

Differences persist in WTO over MC12 outcomes, TRIPS waiver

The outlook for the WTO's 12th Ministerial Conference (MC12) this November is up in the air as member states remain far apart on a slew of issues ranging from agriculture to fisheries subsidies. Consensus is also proving elusive on a waiver of WTO intellectual property protections for COVID-19 medical products, even as the WHO chief calls for "profits and patents" to "come second" to saving lives.

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THIRD WORLD ECONOMICS is published fortnightly by the Third World Network (TWN), an independent non-profit international research and advocacy organization involved in bringing about a greater articulation of the needs, aspirations and rights of the peoples in the South and in promoting just, equitable and ecological development.

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South countries warn credibility of WTO hangs in balance at MC12

The latest meeting of the WTO body coordinating negotiations revealed little common ground among members, raising uncertainty over what can be achieved at the WTO’s forthcoming Ministerial Conference.

by *D. Ravi Kanth*

GENEVA: Trade envoys from many developing countries on 23 July warned that the credibility of the World Trade Organization hangs in the balance at its 12th Ministerial Conference (MC12) if it fails to deliver on the mandated issues and on the temporary TRIPS waiver aimed at halting the increasing scale of deaths worldwide due to the COVID-19 pandemic, said people familiar with the development.

At an informal Doha Trade Negotiations Committee (TNC) meeting on 23 July, the United States, the European Union and other developed countries drew their “red lines” on delivering outcomes on the permanent solution for public stockholding programmes for food security (PSH), special safeguard mechanism (SSM) and other mandated issues.

The US maintained that “there is little scope for negotiated outcomes.” It cautioned against a host of new work plans and working groups on which there is little chance of consensus.

Significantly, the US shot down WTO Director-General Ngozi Okonjo-Iweala’s proposed \$20 million plan to establish a WTO fund for technical assistance and capacity-building.

The EU, which is a strong supporter of the proposed WTO fund, admitted that there are significant gaps in all areas, and called for focused work after the summer break (which takes place in the month of August).

Developed countries advanced the agenda of plurilateralization of the WTO, with Australia and other members suggesting that they are on the verge of striking an agreement on the Joint Statement Initiative (JSI) on domestic regulation in services, as well as on digital trade.

On their part, developing countries, including Indonesia, South Africa, India, the African, Caribbean and Pacific (ACP) Group, the Caribbean Community (CARICOM) and the least-developed countries (LDCs), raised their specific concerns regarding what they viewed as an “imbalanced” fisheries subsidies text. They also highlighted the unresolved issues in their proposed inclusive and developmental agenda.

The informal TNC meeting was convened to discuss what needs to be accomplished at MC12, to be held in end-November in Geneva.

There was little common ground, nor convergence, on any of the “deliverables” such as fisheries subsidies, agriculture, the proposed WTO reforms, special and differential treatment (S&DT), and on the WTO’s response to the COVID-19 pandemic, said people familiar with the meeting.

Commenting on the somewhat hyperbolic comments made by Okonjo-Iweala during the press conference after the 15 July ministerial meeting on fisheries subsidies (see the article “Ministers declare fisheries text as imbalanced and preserving the status quo” in this issue), Russia cautioned the Director-General about the dangers of “exaggerated optimism” and how “harmful” and artificially exaggerated expectations of success could undermine MC12.

A seemingly aggrieved DG said that her concluding statements had been put out on the WTO’s website. She stated that she merely said that ministers had a basis to discuss the fisheries subsidies text, and that she did not say that they blessed the text, said people familiar with the development. She added that she could not be held responsible for the media reports.

However, the claims made by the DG and the chair of the fisheries subsidies negotiations about ministers having agreed to the full text were displayed on YouTube.

Focus areas

In her opening statement at the TNC meeting, Okonjo-Iweala urged members to identify “two, three or four areas that we should focus our attention on from now through MC12”.

“Either we continue to bring everything to the table, or we see what we can realistically achieve. To the extent we are on the same page, with a shared game plan, the likelier we are to get to meaningful outcomes,” she said.

Commenting on the high-level dialogue the WTO co-convened with the World Health Organization (WHO) on 21 July (see the article “WTO-WHO dialogue hears call to treat ‘profits and patents’ as second priority due to COVID-19” in this issue), she said the participants discussed several issues, including the stark and enduring inequities in vaccine access. She said that only 1.5% of people in Africa are vaccinated and a mere 0.3% of people in low-income countries, compared with over 42% in developed countries.

She expressed confidence in the work of the facilitator appointed by the WTO General Council, New Zealand Ambassador David Walker, on bringing members’ various pandemic-related proposals into a potential agreement.

The DG said that “a WTO framework covering issues such as supply chain openness and monitoring, increased investment in production and intellectual property would be a valuable complement to governments’ ongoing attempts to put in place financing and governance arrangements to be better prepared for future pandemics.”

“This is an area where we need to have an outcome not only for now but for the future,” she said.

Concerning the TRIPS waiver discussions, she underscored the need to “move with a sense of urgency – people’s lives are at stake”.

In the same breath, the DG expressed hope that delegations would look at the continuum from additional flexibilities to compulsory licences, voluntary licences, waivers and other intellectual property options and make enough progress by the end of July to provide a sense of what

might be achievable.

Effectively, she chose to confound the options for the WTO’s response to the pandemic, said several people who asked not to be quoted.

“The outside world expects us to come up with a practical and forward-looking solution to these issues,” the DG said.

She also spoke about the need to make progress on the proposals by the G90 developing-country grouping to make special and differential treatment simple and effective, as well as on agriculture and WTO reforms.

Without mentioning the Joint Statement Initiatives, the DG referred to the advanced discussions on micro, small and medium-sized enterprises (MSMEs), trade and gender, e-commerce, trade and environment issues, services domestic regulation, and investment facilitation.

At the TNC meeting, the chairs of the negotiations on fisheries subsidies, S&DT improvements, and agriculture made their respective reports.

“A positive conclusion of the fisheries subsidies negotiations is within reach,” said Ambassador Santiago Wills from Colombia, the chair of these negotiations. He suggested that members have two options – act according to comfort zone of failure or work boldly with responsibility – saying members must work with the second option.

Developmental agenda for MC12

In sharply nuanced statements, the developing countries highlighted their inclusive and developmental agenda.

Indonesia’s Ambassador Syamsul Bahri Siregar drove home a strong message for an urgent solution on the TRIPS waiver, citing the devastating course of COVID-19 in his country. He said that options like removing export restrictions and impediments in global value chains, and voluntary licensing agreements may not yield the anticipated results compared with the TRIPS waiver.

On fisheries subsidies, Siregar said members need to do much work to move forward with the negotiations because the draft consolidated text issued by the chair is “imbalanced”. He said that “respecting the principle of common but differentiated responsibility” is a key ingredient to achieve balance.

Siregar also called for outcomes on the mandated issues such as the permanent solution for PSH and the SSM.

Commenting on the e-commerce work programme, he said Indonesia strongly believes that “the outcome on the e-commerce moratorium at MC12 will depend on our ability to clarify the scope and definition of electronic transmissions.” He said the pandemic has created a massive fiscal and economic crisis that compels members to have a fresh look at the moratorium and its impact on customs duties.

According to a 2019 study by the United Nations Conference on Trade and Development (UNCTAD), the loss of revenue suffered by the developing countries due to the moratorium on customs duties on e-commerce is to the tune of \$10 billion annually.

In its statement, South Africa emphasized on the resolution of long-outstanding issues, particularly the need to deliver on “the WTO developmental imperatives.” It reiterated that “the development agenda from which the TNC derives its mandate should remain the cornerstone of our work towards MC12.”

South African Ambassador Xolelwa Mlumbi-Peter said “vaccine inequity is resulting in a two-track recovery process”, with low economic growth in African countries. She said that “Africa must build better by prioritizing health outcomes and economic recovery that is centred on structural transformation.”

Given the economic and social crises following the pandemic, “the road to recovery is going to be difficult”, said Mlumbi-Peter. “To get meaningful and credible outcomes at MC12, we must get our priorities right,” she said.

She said that “for South Africa, the WTO response to COVID-19 is key,” while expressing disappointment that members “are still not in solution mode in the text-based negotiations on the TRIPS waiver.”

