Union on 24 June explained the central elements of its proposal for a declaration to be adopted by the WTO General Council on "The TRIPS Agreement and Public Health in the Circumstances of a Pandemic", amidst charges that Brussels is acting as a "puppet" of Big Pharma.

Many members of the US Congress along with human rights, health and labour groups protested before the EU mission in Washington on 24 June calling on the EU, particularly Germany, "to end their dangerous opposition to the COVID-19 emergency waiver of the WTO intellectual property barriers so more vaccines and treatments can be produced worldwide," according to a news release by the US-based consumer advocacy group Public Citizen.

On the same day, at an informal meeting of the WTO's TRIPS Council, the EU came under intense criticism for structuring its proposal more on "rhetoric" than "facts" on the ground, said people who asked not to be quoted.

In its intervention at the Council, the EU said that its proposal reinforces the flexibilities under the TRIPS Agreement and will provide legal certainty for use of the flexibilities.

However, the EU's proposal, according to South Africa, appears to have failed to demonstrate any novel elements beyond what is currently already allowed.

Further, the EU has also been unable to demonstrate how its proposal will address the COVID-19 pandemic, said people who asked not to be quoted.

The functional aspects of the EU's proposed declaration are as follows:

"a. A pandemic is 'a national emergency or other circumstances of extreme urgency' within the meaning of Article 31(b) of the TRIPS Agreement. For the purposes of issuing a compulsory licence pursuant to Articles 31 and 31bis of the TRIPS Agreement, a Member may waive the requirement of making efforts to obtain authorization from the right holder, provided for in Article 31(b).

"b. In the circumstances of a pandemic and to support manufacturers ready to produce vaccines or medicines addressing the pandemic at affordable prices for low- and middle-income countries, a Member may provide, for the purposes of determining the remuneration to be paid to the right holder pursuant to Article 31(h) and paragraph 2 of Article 31bis of the TRIPS Agreement, that the remuneration reflects the price charged by the manufacturer of the vaccine or medicine produced under the compulsory licence.

"c. In the circumstances of a pandemic, for the purposes of Article 31bis and paragraph 2.c) of the Annex to the TRIPS Agreement, the exporting Member may provide in one single notification a list of all countries to which vaccines and medicines are to be supplied by the exporting Member directly or through indirect means, including international joint initiatives that aim to ensure equitable access to the vaccines or medicines covered by the compulsory licence. It shall be presumed that such joint initiatives supply those vaccines and medicines to eligible importing Members within the meaning of paragraph 1.b) of the Annex to the TRIPS Agreement."

The proponents of the TRIPS waiver proposal, led by South Africa, India, Tanzania on behalf of the African Group, Indonesia, Nigeria, Bolivia, Pakistan, Namibia and Zimbabwe, challenged the EU's proposal on several grounds.

The moot issue is whether the EU proposal contains any novel aspects beyond what is already listed in Article 31 and Article 31bis of the TRIPS Agreement and whether it can address the issue of ramping up production of COVID-19 vaccines, therapeutics and diagnostics on a global scale.

### A proposal that maintains the status quo

South Africa's TRIPS negotiator Mustaqeem De Gama said the premise of the EU's proposal "is underpinned by an assumption that the laudable and unprecedented progress made in developing COVID-19 vaccines was incentivized by IPRs [intellectual property rights]."

The preamble in the EU's proposal states, "Recognizing the need to provide and preserve appropriate incentives for investments in research and development of COVID-19 vaccines and medicines, particularly in view of the continuing emergence of new variants of the virus…."

However, De Gama said, it is important to consider other critical factors that incentivized the rapid development of COVID-19 vaccines, including: (1) a common desire to ameliorate and eliminate an existential threat to human health and economies across the globe; and (2) large-scale public investment in research and development amounting to billions of dollars.

While acknowledging the role that IPRs can have in stimulating innovation, it is important that "the outcomes of our deliberations are based in fact rather than rhetoric," De Gama argued.

He emphasized the need for an urgent multilateral response to the pandemic for "accelerating and diversification of production of health products and technologies, especially in LMICs [low- and middle-income countries], especially in Africa, and their equitable global distribution."

It is important, he said, that "we use all the policy tools at our disposal to achieve this purpose and address all barriers to production and diversification of production across the world."

In light of this, the TRIPS waiver "is a credible response and members should engage in good faith discussion as the overall objective for all of us should be to save lives," he emphasized.