She said the waiver “is a necessary temporary, targeted and proportionate component for any outcome on a WTO response to COVID-19”, and stressed that “the cost of inaction by the WTO is measured in human lives.” She underscored the need to “move beyond ideological debates towards a balanced outcome underpinned by a people-centred approach.”

To make progress, Mlumbi-Peter said, members must focus on “(i) how to come up with a waiver that addresses the interests and concerns of all, and (ii) get

out of the binary between the waiver and the EUCL [compulsory licence] proposal.” She said “the two are not substitutes but contribute from different perspectives and should both be welcomed with a view to finding landing zones on both.”

She emphasized that “a WTO response to COVID-19 is fundamental to a meaningful outcome at MC12.” “The credibility of the outcome will be judged on the basis of whether it is boosting and diversifying production across the world,” she said.

On agriculture, the South African trade envoy said members “need to work on a food security and livelihoods package and in this regard, our views are well articulated in the submissions that the African Group recently tabled.”

She said South Africa “will continue to advocate for substantial reform of trade-distorting domestic support, including on cotton, as well as PSH and SSM.”

She also said that S&DT “must be integral to any outcome on agriculture, and must preserve policy space, including under Article 6.2.” (Under Article 6.2 of the WTO’s Agreement on Agriculture, developing countries are allowed to continue to provide input and irrigation subsidies.)

Commenting on the fisheries subsidies negotiations, Mlumbi-Peter said “the chair’s text could form basis of an outcome but remains unbalanced in respect of various elements.”

She said that, “in order to make progress, the text needs to be re-configured to more closely align to the mandate to address harmful subsidies and to provide appropriate S&DT.” She said the “flexibilities provided to big subsidizers under the sustainability approach [are] extraordinarily wide, while S&DT flexibilities that are mandated are narrow in application.”

“Common but differentiated responsibility is going to be critical,” she underlined, adding that “the disciplines must target large-scale fishing and the biggest subsidizers must take the greatest responsibility.”

On the issue of special and differential treatment, Mlumbi-Peter said members “must preserve the principles that underpin the WTO both in terms of consensus decision making and S&DT,” arguing that “multilateralism is important now more than ever.”

She emphasized that S&DT “is a treaty-embedded right and remains

important in ensuring fair and equitable outcomes in the WTO.”

She urged the chair of the WTO Committee on Trade and Development in Special Session, Ambassador K. Hassan of Djibouti, to “deliver on its mandate on the G90 [proposals on S&DT] if we are to move forward.” She expressed concern about the lack of constructive engagement on the G90’s proposals, saying that “the level of ambition cannot be lowered further.”

Commenting on development, Mlumbi-Peter reaffirmed “the importance of implementing WTO Ministerial and GC [General Council] Decisions that keep development at the centre of the work programme.”

On e-commerce, she said that “the multilaterally mandated work is the work programme and the outcome on the e-commerce moratorium at MC12 will depend on clarifications with regard to the scope and definition of ET [electronic transmissions].”

She expressed concern over the “dysfunctionality” of the WTO’s Appellate Body (AB), saying that “MC12 must agree on a framework or at least a pathway towards urgent resolution of this.” “This will need to be in its own track given its systemic nature and not be linked to WTO reform discussions,” she said, adding that “a dysfunctional AB renders the further negotiations pointless since new and current outcomes cannot be enforced.”

In relation to WTO reform, the South African envoy said the paper on “Strengthening the WTO to promote development and inclusivity” remains “our departure point.” She said that “trade is not an end in itself, it is a means to enhance livelihoods, employment and sustainable development.”

She emphasized that “WTO reform does not mean accepting either inherited inequities or new proposals that would worsen imbalances. Reforms must be premised on the principles of inclusivity and development.”

On the issue of JSIs, she said the paper on “The legal status of JSIs and their negotiated outcomes” “captures our views, including the new systemic challenges presented by JSIs.”

In conclusion, she said, “success at MC12 will depend on delivery of multilateral outcomes.”

India expressed grave concern about the SARS-CoV-2 virus that is producing

“new deadly variants and unfortunately it is not going on vacation.” Commenting on the WTO’s response to the pandemic, Indian Ambassador Brajendra Navnit said that members must deliver on some of the proposals on the table, and not try to “push market access agenda and take away policy space available for members and impose cumbersome obligations that serve to benefit a few in the name of the pandemic.”

He said “doing away with the legitimate policy instrument of export restrictions or aiming for making temporary elimination of tariffs a permanent measure or calling for stringent transparency obligations will not guarantee access to vaccines, therapeutics or diagnostics, and access to food for the most vulnerable.”

He said “it is unfortunate that a few members have failed to engage in the text-based negotiation” for a TRIPS waiver. Without naming the countries, he said “a few members ensured that we are unable to meet the deadline set by the TRIPS Council chair for reaching the necessary landing zone by end-July.”

He said the TRIPS waiver is an integral part to restore the credibility of the WTO in terms of its response to the pandemic. “Therefore, it is high time this organization prioritizes saving human lives and livelihoods over all other priorities.”

He said the WHO Director-General had listed three focus areas during the 21 July high-level dialogue: technology transfer, supply chain resilience, and intellectual property waiver.

Navnit expressed concern that, during the TRIPS Council consultations, “while we continue to hear importance of rules-based organization, what we are seeing [is] that the rules and procedures are conveniently and selectively interpreted.” He warned that “doing so may help a few members on a particular subject, but these selective interpretations are creating precedence which may also be used by other members.”

On the agriculture “deliverables” at MC12, the Indian trade envoy said “a simple, efficient and permanent solution on extending PSH for food security purposes to new programmes and new products is ... a key deliverable.”

He also pressed for speedy and efficient movement of healthcare professionals, saying that “a multilateral outcome in this regard will be appreciated, particularly in view of the current pandemic.”

He said India supported the G90's 10 agreement-specific proposals for simple and effective S&DT.

On fisheries subsidies, Navnit reminded the DG about the 15 July ministerial meeting where more than 80 ministers called for appropriate and effective S&DT. He said India disapproved of the idea of restricting S&DT only to artisanal fishing within 12 nautical miles.

According to the Indian envoy, ministers (from developing countries) "demanded the text should provide sufficient policy space for developing their future fishing capacities for achieving equitable growth."

He said "ministers/members emphasized that, if this [fisheries subsidies] agreement is about sustainability, based on the principle of common but differentiated responsibilities, the biggest subsidizers who are responsible for the present state of marine resources should take greater responsibility and reduce their subsidies and fishing capacities."

In conclusion, Navnit emphasized that "the WTO must act as a catalyst to minimize the loss of life and livelihood and aid in acceleration of global economic recovery." He said "MC12 must deliver on critical areas like permanent solution on PSH, TRIPS waiver and a balanced outcome on fish subsidies."

"This balanced agenda will ensure that while we rebuild and recover, we also restore the waning credibility of this institution," he argued.

Targeted approach

The US called for a targeted approach to the WTO's response to the pandemic. It stressed on "a manageable set" of institutional issues.

It said the specific MC12 outcomes could include accelerating the implementation of the Trade Facilitation Agreement and proposals on transparency and notifications, including with regard to the Agreement on the Application of Sanitary and Phytosanitary Measures.

Commenting on the proposed fisheries subsidies agreement, the US said it wants a meaningful agreement, while claiming that the current draft consolidated text does not contain elements to reach consensus. A targeted approach to fisheries subsidies, according to the US, is to ensure and address the issue of forced labour.

The US said S&DT should not contain any carve-outs, particularly for some big developing countries to self-designate their recourse to S&DT.

Noting that members remain divided on key issues with four months to go to MC12, the EU said it wants "a path towards a deep reform of the rule-based system."

It outlined its four-fold priorities for MC12: (1) concluding the fisheries subsidies negotiations; (2) achieving an outcome on trade and health (that seems to exclude the TRIPS waiver, to which Brussels remains fiercely opposed); (3) finding some progress on agriculture; and (4) improving the overall functioning of the negotiating pillar, the implementation pillar, and the two-stage dispute settlement pillar.

It called for a "flexible rule path to reform", which appears to be a form of

"cherry-picking" issues of interest to it or a kind of "organ-trading", said a person who asked not to be quoted.

Australia, Brazil, Singapore, South Korea and other members of the JSIs spoke about an agreement on domestic regulation in services as well as the other initiatives on digital trade, investment facilitation, and disciplines for MSMEs.

Members of the Cairns Group of agriculture exporter countries led by Australia underscored the need for establishing a working group on agricultural domestic support at MC12, while seemingly turning their back on the permanent solution for public stockholding programmes for food security.

In short, the TNC meeting failed to provide any clear direction on what needs to be accomplished at MC12. (SUNS9395)

Ministers declare fisheries text as imbalanced and preserving the status quo

A negotiating draft of an agreement on regulating fisheries subsidies has met with a largely unenthusiastic response from trade ministers of WTO member states.

by D. Ravi Kanth

GENEVA: Trade ministers and senior officials from an overwhelming majority of countries on 15 July stated unambiguously that the current draft text for concluding an agreement in the Doha fisheries subsidies negotiations is imbalanced and can hardly secure the consensus needed to move the negotiations forward.

They said that the current draft consolidated text will retain the status quo by allowing the big subsidizers to continue with their industrial-scale fishing that is mainly responsible for the global depletion of fish stocks.

The ministers/senior officials, who

were participating in a virtual trade ministerial meeting, apparently urged the WTO Director-General Ngozi Okonjo-Iweala and the chair of the fisheries subsidies negotiations, Ambassador Santiago Wills from Colombia, to issue a revised text on account of the structural imbalances and contradictions found in the current text, which was issued by the chair on 30 June, said people familiar with the development.

After the meeting, Okonjo-Iweala and Wills made several claims of grand "success" at the meeting. However, the claims made by the DG and the chair at

the concluding press conference, if tested on a “truth meter”, could result in them being embarrassed, said participants from several countries.

During the meeting, many developing countries tore into the draft text for its “kid glove” treatment of the big subsidizers which have contributed immensely to overcapacity and overfishing (OC&OF) and thereby to the global depletion of fish stocks. They expressed grave concern over the carve-outs provided in the text to the big subsidizers to continue with their industrial-scale fishing.

Ministers and senior officials from developing and least-developed countries who took part in the meeting called for prohibiting harmful subsidies in the OC&OF pillar.

Developing countries also demanded that special and differential treatment (S&DT) should provide “policy space” to develop their respective fishing sectors and should be based on the principle of “common but differentiated responsibilities” as set out in the climate change agreement.

The Pacific group of small island states, including Fiji, Solomon Islands and several others, raised sharp concerns about the lack of appropriate and effective S&DT in accordance with the United Nations Sustainable Development Goal (SDG) 14.6.

For its part, the United States made it clear that more work needs to be done to reflect its concerns, including on the issue of forced labour (in the fisheries sector). The US Trade Representative (USTR) Katherine Tai cautioned that an agreement for agreement’s sake is difficult to accept.

Out of the 104 ministers and officials who made their interventions during the day-long meeting, some two dozen countries such as New Zealand, Australia and other APEC (Asia-Pacific Economic Cooperation) members accepted the draft text as a basis and also agreed with how S&DT is framed.

“Hyperbolic” statements

At the concluding press conference, the DG and the negotiating chair made statements about the grand “success” of the meeting, which seemed to differ sharply from the statements made by the ministers and senior officials.

“The text has been agreed by all

members and we could not have wished for a better outcome,” Okonjo-Iweala told reporters.

She said the fundamental conclusion is that members agreed to use the text issued by the chair on 30 June “as a basis”.

The second thing, said Okonjo-Iweala, is that members want to conclude a balanced, quality agreement away from technical status.

The DG said technical assistance and financial assistance for capacity-building to least-developed countries (LDCs) will contribute to their sustainability.

Apparently, a day before the ministerial meeting, several LDCs were told that they would get technical and financial assistance and that they should issue positive and favourable statements in support of the text, said diplomats who asked not to be quoted.

At the press conference, the DG claimed that there is “political will” to move forward. She also said that “virtually every minister recognized the S&DT for artisanal fishing communities and fishers with some caveats.”

Despite the claims of success, the DG and the chair had cancelled the third session of the virtual meeting, which was to have involved their assessment on the “way forward”, on grounds of differing time zones and difficulty to connect. However, the real reason for cancelling the session was apparently their inability to formulate a way forward in the face of entrenched positions and differences, said people who preferred not to be quoted.

“We are simply horrified by the statements made by the DG and the chair as they contained more lies than an honest assessment,” said several participants who asked not to be quoted.

“[T]heir statements further eroded our trust in this DG and the chair for leading the negotiations with integrity,” participants said.

Different narratives

Three different narratives emerged with respect to the statements made at the meeting.

Some two dozen countries led by New Zealand and other members of the so-called Group of Friends of Fish and also the APEC members said the text is a basis for concluding the agreement, while concurring with the treatment accorded

to poor and vulnerable artisanal fishers and fishing communities with several conditions.

The European Union too supported the current text as a basis and sought even more stringent conditions for developing countries to avail themselves of S&DT. The EU, which opposed the inclusion of non-specific fuel subsidies, called for special treatment to protect its access agreements, which act like food aid in agriculture, said people who asked not to be quoted.

The second narrative came from the large majority of developing and least-developed countries, including India, South Africa, Jamaica on behalf of the African, Caribbean and Pacific (ACP) Group, Mauritius on behalf of the African Group, and the LDC Group. The trade ministers/officials from these countries called for targeting harmful subsidies without providing any specific carve-outs.

The third narrative came from the US, which called for including the issue of forced labour and for substantially more work to make the text palatable.

“Unequal, unfair, unjust”

In a hard-hitting statement, India’s trade minister Piyush Goyal said he is “disappointed” that members are “still short of finding the right balance and fairness in the agreement.”

He said it is important not to “repeat the mistakes made during the Uruguay Round that allowed unequal and trade-distorting entitlements for select developed members, particularly in agriculture, while unfairly constraining less developed members who did not have the capacity and resources to support their industry or farmers then.”

He said “fisheries are a common endowment to humanity, a global public commons,” adding that “the sharing of this should be in an equitable and just manner.”

He warned against finalizing an “unbalanced or unequal agreement.”

On the issue of sustainability, he said “it is essential that big subsidizers take greater responsibility to reduce their subsidies and fishing capacities, in accordance with the principles of ‘Polluter Pays’ and ‘Common but Differentiated Responsibilities.’”

He said that any agreement must

take into consideration “different stages of development and current fishing arrangements that reflect their current economic capacities.” Therefore, “any agreement will have to provide for balancing current and future needs.”

Goyal said that “the per capita fisheries subsidy given by most developing countries is minuscule compared to advanced fishing nations”, arguing that “countries [like] India who are yet to develop fishing capacities cannot be expected to sacrifice their future ambitions, while protecting those members providing huge subsidies and over-exploiting fisheries resources and [continuing] to engage in unsustainable fishing.”

He said that the “sustainability-based approach in the Overcapacity and Overfishing pillar in the current form will create significant inequity” and it is “unequal, unfair, unjust”.

Despite severe opposition to the inclusion of fuel subsidies, he said that “if non-specific fuel subsidies are not brought under disciplines, another major disparity will be introduced by large harmful subsidies out of any disciplines.”

Without naming the EU, which uses access agreements to send its huge industrial-scale fleets for fishing in other countries’ maritime waters, the Indian minister said “giving special treatment to non-recovery of subsidies under government-to-government fisheries ‘access agreements’ is akin to cherry-picking.”

He said that any new agreement must support the international laws of the sea, and “the sovereign rights of coastal states to explore, exploit and manage living resources within their maritime jurisdiction, enshrined in international instruments, must be preserved.”

Goyal called for “appropriate and effective special and differential treatment in the true spirit as enshrined in the guiding principles of the Marrakesh Agreement.” He said that “limiting S&DT to poor and artisanal fishermen only is neither appropriate nor affordable and not acceptable,” suggesting that S&DT has to be for a country as a whole.

He called for covering significant ground to make the text balanced to meet the just concerns of developing and LDC members.

He said India will be submitting proposals very soon to address its concerns

including incorporating “common but differentiated responsibilities” in sharing the common endowment.

More work needed

In a similar vein, South Africa said that more work is needed for “an acceptable and balanced outcome” that gives primacy to coastal states to manage their maritime resources.

It said the hybrid approach in the OC&OF pillar can be agreed to only if it avoids carve-outs to the biggest subsidizers.

South Africa said most developing countries are at the earlier stages of developing their fisheries sectors and they do not contribute to overfishing. It said that it will not accept rules that impede their developmental prospects, suggesting that members must avoid a one-size-fits-all approach.