The South African negotiator noted

that the EU's proposal seeks "a declaration by the General Council that provides certain clarifications in relation to the right of members to use compulsory licences."

However, "in reality, all of the clarifications advanced [by the EU] have been abundantly clear for years," he said, adding that "this can be ascertained by a simple textual reading of the TRIPS Agreement, including Article 31bis, and the Doha Declaration on [the] TRIPS [Agreement] and Public Health."

The EU's proposal seeks to provide a clarification at the level of the General Council that "a pandemic is 'a national emergency or other circumstances of extreme urgency' within the meaning of Article 31(b) of the TRIPS Agreement." It need not have made this clarification, as it was never in question or doubt, since it was clarified by the highest decision-making body of the WTO in 2001 that, for the purposes of Article 31(b), "Each Member has the right to determine what constitutes a national emergency or other circumstances of extreme urgency".

"A serious concern with the EU's proposal," according to De Gama, "is that it implies that an authoritative interpretation by the WTO is required before an event can qualify as a 'national emergency or other circumstances of extreme urgency'."

"But this is not the case as paragraph 5(c) of the Doha Declaration has already clarified that it is up to each country to decide what constitutes a national emergency or other circumstances of extreme urgency," he said.

On the issue of remuneration, De Gama said that Article 31(h) of the TRIPS Agreement states that "the right holder shall be paid adequate remuneration in the circumstances of each case, taking into account the economic value of the authorization."

It is also well known that the TRIPS Agreement already provides countries full freedom to set the level of "adequate remuneration" to be paid to the patent holder under a compulsory licence, namely under Article 31(j), he said.

"The right holder has the right to appeal the decision concerning remuneration, if the holder is not satisfied," but the national authorities are competent to make such a decision, he said.

According to Article 31, the flexibility to determine adequate remuneration is applicable to all WTO members in all circumstances, even beyond pandemics, he said. However, the EU's proposal "implies that remuneration reflecting the generic price is only allowed in situations of 'addressing the pandemic at affordable prices for low- and middle-income countries' and for 'vaccine or medicine'".

He pointedly asked whether it is the intention of the EU "to limit this right only to low- and middle-income countries" and "to amend the TRIPS Agreement to effect this limitation".

As regards notification under Article 31bis, De Gama said the EU's proposal seeks to clarify that a country exporting under the paragraph 6 system may, in a single notification, list the countries to which the products are to be supplied during the course of the compulsory licence. However, this was already clearly permitted under paragraph 2(c) of Article 31bis, as applied "generally and not just during a pandemic." This provision permits the export of a broader scope of products, as it refers to "pharmaceutical products and processes" whereas the EU's proposal limits the scope to "vaccines and medicines", he said.

De Gama asked what the EU proposal adds to the status quo from a substantive perspective, saying that "if anything it appears to limit existing TRIPS flexibilities".

While recognizing that there is a need to simplify the compulsory licensing system, he said that "we do not see how the EU proposal achieves this objective, other than maintaining the status quo."

Further, while the proposal "treats compulsory licensing of patented products as a panacea for all IP [intellectual property] related barriers," he said, "in reality, this is not the case."

"Proponents of the TRIPS waiver have outlined in detail why compulsory licensing of patented products is inappropriate to comprehensively and expeditiously deal with the COVID-19 pandemic in documents IP/C/W/672 and IP/C/W/673," he pointed out.

The EU's proposal appears to be "an attempt to start a discussion on what should [be obtained] in the circumstances of a pandemic", but it does not go far enough even in this regard, he said.

He sought clarifications on the following issues:

1) "What is the value add of this proposal?"
2) "How does the EU see this assisting members in the context of the current pandemic?"
3) "How does the EU see this proposal in relation to other aspects of IP beyond patents?"
4) The EU must clarify in writing the scope of products covered by its proposal.

De Gama said members need serious solutions, arguing that "restating what all members already know is not the way forward."

"To be of value, any discussion on how to make the patent compulsory licensing system fit for current purposes must bring something new to the table," he said.

It is in this context that "the TRIPS waiver proposal offers a comprehensive and expeditious means for this forum to contribute to the WTO's COVID-19 response," he said.

Further, the EU's proposal, according to De Gama, "is only about compulsory licensing of patents" and "does not address intellectual property concerns in relation to COVID-19 technologies that go beyond patents (especially protection of undisclosed information, copyrights, and industrial designs)." In comparison, the TRIPS waiver proposal addresses IP concerns holistically across all COVID-19 technologies and intellectual property, he said.

De Gama urged members "to engage in text-based negotiations on the TRIPS waiver earnestly and in a concentrated fashion."

He said the waiver proponents "have every faith, Mr Chair [chair of the TRIPS Council], that through your good offices, we can work meaningfully toward achieving our common objective."

## Same line of treatment

India said that while the EU may have diagnosed the disease in the patient, its line of treatment has already been taken by the patient, implying that the EU's proposal merely contains what is already in the TRIPS Agreement, which is not adequate for the current pandemic. In contrast, India said, the proposed TRIPS waiver offers a new line of treatment to combat the pandemic.

Indonesia said while it is true that the IP system provides incentives for research and development, it was bolstered by huge public funds. It said the system could also create "entry barriers to generic production" which is much needed in many developing and least-developed countries.

Indonesia made several observations pointing towards the lack of any new approach in the EU's proposal, which appears to be largely based on what is already written into the TRIPS Agreement.

Indonesia said that "if a country can declare a national emergency by itself in accordance with Article 31(b), then the WHO [World Health Organization] determination on a pandemic would definitely be part of such meaning, without hesitation."

In addition, "Article 31(b) itself has provided sufficient and explicit right to members to waive the requirement of obtaining authorization from the right holder when using compulsory licences in situations of national emergency", Indonesia said, adding that "such a waiver is also applicable under public non-commercial use and anti-competitive practice under Article 31(k)."

In this regard, said Indonesia, "we do not understand what will be the value added of the EU proposal to the already existing Article 31 of the TRIPS Agreement."

Further, the proposal may create new problems and set a "negative precedent" on how a WTO member applies Article 31(b) in the future.

With regard to remuneration, according to Indonesia, "Article 31(h) provides freedom for members to set the level of adequate remuneration, regardless of the type of emergency. In 2012, Indonesia set the remuneration of 0.5% for medicines produced under the [compulsory licence]." It asked how the EU proposal helps further the freedom that members already have under Article 31(h).

Also, in light of the issue of non-transparency of pricing and production cost, Indonesia asked "why the EU believes that charging the same level as the price charged by the manufacturer will help the global community in combating the pandemic at the scale of COVID-19".

Indonesia argued that combating COVID-19 and future pandemics requires flexibilities beyond the patent provisions. Therefore, the EU's proposal is "limited in its scope" while failing to address the core issue of Article 31. It could also limit the rights of members already preserved in Article 31, said Indonesia.

**Welcomed**

The EU proposal was welcomed by the United States, Singapore, Australia, Colombia, Chile, South Korea, Switzerland and the United Kingdom among others.

They, however, raised questions about the issue of single notification and what joint vaccine initiatives might be supplying vaccines and medicines to eligible importing members; what constitute the criteria to accord the concept of affordable prices when talking about remuneration; and what would be the next steps in terms of procedure if the declaration were to be adopted.

China, which is a strong advocate of the TRIPS waiver, welcomed the EU proposal, which it said can expand vaccine manufacturing capacity and promote equitable access to vaccines. It asked for more time to examine the proposal.

In his remarks at the meeting, the TRIPS Council chair, Ambassador Dagfinn Sorli from Norway, alluded to the well-known differences among members on where the emphasis should be placed to ensure that their shared objective of a rapid and effective response to the pandemic remained.

He said that there was no procedure that could eliminate the gap between the different perspectives and approaches, and that the only way forward was to engage in a substantial discussion, as members had done at the day's meeting, and respond to other members' questions. *(SUNS9375)*

# World food import bill set to reach new highs in 2021, says FAO

## Global spending on food imports is expected to be at a record level this year, the UN's food agency has projected.

*by Kanaga Raja*

GENEVA: The world food import bill is forecast to reach a record $1.715 trillion in 2021, a rise of 12% from the previous year, according to the UN Food and Agriculture Organization (FAO).

In its latest biannual report on global food markets, FAO said that the economic impacts of COVID-19 are not expected to hinder global demand for foodstuffs in 2021, nor did the pandemic curtail growth in the food import bill in 2020, the level of which stood as the previous record.

The year-on-year expansion of the bill in 2020 was mainly on account of a steadfast increase in imported volumes, especially those of staples, said FAO. For 2021, volumes are anticipated to remain robust, and increased unit costs (international quotations and freight rates) are set to underpin overall growth in the world food import bill compared with last year.