“The developing countries have shown flexibilities and we are at a point [where] other members must show flexibilities to conclude the negotiations,” it said, adding that S&DT cannot be limited to transitional periods and capacity-building.

Jamaica, on behalf of the ACP Group, said that “significant work is needed, including textual language, prohibiting harmful subsidies that contribute to overcapacity and overfishing and IUU [illegal, unreported and unregulated] fishing while preserving the sovereign rights of maritime countries.”

The ACP Group, said Jamaica, is not able to agree on a 12-nautical-mile limit for artisanal fishers, which should have the right to fish in the exclusive economic zone (200 nautical miles) area. The Group is also opposed to onerous transparency and notification requirements.

On behalf of the African Group, Mauritius said members must squarely focus on targeting the subsidies provided to large-scale industrial fishing.

Mauritius also said that S&DT is a core component of the WTO agreements, arguing that “African countries need policy space to develop their fisheries.”

“With a mere 2.44% of the global fisheries subsidies, our countries should not be made to bear the brunt of the disciplines, as we do not contribute in any significant manner to harmful subsidies,” the African Group said.

Mauritius said that “S&DT must

be effective to enable us to leverage our resources for economic development, it cannot be time-limited or confined to artisanal and subsistence fisheries, and limited to technical assistance or capacity-building.”

It maintained that “a fisheries subsidies agreement should not alter the sovereign rights of members covered by existing international agreements,” especially the primacy of coastal states in IUU fishing determination.

Furthermore, the agreement should ensure that determinations made indeed lead to a prohibition of subsidies, Mauritius said, arguing that “leaving discretionary power to the subsidizing members would render any agreement ineffective.”

It said that “this agreement necessitates flexibility from all sides but more particularly from those who contribute to overfishing and overcapacity through harmful subsidies.”

It added that the negotiations should not seek to bring the management programmes of members under WTO scrutiny.

China said it is ready to work on the basis of the current text and consider its basic landing zones. There is no place for new issues to be inserted in the text, it argued, in what appeared to be a reference to the US call to introduce the issue of forced labour.

China said S&DT should be provided to artisanal and poor fishers in developing countries and LDCs. It said that “as a developing country with a large fisheries sector, China will assume its international responsibilities commensurate with its level of development and capability.”

It called for revising the text on the OC&OF pillar, adding that it should remain balanced and consistent with the negotiating mandate.

On issues of territoriality and jurisdiction, China said the final text must guarantee that the WTO should not be involved in critical issues such as territorial sovereignty.

It said that its President Xi Jinping wants to pursue “green” and environmentally sustainable policies.

Speaking on behalf of the country’s minister, a senior Indonesian official said the negotiations “could strike the right balance in ensuring common but differentiated responsibility.” “This principle will be critical in ensuring

significant reduction of harmful subsidies which contribute to overfishing and overcapacity and efficiently eliminating subsidies for IUU fishing,” Indonesia said.

On S&DT, Indonesia said that “while we share the view that we need to protect the vulnerable artisanal fishers, we may have differences on what constitutes artisanal fishers in each jurisdiction.” It cautioned that “harmonizing such a term will not ensure symmetrical commitment among members.” Hence, “we should allow each jurisdiction on how to regulate such vulnerable, artisanal and small-scale fishers”.

Indonesia argued that members “should also look at the fact that only less than 20% of total global subsidies are received by artisanal and small-scale fishers. Most of the subsidies are received by the distant water fishing vessels, operated by operators that work in a highly complicated structure.”

Such fisheries should be the priority target of the disciplines, Indonesia said, adding that “many developing and least-developed countries are deprived from the opportunity of fair trade in fisheries because they cannot compete on subsidies.” Even if their fishers can compete, “as they catch closer to their shore, they will get further hurdles with tariff in importing countries that make it extremely difficult to compete with large subsidizing nations.”

In light of this situation, Indonesia said, “we should objectively engage in the negotiation and take into account the concern of every member.”

It said that S&DT provisions “should not detach from the development agenda of developing and LDC members, especially those who rely on artisanal and small-scale fisheries for local economy, food security and poverty alleviation.”

Missing elements

The US called for including the issue of forced labour and for substantially more work to make the text palatable. In her intervention, USTR Tai drew several markers for an outcome that can be considered “meaningful.” She asked rhetorically whether the current negotiating text reflects the best that members can do after 20 years.

She said while the text contains some of the basic elements needed to reach a meaningful outcome, “our work is not

yet done as other key elements are still missing.” She said “this text can serve as the basis for a member-led, text-based negotiation, but it does not yet contain the elements required for reaching conclusion.”

In addition to pushing for effective disciplines on the most harmful fisheries subsidies, she called for addressing the “use of forced labour” on grounds that it is a serious problem.

Commenting on S&DT for artisanal fishers and fishing communities, she said the US is prepared to consider

“flexibilities for particularized situations that do not result in the pitfalls of a blanket approach.”

She asked whether it is enough to have an agreement for agreement’s sake, suggesting that members deserve more and can achieve more.

In short, the ministerial meeting exposed the faultlines in the draft consolidated text promoted by the WTO DG and the chair, notwithstanding their seemingly inaccurate claims. (SUNS9390)

JSI on services domestic regulation leads to plurilateralization at WTO

The plurilateral Joint Statement Initiative on domestic regulation of services – which the US now appears set to join – could undermine not only the existing work on this issue at the WTO but also the multilateral character of the WTO system.

by *D. Ravi Kanth*

GENEVA: The United States on 20 July announced its intention to join the plurilateral Joint Statement Initiative (JSI) on domestic regulation in services, with the aim of concluding the JSI discussions at the WTO’s 12th Ministerial Conference (MC12), to be held in Geneva in late November.

The US move could pave the way for a powerful coalition of countries to frame new rules by reneging on the existing multilateral rules set out in the WTO’s General Agreement on Trade in Services (GATS), said people familiar with the development.

In a press statement issued on 20 July, the US Trade Representative (USTR) claimed that “the DR [domestic regulation] JSI negotiations are an opportunity to improve the transparency and fairness of processes for obtaining licenses to provide services by US professionals such as engineers, architects, and environmental consultants, as well as for US firms in fields such as retailing, express delivery, and financial services.”

The statement touted the US stand on DR, saying that it “has long championed

transparency and fairness of regulatory rules as a fundamental feature of good governance, and views the DR JSI as an opportunity to strengthen such standards around the globe.”

“Improved transparency and regulatory processes can support democratic values, open societies, and a worker-centric trade agenda,” the USTR said, adding that “today’s announcement reflects the longstanding support of the United States for improving transparency in the WTO, as well as the efforts of other WTO Members to lay the groundwork for progress on a range of issues at MC12.”

Multilateral principles under threat

Negotiations on improving the DR disciplines under Article VI of the GATS began in 2003 to address the “development deficit” in the global trade in services, particularly between licensing requirements in Mode 3 (commercial presence) of the GATS, and the qualification requirements and procedures for the movement of short-term services providers in Mode 4. The

negotiations were systematically scuttled by the US and other powerful countries, according to people involved in the talks.

The then chair of the WTO Working Party on Domestic Regulation (WPDR), Peter Govindasamy from Singapore, issued his first draft text in 2007 and a final draft text in 2009. The final draft text was approved in 2009 through consensus. The major developing countries such as India and South Africa and many other countries had supported the 2009 draft text on grounds that it was a balanced text to rectify some of the asymmetries found between Mode 3 and Mode 4 in the GATS.

“The JSI negotiations have violated the multilateral work being conducted by the WPDR as they are beneficial for several developed countries to promote licensing conditions in Mode 3 while ignoring the much-needed improvements

in the movement of short-term services providers,” said a person who has been closely involved in the WPDR work since 2003.

India and South Africa have highlighted the danger posed by the JSI talks to the multilateral trading system.

In a joint statement issued at a meeting of the WPDR on 30 June, they pointed out how the JSI proposal on DR is “flawed” and allegedly violates the GATS provisions.

Further, their February submission to the WTO General Council on “The legal status of ‘Joint Statement Initiatives’ and their negotiated outcomes” pointed to how JSIs, including the JSI on DR, are working against the multilateral mandates.

According to India and South Africa, there is a contradiction between JSIs and the fundamental principles and objectives of the multilateral trading system enshrined

in the Marrakesh Agreement Establishing the WTO, including: Article II.1 of the Agreement (“The WTO shall provide the common institutional framework for the conduct of trade relations among its Members ...”); Article III.2 (“The WTO shall provide the forum for negotiations among its Members concerning their multilateral trade relations”); consensus-based decision-making (as enshrined in Articles III.2, IX, X and also X.9); and the procedures for amendments of rules (as articulated in Article X).

The developing and the least-developed countries are facing the worst challenge at the WTO due to the assault being launched by the US and other developed countries, which seem determined to turn the WTO into a “World Plurilateral Trade Organization” at MC12. (SUNS9392)

WTO DG makes “outlandish” remarks on S&DT

A recent speech by the WTO head appears to question the present basis for according special and differential treatment to developing countries at the trade body – treatment which these countries see as essential to help address their development challenges.

by D. Ravi Kanth

GENEVA: The WTO Director-General Ngozi Okonjo-Iweala has apparently made some “outlandish” remarks pertaining to special and differential treatment (S&DT) of developing countries, thus allegedly crossing the “red line” of her stated responsibilities under the WTO’s Marrakesh Agreement, said people familiar with the development.

During a virtual address to the US-based Atlantic Council on 13 July, the DG apparently said that there is a “design problem” as regards availing of S&DT based on self-designation by developing countries, according to media reports.

Okonjo-Iweala appears to have aligned herself with the US demand to bring about differentiation among developing countries for availing of S&DT in the

WTO, according to media reports.

She said that the WTO lacks “clear rules of the game” as compared with the International Monetary Fund (IMF) and the World Bank, the so-called Bretton Woods institutions.

It is very clear, she said, “what is a least developed country, what is a developing country, what is a developed country, because there are clear rules of the game with respect to per capita income.”

“But it’s the same countries that created the WTO and at the WTO there was no such delineation. It is said that countries could self-designate themselves as developing and developed as they reach [it]. So this is very bad,” she said. She called it a “design problem”, according to a report in *Inside US Trade*.

Unconditional and treaty-embedded right

Okonjo-Iweala’s statement has exposed her apparent ignorance of the history of the multilateral trading system after the US blocked the Havana Charter and the creation of the International Trade Organization in 1948. Subsequently, the General Agreement on Tariffs and Trade (GATT) forum, which was founded largely on the priorities of the US and Europe among others, included various provisions.

According to the US academic Quinn Slobodian in his book *Globalists: The End of Empire and the Birth of Neoliberalism*, special and differential treatment appears to have started with the EU seeking special flexibilities. Subsequently, the issue of self-designation by developing countries in availing of S&DT was enshrined in the GATT’s rules.

Further, Okonjo-Iweala could have violated the letter and spirit of Article VI of the WTO’s foundational Marrakesh Agreement by making her remarks. Article VI.4 states: “The responsibilities of the Director-General and of the staff of the Secretariat shall be exclusively international in character. In the discharge of their duties, the Director-General and the staff of the Secretariat

shall not seek or accept instructions from any government or any other authority external to the WTO. They shall refrain from any action which might adversely reflect on their position as international officials. The Members of the WTO shall respect the international character of the responsibilities of the Director-General and of the staff of the Secretariat and shall not seek to influence them in the discharge of their duties.”

Many developing countries – Benin, the African Group, Bolivia, Cambodia, China, Cuba, India, Laos, Oman, Pakistan and Venezuela – have stated unequivocally that the issue of self-designation is at the core of the S&DT architecture.

They stated in 2019 and 2020 that “the WTO’s Marrakesh Agreement recognizes that Members’ relations in the field of trade and economic endeavour ‘should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income...’”

The developing countries said that “the GATT and WTO have recognized that developing countries need S&DT to access and benefit from international markets as they face more serious challenges compared to developed countries. As a result, S&DT is an unconditional and treaty-embedded right that has been provided to all developing countries, including in Part IV of the

GATT. The WTO allows developing countries to make their own assessment about their development status.”

“Today, S&DT remains extremely important for trade to be more inclusive and equitable, as well as for developing countries to meet their Sustainable Development Goals.”

They said that “S&DT has provided developing Members including LDCs [least-developed countries] the space to calibrate their trade integration and formulate their domestic trade policies in ways that help them reduce poverty, generate employment and integrate meaningfully into the global trading system. Nevertheless, to date, the development challenges and divide persist and have in fact deepened in significant areas.”

“Due to these continued challenges, Ministers at the Doha Ministerial agreed

to strengthen and make the WTO’s S&DT provisions ‘more precise, effective and operational’. Today, S&DT remains extremely important for trade to be more inclusive and equitable, as well as for developing countries to meet their Sustainable Development Goals (SDGs).”

Therefore, “any unilateral action depriving developing Members including LDCs of treaty-embedded rights would be inconsistent with Members’ obligations, and would in fact erode the foundation of the multilateral trading system which functions on the basis of being ‘rules-based’. This will cause lasting and systemic damage to the trading system.”

The DG must keep in mind the following recommendations:

- Developing countries’ unconditional rights to S&DT in WTO rules and negotiations must continue;
- Developing countries must be allowed to make their own assessments regarding their own developing-country status;
- Existing S&DT provisions must be upheld;
- S&DT must be provided in current and future negotiations.

The developing countries also warned that “attempts to water down these principles would be a recipe for intractable deadlock at the WTO, including in the negotiations on fisheries subsidies. It is in the interest of the entire membership to avoid this situation.” (SUN9389)

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WTO-WHO dialogue hears call to treat “profits and patents” as second priority due to COVID-19

Contrasting perspectives on how to boost supply and distribution of COVID-19 vaccines – and the role played by intellectual property rights – were aired during a recent high-level dialogue session. *D.Ravi Kanth* reports.

GENEVA: The World Health Organization (WHO) Director-General Tedros Adhanom Ghebreyesus has told Big Pharma to treat “profits and patents” as a second priority due to the COVID-19 pandemic, adding that “unprecedented crisis demands unprecedented action”.

At a virtual high-level dialogue convened by the heads of the WTO and WHO on 21 July, the WHO DG issued a strong statement urging Big Pharma to transfer technology and know-how to WHO’s COVID-19 Technology Access Pool (C-TAP) as well as the newly established technology transfer hub in South Africa.

He also suggested that the TRIPS waiver could be invoked, said a participant who asked not to be quoted.

The high-level dialogue followed a high-level meeting hosted by WTO Director-General Ngozi Okonjo-Iweala on 14 April on “COVID-19 and Vaccine Equity: What can the WTO contribute?”.

The objectives of the high-level dialogues as outlined by the organizers include: (i) systematically mapping current and potential capacity of COVID-19 vaccine production, state of play of technology transfer and sharing initiatives, including pooling of intellectual property and know-how, and production and supply chain bottlenecks; (ii) engaging key players from governments, the private sector, international organizations and civil society to expand and diversify manufacturing; and (iii) maintaining momentum towards more systematic and coordinated international action.

However, these dialogues seem to have failed to provide a concrete roadmap on how to expand and diversify manufacturing in order to promote equitable access to COVID-19 vaccines.

In fact, despite the stated objective of

engaging key players from civil society, the latest dialogue excluded most civil society organizations at the forefront of advocating for equitable access in developing countries. Even more surprising was the absence of participation from civil society representatives engaged in the various pillars of WHO’s Access to COVID-19 Tools (ACT) Accelerator.

The five-hour meeting witnessed representatives of Pfizer, Moderna, Johnson & Johnson, and AstraZeneca, and some European governments adopting “ideological” positions in favour of intellectual property rights (IPRs). Instead, the problem, according to Big Pharma, European Union governments and Switzerland, lies in export restrictions, hence the importance of keeping global chains open for the flow of key ingredients.

They spoke in favour of voluntary licensing agreements to expand the production of vaccines, but Big Pharma has refused to license to C-TAP or technology access hubs on grounds that vaccine production is complex, requiring several quality and regulatory approvals.

They openly opposed the proposed TRIPS waiver, arguing that it will not solve the problem, and neither were they open to treating COVID-19 vaccines as a “public good”.

Pfizer touted the recent agreement it reached with South African company Biovac for the production of mRNA vaccines in South Africa.

However, in a public statement, Prof. Brook Baker from Northeastern University has pointed out that the agreement is “nothing more or less than a contract manufacturing agreement for sterile formulation, fill, and finish. The final vaccine produced will be a BioNTech/Pfizer vaccine with marketing

approval or emergency use authorization/ listing under BioNTech/Pfizer’s regulatory dossiers.