FAO said that the sustained demand for imported foodstuffs during the pandemic years also masks supply chain disruptions within countries that turned, and continue to turn, to the international marketplace to fulfil domestic requirements. For instance, when supply chains in the European Union for citrus were disrupted at the beginning of the pandemic, Egypt was able to fill the supply gap and make major inroads into the EU market. Likewise, Kenya managed to step up exports of vegetables to the EU when problems occurred due to COVID-19-related labour shortages in the vegetable sector.

FAO said the pandemic has exerted a

pronounced income shock on the global economy, with negative growth rates experienced across all regions, albeit at different depths of decline and expected speeds and shapes of recovery. "These income swings have left characteristic imprints on import demand across different food groups," it added.

FAO said that the realized and foreseen changes in food import bills mainly reflect the diverging responsiveness of import demand to changes in income.

Against the backdrop of much higher international quotations predicted for 2021, as well as a strong upturn in world gross domestic product (GDP) growth, virtually all product bills are expected to increase in 2021.

The largest absolute increases in the year are those foreseen for cereals ($37 billion), followed by vegetable oils ($33 billion), oilseeds ($31 billion), and fruits and vegetables ($24 billion). Combined, they would account for almost $126 billion of the $185 billion foreseen rise in the global bill in 2021 from last year.

Again in 2020, these product groups dominated the dollar increase in the world bill of $48 billion from 2019, and were also supported by a substantial increase in international purchases of oilseeds. Such developments were to be expected, given the low income responsiveness of staple foodstuffs, said FAO. On the other hand, purchases of fish products as well as beverages, which are typically sensitive to income changes, fell a collective $20 billion compared with 2019.

"On a percentage basis, vegetable oils, cereals and oilseeds are noteworthy food groups that are set to be the most vibrant in terms of growth in 2021," said FAO.

With few exceptions over all food categories, developed regions, which dominate global food inflows, are expected to import less food in 2021 at a greater cost than in 2020, such that prices (and freight costs) are expected to fuel a net increase in the food import bill to the tune of $58 billion in 2021, FAO said.

In contrast, and in spite of higher global quotations, developing countries are anticipated to purchase more food in all categories. Rising demand for cereals, vegetable oils, oilseeds, and fruits and vegetables are by far the greatest drivers of the predicted increase in the food import bill of developing regions in 2021, with volumes accounting for almost 60% of the $127 billion increase. "Such demand by developing regions is expected to underpin the overall increase in the global food bill in 2021," said FAO.

Likewise in 2020, the growth in demand for imported foodstuffs by developing countries contributed an overwhelming 80% of the annual rise in the world food import bill. Only a decline in purchases of fish products and beverages and a stagnation of coffee, tea, cocoa and spice inflows were registered in 2020. Growth in the food import bill in the developed regions was again dominated by price effects, with across-the-board declines in volumes.

## Impact on vulnerable countries

According to FAO, food import bills of economically disadvantaged groups of countries, such as Least Developed Countries (LDCs), Low-Income Food-Deficit Countries (LIFDCs) and countries situated in sub-Saharan Africa (SSA), are expected to rise in 2021 by varying degrees. The food import bills of LDCs are forecast to increase by 4%, while those of SSA and LIFDCs could increase by 11% and 20%, in tandem with the global increase.

Least Developed Countries are foreseen to purchase barely the same total volumes of food but at a higher cost in 2021.

However, growth in these aggregate bills is dominated by increases in the unit costs of importing food, said FAO. Worryingly, LDCs are foreseen to purchase barely the same total volumes of food but at a higher cost in 2021.

FAO said cereals constitute one of the few product groups in which economically disadvantaged countries could benefit from greater import volumes at a lower unit cost. Purchases of vegetable oils – commodities that habitually rank second in terms of import dependency – are expected to decline considerably in volume terms for LDCs and SSA.

According to FAO, a cursory examination of trends in GDP and food import bills finds that bills stagnated for LIFDCs and SSA during 2020. This is expected to explain lower demand by these country groups for livestock and sugar products, which are sensitive to changes in income.

"A further worrying feature is that to the extent changes in import demand reflect changes in overall demand, the COVID-19 pandemic would have resulted in a shift from high- to low-value food products and most likely to a deterioration in the quality of diets," said FAO. The growth in international purchases of cereals by LDCs, LIFDCs and SSA, at the expense of more nutritionally diverse foodstuffs, bears testimony to this outcome.

"With worsening macroeconomic fundamentals, the fiscal capacity of already vulnerable countries to import is becoming critical," FAO said.