“Biovac will not be an ‘independent producer’ – it will instead be a contract ‘subsidiary’ facility, subject to rigid control by Pfizer. In addition to the vaccine having a BioNTech/Pfizer ‘brand’, it will have a price set by them.”

“The announcement does not indicate the technology transfer/sharing agreement would ever result in the ability of Biovac to produce the mRNA active ingredient,” Baker said.

He added that “the underlying mRNA tech platform continues to be exclusively controlled by BioNTech/Pfizer, and Biovac will not be given the ability to further develop its own internal technical capacity and expertise that might allow it to manufacture other mRNA vaccines and therapeutics in the future. BioNTech and Pfizer thereby signal their enduring intention to maintain monopoly rights over their basic mRNA technology”.

Many of Big Pharma’s assertions were challenged at the dialogue by several developing countries, including South Africa and Pakistan.

“Shocking imbalance”

In his opening statement, WHO chief Tedros thanked Big Pharma for producing vaccines in record time. However, he said “there remains a shocking imbalance in the global distribution of vaccines”.

“This has created a two-track pandemic: the haves are opening up, while the have-nots are locking down,” he noted.

Pointing out that more than 75% of 3.5 billion vaccine doses distributed globally have gone to just 10 countries, he said that “vaccine inequity is not only a moral failure, it is also epidemiologically and economically self-defeating.”

The WHO DG said that “vaccines alone cannot solve the pandemic”, arguing that rapid diagnostics and life-saving therapeutics are also vital.

He said the WTO, the World Intellectual Property Organization (WIPO) and WHO have committed to intensified capacity-building and providing robust joint technical assistance to countries on COVID-19 health, intellectual property and trade-related matters. He added that the WTO DG and he are working closely together to advocate for immediate,

innovative and sustainable solutions to ensure access to COVID-19 vaccines and other technologies.

He said the critical vaccine supply gap can be addressed by “removing the barriers to scaling up manufacturing, including through technology transfer, freeing up supply chains, and IP [intellectual property] waivers.”

While acknowledging that the intellectual property system plays a vital role in fostering innovation of new tools to save lives, he drove home the message that “this pandemic is an unprecedented crisis that demands unprecedented action.”

“With so many lives on the line, profits and patents must come second,” the WHO DG said emphatically, adding that daily 1,500 lives are lost globally due to lack of access to vaccines.

As part of the WHO-COVAX efforts, the first COVID-19 mRNA vaccine technology transfer hub has already been set up in South Africa, he informed the dialogue participants. WHO, he said, is “calling for expressions of interest to establish technology transfer hubs to assist countries to acquire vaccine technology and know-how as rapidly as possible.”

He said “WHO has pre-qualified numerous health technologies including vaccines from manufacturers in middle-income countries.” According to him, these manufacturers have shown that they can produce according to international standards of quality, safety and efficacy.

He concluded: “Whatever options we use, the most important is increasing the production capacity significantly so there is enough pie to share, there are enough vaccines to achieve the 70% by mid next year and open up the world to bring lives and livelihoods to normality.”

Under criticism from other participants, including WHO and several governments, at the dialogue, the representatives of Big Pharma defended their actions, arguing that they are entering into voluntary licensing agreements. They however found it difficult to answer a question as to why they have failed to share technology with C-TAP and whether they are willing to transfer technology to the new hub in South Africa.

Big Pharma’s arguments were countered at the dialogue by several co-sponsors of the TRIPS waiver for suspending key provisions in the TRIPS Agreement relating to copyrights,

industrial designs, patents and trade secrets.

The co-sponsors asked: if IPRs are not the problem, then why is Big Pharma opposing the waiver? The waiver, the co-sponsors said, is aimed at scaling up production of diagnostics, therapeutics and vaccines across countries as an expeditious solution to an urgent crisis.

South Africa and Pakistan separately issued strong statements in favour of the waiver at the dialogue. They said that in addition to their waiver proposal, they are willing to consider other solutions as well to address the COVID-19 crisis.

The United States did not participate in the dialogue while the European Union, which has made it a policy to strongly oppose the waiver, did not make any statement. However, some of its member states opposed the waiver at the meeting, said people familiar with the deliberations.

Lack of transparency

In her opening statement at the dialogue, WTO DG Okonjo-Iweala admitted for the first time that “there is little transparency with regard to vaccine contracts or input markets, though the new COVAX marketplace should help match input demand with supply.”

“Unequal access to vaccines is a major reason for the global economy’s K-shaped recovery, in which advanced economies and a few others are surging ahead, while the rest lag behind amid rising poverty, hunger and unemployment,” she said.

She asked Big Pharma to inform the dialogue participants “about your current and projected levels of vaccine production in 2021 and 2022, as well as the bottlenecks you have encountered – and your ideas for tackling these.”

She also said that “for those managing intellectual property rights, we’d like to hear about the factors influencing your decisions about technology and know-how transfer, as well as when to license IP in particular, and what would encourage these actions.”

Echoing Big Pharma and European countries’ ideas, she said “members have also put forward ideas on a wider set of health-related concerns, such as export restrictions, tariff cuts, trade facilitation, and increasing vaccine production and distribution, in addition to intellectual property issues.”

According to dialogue participants,

one of her deputies, Anabel Gonzalez, appeared to defend Big Pharma by suggesting that there are three common barriers to vaccine access: (1) market disruption (such as export restriction measures, lack of raw materials, constraints on technology transfer, lack of transparency); (2) diversification in procurement, vaccine production and technology sharing; and (3) networking the knowledge and skills required, as well as the infrastructure.

On its part, WIPO strongly supported the IPR system as well as the efforts made by Big Pharma, including voluntary licensing agreements. The WIPO statement appeared to be at odds with what WHO said at the meeting, said people who asked not to be quoted.

Pharma monopolies

Médecins Sans Frontières (MSF) was one of the two civil society organizations invited to participate in the event.

India-based MSF representative Leena Menghaney said the medical humanitarian organization had witnessed shortages and high prices, largely caused by monopolies, of the drugs tocilizumab needed for severe COVID-19 and liposomal amphotericin B for mucormycosis. “Even during a global pandemic, a handful of wealthy governments continue to allow their monopoly-holding corporations to control how much will be produced, set prices and decide where lifesaving medical products are produced, registered and supplied.”

“Many proposals that could help are stalled by inaction,” Menghaney said. “The International Federation of Pharmaceutical Manufacturers and Associations (IFPMA) rejects voluntary sharing initiatives like WHO’s COVID-19 Technology Access Pool. Members of IFPMA favour bilateral deals to avoid disclosing terms and conditions, and even in the most vibrant democracies freedom to information requests are met with redacted agreements that undermine accountability and transparency.”

“WHO’s mRNA vaccine technology transfer hub could expand production and supply of mRNA vaccines for COVID-19, especially in low- and middle-income countries. Yet BioNTech, Pfizer and Moderna – makers of WHO-approved mRNA vaccines – have not participated. Governments like Germany and the US that fund and host major

biopharmaceutical developers must use their influence to push companies to participate in the WHO mRNA hub,” Menghaney said.

The TRIPS waiver is a critical policy proposal to remove legal barriers to production and supply of COVID-19 medical products, and yet the European Union continues to delay negotiations on the waiver, Menghaney said, referring to the recent EU proposal that only reinforces the status quo.

Menghaney pointed to India’s use of compulsory licensing to reduce prices of an expensive patented cancer drug, following which the Bayer CEO had responded that the company did not develop the cancer medicine for Indians – which, Menghaney said, effectively summed up everything that is wrong with the way medical products, including for COVID-19, are developed: “reserved for the wealthiest, with pharmaceutical corporations singularly focused on profits, pushing for intellectual property and high prices.”

“CEOs of pharma corporations in the previous session attributed the speedy development of COVID-19 vaccines to the intellectual property system,

discounting the contribution of public funding, people’s volunteering in clinical trials and regulatory support,” Menghaney said. “Millions of people are still waiting to benefit from the important medical innovations of the past year and half, and intellectual property is deepening social and racial injustice across the world.”

Ellen ‘t Hoen of Medicines Law and Policy said that “Public funding significantly de-risked companies’ endeavours to bring vaccines to market rapidly, but failed to ensure, in exchange for this de-risking, the sharing of the know-how. The lack of conditionalities in these publicly funded contracts is a tangible example of policy failure, particularly because those same governments (this includes the EU) ... promised that the COVID-19 vaccines would be global public goods or common goods. No one would own the vaccine, we were told.”

Access to technology “remains the unfulfilled promise of the TRIPS Agreement”, ‘t Hoen reminded the meeting.

According to Richard Kozul-Wright, Director of the Globalization and Development Strategies Division at the United Nations Conference on Trade

and Development (UNCTAD), “IPRs are generally sought to compensate the producers for their innovations and inventions and provide incentives for further research and development.”

“However, in the case of COVID-19, studies have shown that public funding accounted for around 99% of finance towards their R&D,” he said, arguing that “these vaccines would not have existed without government funding, which comes primarily from taxes paid by the citizens.”

“We should also not forget the cooperation of millions of people who came forward for testing these vaccines and this is sufficient grounds to declare these vaccines as public goods,” he emphasized.

Commenting on “vaccine inequity,” he said that “wealthy countries have already booked two to three times of vaccine doses as compared to their population. For example, Switzerland, with a population of 8.5 million, has reserved 27.5 million doses. Wealthy countries representing just 13% of the global population have already reserved over 50% of expected COVID-19 vaccine doses till the end of 2021.” (SUNS9393)

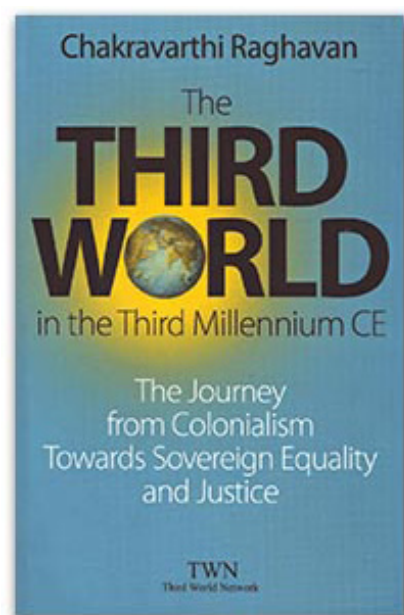
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Women workers disproportionately impacted by COVID-19 pandemic

The coronavirus pandemic has widened the gender gap in access to and quality of employment, says the UN labour body.

by Kanaga Raja

GENEVA: Women's employment worldwide declined by 4.2% between 2019 and 2020, representing a drop of 54 million jobs, while men's employment declined by 3%, or 60 million jobs, according to the International Labour Organization (ILO).

In its latest policy brief, "Building Forward Fairer: Women's rights to work and at work at the core of the COVID-19 recovery", released on 19 July, the ILO said over a year and a half into the COVID-19 pandemic, gender equality in the world of work has worsened.

"Women have suffered disproportionate job and income losses, including because of their over-representation in the hardest-hit sectors, and many continue to work on the front-line, sustaining care systems, economies and societies, while often also doing the majority of unpaid care work," it said.

The ILO said that the decrease in employment between 2019 and 2020 was more pronounced than during the Great Recession for both women and men.

"This is largely due to the impact of lockdowns that affected sectors, including manufacturing and services where women are over-represented and where they are often working with informal working arrangements."

Enduring gender gaps in time spent in unpaid care work, limited access to social protection and an upsurge in violence and harassment have also made it difficult for women to keep their jobs, compared with men, said the ILO.

According to the ILO policy brief, in 2021, there will still be 13 million fewer women in employment compared with 2019, while men's employment will have recovered to 2019 levels.

The ILO has forecast that, globally, in 2021, women's employment is expected to rise by 3.3% from 2020 levels, or 41 million, while men's employment is expected to grow by 3%, or 59 million.

Even though the projected employment growth rate in 2021 for women exceeds that for men, it will, nonetheless, be insufficient to bring women back to pre-pandemic employment levels, because of deeper employment losses experienced by women in 2020 (-4.2%).

Women's employment in 2021 is projected to be 1,270 million, while men's is forecasted to reach 2,019 million, said the ILO. "Only 43.2% of the world's working-age women will be employed in 2021, compared to 68.6% of working-age men."

In other words, in 2021, women will still be 25.4 percentage points less likely to be in employment than men, said the ILO.

Regional trends

According to the ILO policy brief, the Americas was the region that experienced the greatest reduction in women's employment as a result of the pandemic. Between 2019 and 2020, women's employment declined by 9.4% compared with a 7.0% decline for men.

"The drop in women's employment disrupted the progress observed over the past 15 years, which was the result of better educational opportunities for women, greater availability of formal jobs in the services sector, migration from rural to urban areas, and lower fertility rates."

The ILO estimates that the regional employment-to-population ratio for women will stand at only 46.8% in 2021, while men's will reach 66.2%.

"These figures portray bleak prospects for women in the region, highlighting that employment growth lacks the intensity needed to recover to pre-pandemic levels," said the ILO.

The second highest drop in the number of employed women was observed in the Arab States. Between 2019 and 2020,

women's employment declined by 4.1% and men's by 1.8%.

However, recovery prospects appear to be more favourable for women than for men, as women's employment in 2021 is expected to increase by 5.6% and men's employment by 3.7%, reflecting more targeted policy actions to promote women's participation in employment, said the ILO.

Nonetheless, there remain substantial gender inequalities at work in the region, it added. According to ILO projections, in 2021, the employment-to-population ratio for women will stand at only 14.3% compared with 70.8% for men.

The ILO said over the past 15 years, the region's employment-to-population ratio has hardly fluctuated. This low female employment rate is the result of the limited quantity and quality of jobs generated, traditional expectations of women's role in society and recurrent political instability.

In Asia and the Pacific, the shock of the pandemic led women's employment to decrease by 3.8% compared with a decline of 2.9% for men.

The number of men in employment is expected to rise by 3% by the end of 2021, which would more than offset the job losses that occurred in 2020. On the other hand, women's employment losses would not be compensated by the forecasted 3.2% rise in 2021. This would further accelerate the decrease in women's employment rates observed in the region over the past 15 years, leading to only 41.2% of women being in employment in 2021, compared with 71.4% of men.

The main factors behind the longstanding decline in women's employment rates include the rapid transition from agriculture to manufacturing with lower-than-expected job formalization rates, and the lack of care services and infrastructure that enable women to combine work with family responsibilities, said the ILO.

In Europe and Central Asia, it is the second time over the past 15 years that employment has been severely hit by a crisis. The Great Recession, between 2008 and 2009, dramatically reduced men's employment (-2.3%), while women's jobs were affected to a much lesser extent (-0.5%). In contrast, the COVID-19 crisis has curtailed women's employment considerably more than men's, leading to a 2.5% and a 1.9% decrease, respectively.

The ILO said its forecast for 2021 is not

encouraging, as the number of women in employment is expected to rise by a dim 0.6% and that of men by 0.4%.

It said in Europe and Central Asia, the COVID-19 pandemic has halted the positive trend of increasing women's employment rates of the past years triggered by higher female educational achievement, rising social protection coverage coupled with investments in the care economy and the increase in part-time employment opportunities.

In 2021, the employment rate for women is projected to stand at 46.0%, compared with 60.8% for men.

Despite substantial decent work deficits, in Africa, men's employment experienced the smallest decline across all geographic regions with just a 0.1% drop between 2019 and 2020, while women's employment decreased by 1.9%, said the ILO.

Recovery prospects are particularly positive for women, whose employment is expected to rise by 4.7% between 2020 and 2021, more than offsetting pandemic-related job losses.

As a result, in 2021, the employment rate for women in Africa is projected to reach 48.7%, which would be the highest across regions, and men's employment rate is projected to stand at 66.2%.

However, a North-South divide in sub-regional dynamics persists, the ILO said, noting that in northern Africa, only 16.0% of working-age women are projected to be employed in 2021. The combination of ascribed gender roles, limited expansion of the services and manufacturing sectors, and lack of care services has contributed to women leaving paid work around the age of 25, which coincides with marriage.

Conversely, in sub-Saharan Africa, the employment-to-population ratio for women is projected to remain among the highest in the world in 2021, at 57.1%. The gender gap in employment rates, at 10.4 percentage points, is low when compared with many other regions. However, women's higher employment in the region often comes at the expense of the quality of their work, given their disproportionately high participation in the informal economy, especially in agriculture, a sector where paid work is often combined with unpaid care responsibilities.