FAO said that food accounts for a relatively high percentage of GDP in vulnerable countries, averaging around one-third, but per capita food import bills reveal no tendency to correlate with the degree of food expenditure share, implying a high reliance on the ability of domestic production systems to deliver food. With production shocks, or a lack of resource endowments to produce food, such countries will be exposed to the encumbrances of buying food from the international arena.

On the other hand, food expenditure shares in developed countries average about 10%, and it can be deduced from the figure that the lower the share, the higher the country's per capita food import bill – or higher dependence on imported food vis-a-vis domestic food systems.

On the issue of affordability, FAO said that numerous net food importers have experienced sharp depreciations of their real exchange rates, undermining their ability to buy food from the international arena.

At the same time, some agricultural exporters enjoyed even larger depreciations of their real exchange rates, making their produce more competitive internationally. In this context, FAO pointed to well-established agricultural exporters from Latin America such as Brazil, Chile or Uruguay. While these countries also experienced higher inflation rates and therefore higher production costs, the depreciation of their nominal exchange rates exceeded the cost increase and boosted the competitiveness of their exports.

Since international procurement is transacted in major convertible currencies, often the US dollar, sufficient foreign exchange reserves are a necessary prerequisite for countries to participate in trade, FAO said. "It is seen that for many vulnerable countries, food import bills consume a significant percentage of their foreign exchange earnings, as much as 90% of foreign exchange reserves in a particular instance."

Such high shares expose countries to a potential failure to meet the cost of importing other necessities, such as energy and medical products. In many cases, foreign exchange earnings from exports merely cover imported food needs, and in other instances, the cost of imported food far exceeds earnings from merchandise exports.

In normal times, said FAO, countries with a strong revenue stream from exporting services, notably tourism, are able to compensate for low proceeds from exporting merchandise goods. However, in times of COVID-19, many of these countries have been deprived of revenues from service exports, which puts them at an added risk of depleting their foreign exchange reserves. Among the most exposed countries are the Maldives, Cabo Verde, and Sao Tome and Principe. In all the three countries, the food import bill in 2020 exceeded revenues from total merchandise exports, said FAO. *(SUNS9370)*

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# *If the Washington Consensus was really over, what would that look like for development strategy?*

*Rick Rowden* questions whether, appearances and rhetoric notwithstanding, the Washington Consensus of free-market orthodoxy has indeed drawn to a close.

Recent years have witnessed a notable re-embrace of the state's role in the economy, leading some to declare that the set of free-market economic policy reforms widely known as the Washington Consensus has come to an end.

First popularized by US President Ronald Reagan and UK Prime Minister Margaret Thatcher in the 1980s, the Washington Consensus policies offered a set of policy guidelines for developing countries, many of which were struggling with high debt and high inflation at the time. These free-market reforms included trade and financial liberalization, privatization, deregulation, the removal of capital controls, fiscal austerity (cutting public spending) in order to achieve strict targets for maintaining low inflation and low fiscal deficits, the adoption of independent central banks, and deregulating restrictions on foreign investment, among others. Broadly speaking, the policies sought to roll back the role of the state in the economy and unshackle the animal spirits of the free market.

In the 1980s, adopting the policies became binding conditions for developing countries to receive debt relief and new lending by the International Monetary Fund (IMF) and World Bank; in the 1990s, the policies served as the basis for World Trade Organization (WTO) membership rules; and ever since then, the policies have become a cornerstone of the curricula in economics departments at universities across the world.

In addition to diminishing the importance of the role of the state in development, one of the profound changes introduced with the Washington Consensus was to overturn the previous, longstanding notion that developing countries needed to adopt long-term national economic development strategies which sought to achieve structural transformation – i.e., shifting their economies over time from being based on primary commodities towards ones based more on manufacturing.

The old idea was that countries would first develop their national economies and only later focus more on integrating into international markets. But the Washington Consensus inverted that logic, throwing out the focus on long-term development strategies and manufacturing and instead encouraging developing countries to integrate into the global economy right now, as they are, and to just stick with their current comparative advantages in primary commodities. Simply being successful commodity producers would be the new ticket to their development.

### Exit Washington Consensus?

Despite the widespread acceptance of these ideas for the last four decades, recent years have seen the Washington Consensus grapple with new forms of state capitalism. And on the face of it, some of these trends appear to mark a significant departure from the Washington Consensus. For example, even before the Trump administration dramatically increased tariffs on major trading partners, there had been an increase in the number of new national development banks, sovereign wealth funds and state-owned enterprises of various types in both advanced and emerging economies around the world. China, Russia and others appear to be promoting new types of hybrid state capitalism. Notably, the changes have occurred in the aftermath of the 2008 global financial crisis, when free-market enthusiasts were chastened by the failure of markets to "self-regulate" as promised, leading to the crash and nearly a decade of the state coming to the rescue with "extraordinary monetary policies" adopted by the world's largest central banks.

Shortly after the IMF changed its official position on capital controls from "absolutely never" to "well, maybe sometimes," the former IMF Managing Director Christine Lagarde sought to distance the Fund from its notorious structural adjustment programmes with loan conditions based on Washington Consensus policies. "Structural adjustments? That was before my time," she replied to a press conference question. "I have no idea what it is. We do not do that anymore."

In 2016, the IMF's internal research department made a stunning admission: for decades, the institution had been overselling the benefits of two of its major policies on fiscal austerity during economic slowdowns and the deregulation of financial markets. It found that not only had the two policies "not delivered" the higher economic growth rates that had been promised, but they may have even done more harm than good by exacerbating economic inequality, which itself could become a drag on future economic growth rates.

Even before the COVID crisis struck in 2020, the IMF's new chief economist, Gita Gopinath, sometimes sounded more like John Maynard Keynes than Milton Friedman as she questioned the conventional wisdom on capital account liberalization and openly championed the use of large fiscal deficits for fiscal stimulus (in the rich countries). The change in tone has also come from other free-market stalwarts ranging from *The Economist* to the president of the Inter-American Development Bank to *Foreign Affairs*, all of whom now say that "industrial policy" is back in fashion. Thomas Piketty's book was a bestseller, resonating with growing concerns about widening economic inequality and making it acceptable to call for raising taxes on the rich.

And now, with post-COVID fiscal policy let loose, central banks are funding massive fiscal stimuluses, deficits have been blown out of historic proportion, while very few seem worried about inflation. Even the IMF, as it doled out billions of dollars in emergency lending to developing countries in the wake of the COVID economic slowdown, seemed to accept the immense deficits being run up by its borrowing countries without its traditional consternation. All of these developments led *Financial Times* columnist Martin Sandbu to recently declare that the IMF and World Bank have undergone a remarkable "conversion" from free-market orthodoxy to now supporting the "activist state."

But is it all really so?

**Questions to ask**

While the IMF has certainly talked a good game on its new flexibility during the COVID crisis, an independent analysis of expenditure projections in the IMF's October 2020 World Economic Outlook database shows that austerity cuts are expected in 154 countries in 2021, and as many as 159 countries in 2022, with the trend continuing for an average of 139 countries per year through 2025 – not exactly a striking departure from its traditional predilection for austerity.

But beyond the issue of the IMF's fiscal austerity, the policies of the Washington Consensus are collectively much farther-ranging and have often had a critical impact on the shape of the economic development strategies of developing countries. In order to believe the consensus has really ended, we would need to ask many more questions about the policy challenges still faced by developing countries that are struggling with integrating into the global economy. For example, if the IMF and World Bank have truly renounced the Washington Consensus, have they changed their position on trade liberalization for developing countries, or what critics would call premature trade liberalization, i.e., lowering tariffs before domestic industries have become competitive in international markets? (In contrast, rich countries tended to do the opposite, by keeping tariffs high until industries were competitive in global markets, and only then lowering tariffs.) Have the institutions called on the WTO to alter its membership rules that require premature trade liberalization of its developing-country members?

Similarly, have the IMF and World Bank called on the WTO to undo its restrictions on a host of critical "activist state" industrial policies that had been used historically by rich countries to build up their manufacturing sectors over time? Rather than discouraging industrial policies and telling countries to just focus on their current (static) comparative advantages in primary commodities, are the institutions now really advising countries to adopt ambitious industrial policies that defy their current comparative advantages and seek to develop higher-value-added manufacturing industries over time? Have they called on developing countries to renegotiate their many international investment agreements and free trade agreements that contain similar restrictions on industrial policies?

Have the IMF and World Bank advocated for the re-regulation of foreign direct investment in developing countries to ensure that it supports domestic industry and the pursuit of strategic priorities of long-term national development strategies? On labour issues, has the Bank finally stopped giving countries higher scores on its coveted annual Doing Business rankings if they lower wages and quash labour rights? On monetary policy, has the IMF renounced its fixation with raising interest rates in order to keep inflation at unnecessarily low levels, a practice that can end up blocking needed increases in public investment? Is the IMF now advising countries to abandon tight fiscal and monetary policies in favour of more expansionary ones to support increased public investment, employment and GDP growth? And to enable this, is the Fund now suggesting that countries bring their "independent central banks" back under the direction of their finance ministries?

Has the World Bank abandoned its recent efforts to seek additional infrastructure financing from private capital markets through the securitization of loans and instead begun promoting the reestablishment of public development banks for infrastructure financing? After decades of advising the privatization or commercialization of public health and education services, are the IMF and World Bank really now suddenly promoting publicly financed and provided healthcare and education services with universal access? Are the institutions today calling for the remunicipalization of the public services and utilities they once insisted be privatized?

And at the broadest level, are the Bretton Woods institutions actually now rethinking the need for developing economies to "integrate into the global economy" first and worry about national economic development later? Are they instead now encouraging such countries to focus first on building up their national economies through long-term national economic development strategies to build up the domestic manufacturing sector, and worry about global integration later?

Since the answer to all of these questions is "presumedly not," it is safe to say that not a whole lot has changed yet.

While it's easy to be swayed by the institutions' fashionable new lingo on gender, inequality, green investment and COVID stimulus, we would do better to look at the institutions' full body of current policy advice on development strategy and the actual loan conditions to see how the nuts and bolts of the Washington Consensus remain quite intact.

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# *Boldly finance recovery to build forward better*

With developing countries reeling from the coronavirus crisis, *Anis Chowdhury* and *Jomo Kwame Sundaram* make the case for funding government spending to boost recovery and reform.

COVID-19 has become a "developing-country pandemic", retreating from the North's mass vaccination. With developing countries heavily handicapped, the International Monetary Fund (IMF) warns of a "dangerous [new] divergence".

*The Economist* believes death rates in developing countries are much higher than officially reported – 12 times more in low- and middle-income countries

(LMICs), and 35 times greater in low-income countries (LICs)! Rich countries' "vaccine nationalism" and protection of patent monopolies have only made things worse.

After "passing round the begging bowl", recent G7 promises by the world's largest rich countries – including a billion vaccine doses – are "too little, too late", as emerging details confirm. Rich countries' aid cuts during the pandemic have only rubbed salt into an open wound. Without meaningful debt relief by lenders, developing countries are falling further behind once again.

### Borrowing domestically

Now, developing countries must mobilize funds domestically for relief and recovery as foreign exchange is only needed to finance imports.

Central bank governors have long agreed that "the scope for relying more on domestic markets, and less on international markets, is considerable".

Government bonds issued for domestic borrowing are widely considered safe savings instruments. They thus also support and develop domestic capital markets, although limited incomes and savings ensured thin markets in most developing countries.

Hence, governments have to borrow from central banks to meet their financing needs. As government debt is denominated in the domestic currency, repayment is manageable. With borrowing from central banks contributing to a country's money supply, governments can borrow as needed.

Central bank financing of government borrowing for development expenditure is nothing new. It was widespread until restrained in recent decades by pressure from donors, financial markets and institutions, including the IMF and World Bank. Instead, the new policy advice has promoted "central bank independence", "inflation targeting", "debt limits", "balanced budgets" and prohibiting direct borrowing from central banks.

After the 2008-09 global financial crisis, rich countries pursued "unconventional" monetary policies, with central banks buying government and corporate bonds. But few developing-country governments have resorted to borrowing from central banks. Even talk of such policies evokes fears of "runaway inflation", unsustainable "debt build-up", balance-of-payments crises and "crowding out" the private sector. These concerns have limited such borrowing, unnecessarily constraining government spending.

### Inflation bogeyman

Undoubtedly, "hyper-inflation" – exceeding 35% to 40%, usually due to rare events such as war or state collapse – has adversely affected growth historically. But Indonesia and South Korea both grew at 7-8% annually for over two decades with double-digit inflation rates exceeding 10%.

Government spending is not the only alleged cause of inflation. Inflation may also be attributed to shortages, e.g., the pandemic has disrupted much production and supply. Inflation is typically unavoidable in fast-growing economies experiencing rapid structural change as some sectors expand faster than others, with some even contracting. Such inflation is likely to decline as economic imbalances, frictions and disruptions ease. Inflation, it should be remembered, is double-edged, also reducing debt burdens while encouraging spending rather than saving.

### Crowding out or in?

Government spending is needed to keep economies ticking, especially as contemporary recessions are partly due to government policies to contain the pandemic. State inaction would only worsen mass unemployment, bankruptcies, etc.

When a government spends, the central bank credits the commercial bank accounts of recipients. Thus, expansionary fiscal policy augments private banks' cash reserves. This, in turn, increases market liquidity unless the authorities offset or "sterilize" such effects, e.g., by selling government or central bank or short-term securities, or associated derivatives such as "repurchase" agreements. Then, instead of pushing up interest rates, the central bank discount rate declines, exerting downward pressure on retail interest rates. Hence, claims that government spending "crowds out" private investments tend to exaggerate.

And if a government borrows for infrastructure investment or skill development, overall productivity increases, and business costs decline. Hence, debt-financed infrastructure and public social investment would crowd in rather than crowd out private investment.

Public expenditure can thus break the vicious circle of reduced spending and greater uncertainty. Also, government spending on healthcare, education, housing, infrastructure and the environment enhances sustainable development.

### Balance-of-payments fears

Expansionary fiscal measures, thus financed by domestic borrowing, are said to worsen balance-of-payments problems in several ways. First, higher interest rates attract more capital inflows, causing the exchange rate to appreciate and making the country less export-competitive. Second, higher domestic demand implies more imports for both consumption and production. Third, rising inflationary pressures make domestic products more expensive and imports more attractive.

But such arguments against domestic debt-financed fiscal expansion contradict crowding-out claims. If such government expenditure reduces private spending, then excess demand will shrink, reducing inflation and balance-of-payments problems.

Governments can also use countervailing measures, such as restricting luxury imports and managing capital flows, to maintain a competitive exchange rate and promote exports.

### Fighting windmills of the mind

Debt-GDP thresholds recommended by "international finance" are not based on optimality or financial stability criteria. An IMF study emphasized that the so-called "debt limit" "is not an absolute and immutable barrier ... Nor should the limit be interpreted as being the optimal level of public debt".

The 60% limit for developed countries was arbitrarily set. Presented as the upper bound for European Community countries, it was actually only the average debt ratio for some powerful members, but not Italy and others!

The IMF's 40% debt-GDP ratio limit for developing and emerging market economies is only for external, not domestic, debt, and certainly not for total government debt, as often implied. The Fund has acknowledged, "It bears emphasizing that a debt ratio above 40 percent of GDP by no means necessarily implies a crisis – indeed ... there is an 80 percent probability of not having a crisis (even when the debt ratio exceeds 40 percent of GDP)."

In fact, debt is deemed sustainable as long as national economic growth is greater than the interest rate.

For international finance, debt sustainability concerns focus on external debt, typically denominated in foreign currencies. Governments can more easily "roll over" domestic currency debt, although interest costs may be higher. But borrowing in domestic currency should not enable fiscal irresponsibility.

Hence, the key challenge is to ensure the most effective and productive use of such borrowed funds. Pragmatism requires considering capabilities, capabilities and checks against abuse and wastage.

### Build forward better

Instead of "building back" the unsustainable and unfair status quo ante before the pandemic, developing-country governments should now selectively target government expenditure to "build forward better", emphasizing measures to achieve sustainable development.

Borrowing to finance recovery and reform should incorporate desirable changes, e.g., working in new ways, creating new activities, accelerating digitalization, revitalizing neglected sectors and enhancing sustainability.

Developing-country governments must use appropriate measures to finance recovery programmes to fully realize the transformative potential of pandemic-induced recessions to build more resilient and inclusive economies.

All this requires policy and fiscal space. To progress, governments must reject the received policy wisdom that has kept them enthralled for decades. *(IPS)*

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

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# Putting the Third World First

## A Life of Speaking Out for the Global South

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

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

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

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

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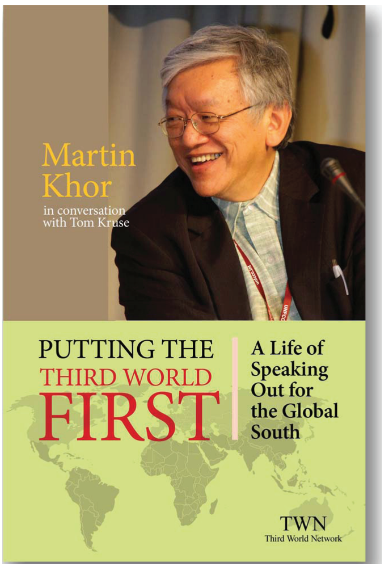
**Martin Khor** (1951-2020) *was the Chairman (2019-20) and Director (1990-2009) of the Third World Network.*

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