"In Africa, the pandemic has exacerbated the poor working conditions of informal economy workers, who have

continued to work during the COVID-19 outbreak, putting themselves and their families at risk," said the policy brief. In this context, when gender intersects with other personal characteristics, such as ethnicity, nationality, age, disability or HIV status, there is a risk that gender disparities will widen further.

Large gender gaps in job quality

According to the policy brief, the COVID-19 pandemic has shed light on the large gender gaps in the quality of employment, especially for the many women working in feminized sectors and occupations, and in the informal economy.

It said that even before the pandemic, jobs with a high concentration of women were characterized by low wages, long working hours, limited opportunities for career advancement, and exposure to occupational health and safety risks as well as violence and harassment.

"When the pandemic hit, these trends put women workers at greater risk of being laid off, seeing a significant contraction of their working hours and/or experiencing a further deterioration in their working conditions."

Migrant workers, ethnic and racial minorities, older persons and those with disabilities and living with HIV and AIDS have also seen the quality of their jobs dampened.

During the pandemic, women have continued to provide essential work in the health and social work sector as well as in other essential occupations, often putting their own lives at risk and facing a double burden: longer shifts at work and additional care work at home, said the ILO.

The ILO noted that for the majority of women and men, COVID-19 has increased care demands within households on an unprecedented scale. However, new evidence shows that women continue to bear the brunt of unpaid care work. This has led women who remained in employment to cut down on paid working hours or to extend their total working hours (paid and unpaid) to unsustainable levels.

"Across the world, women continue to earn 20% less than men and women experience further pay penalties when they belong to ethnic minorities, are migrants or persons with disabilities."

The ILO said the pandemic has hit

those at the bottom of the wage scale harder than those at the top and, particularly, women who are disproportionately represented in low-paid jobs.

According to the policy brief, estimates based on a sample of 28 European countries found that, without wage subsidies, women would have lost 8.1% of their wages in the second quarter of 2020, compared with 5.4% for men.

COVID-19 has disrupted the livelihoods of women working in the informal economy, as many informal businesses were forced to close temporarily or permanently, leading to severe loss of income and an increased risk of falling into poverty, it said.

"As a result, many children have faced a higher risk of child labour and lower rates of school enrolment, especially young girls."

Domestic workers, many of whom work informally, are exposed to significant decent work deficits in respect of working time, wages, social security, occupational safety and health, including violence and harassment. Globally, they earn 56.4% of the average monthly wages of other employees, said the ILO. Live-in domestic workers and migrant domestic workers are particularly vulnerable to poor working conditions. During the pandemic, many domestic workers have lost their jobs or seen a dramatic reduction in working hours and correspondingly lower wages.

With the pandemic, it has also become clear that while many higher-wage jobs could shift to full-time tele-work, this has not been the case for the many women in low-wage jobs, such as retail, sales and hospitality that require physical interaction with clients, customers or patients, said the ILO.

The ILO estimates that during the pandemic, the number of workers who could work from home was 557 million, accounting for only 17.4% of the world's employment.

According to the policy brief, while sex-disaggregated data on the number of persons working from home is not yet available, some evidence suggests that women's working conditions have worsened, as the combination of COVID-19-related anxiety, unchanged expectations from employers and an increase in care responsibilities can have severe repercussions on women's physical and mental health. In some instances, tele-work has also led to increased work intensity, with potential risks of

exhaustion, higher levels of stress and, at times, a sense of loneliness.

However, the ILO added, studies conducted prior to the pandemic already showed that tele-work can offer workers greater autonomy in the organization of work and time, and that when well designed, tele-working arrangements can be instrumental in promoting women's participation in managerial and leadership positions, which remains low. Globally, in 2020, only 28.3% of managers and leaders were women, a figure that has changed very little over the past 27 years.

The ILO said the pandemic has also cast light once again on the little space given to women in decision-making. "Globally, women made up just 24% of COVID-19 task force members, confirming that the glass ceiling remains firmly in place in economies and in

politics."

A gender-responsive, inclusive and job-rich recovery needs to explicitly counterbalance the gender-specific effects of the COVID-19 crisis and create conditions that support the creation of decent work for women, said the ILO.

It noted that unprecedented macroeconomic policies, both fiscal and monetary, have been put in place to cushion the impacts of the pandemic and ensure a speedy recovery, particularly in 2020. Fiscal stimulus packages have been greater than in the 2008-09 crisis, but relatively few of these resources have been channelled to gender-responsive measures. According to the policy brief, out of the 580 fiscal and economic measures to help businesses weather the crisis in 132 countries and territories, only 12% (70) aim to strengthen women's

economic security by channelling resources to female-dominated sectors.

"As a greater proportion of women's employment has been lost due to the COVID-19 pandemic, extraordinary policy efforts are needed to ensure that women return to the labour market with decent work opportunities," said the ILO. If priority is not given to this goal, there is a risk that women will be left behind in the recovery efforts, further exacerbating existing gender inequalities in terms of access to and quality of employment.

Gender equality considerations need to be an intrinsic component of the design, development, implementation and results of all programmes and strategies, policies, laws and regulations implemented as a response to and recovery from COVID-19, the ILO concluded. (SUNS9394)

Putting the Third World First

A Life of Speaking Out for the Global South

Martin Khor in conversation with Tom Kruse

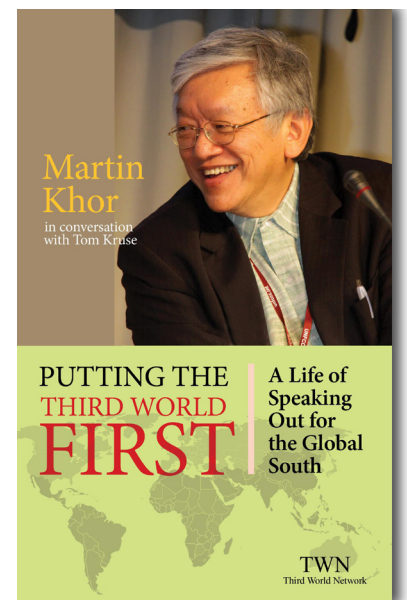
Martin Khor was one of the foremost advocates of a more equitable international order, ardently championing the cause of the developing world through activism and analysis. In this expansive, wide-ranging conversation with Tom Kruse – his final interview before his passing in 2020 – he looks back on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

Khor recalls his early days working with the Consumers Association of Penang – a consumer rights organization with a difference – and reflects on how he then helped build up the Third World Network to become a leading international

NGO and voice of the Global South. Along the way, he shares his thoughts on a gamut of subjects from colonialism to the world trade system, and recounts his involvement in some of the major international civil society campaigns over the years.

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

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



To buy the book, visit <https://twn.my/title2/books/Putting%20the%20TW%20first.htm> or email twn@twnetwork.org

Rich-country hypocrisy exposed by vaccine inequities

“Scandalous inequity” in vaccine distribution has turned COVID-19 into a pandemic of the South, *Anis Chowdhury* and *Jomo Kwame Sundaram* charge.

“No one is protected from the global pandemic until everyone is” has become a popular mantra. But vaccine apartheid worldwide, due to rich countries’ policies, has made COVID-19 a developing-country pandemic, delaying its end and global economic recovery.

Most rich countries have been blocking the developing-country proposal to temporarily suspend relevant provisions of the World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) for the duration of the pandemic to more affordably and effectively contain it.

Needed to quickly scale up production and affordable access to relevant diagnostic tests, medical treatments, personal protective equipment and prophylactic vaccines, the proposal – introduced by South Africa and India in late 2020 – is now supported by more than two-thirds of WTO members.

The Biden administration has reversed Trump’s opposition to the proposal, albeit only for vaccines. Without necessary complementary measures, and with continued opposition from European governments, the US partial policy reversal has not had any real impact so far.

As the World Health Organization Director-General notes, the pandemic is being prolonged by the “scandalous inequity” in vaccinations. “The global failure to share vaccines equitably is fuelling a two-track pandemic that is now taking its toll on some of the world’s poorest and most vulnerable people.”

With new, more infectious, even lethal variants spreading rapidly, experts fear the worst for poor countries is yet to come. Meanwhile, vaccines will generate astronomical profits. Soaring vaccine earnings have created at least nine new billionaires, with executives becoming very rich as share prices shoot up.

Rich countries have been hoarding far more vaccine doses than they need. The

European Union secured three billion doses, or 6.6 per person, while the US got 1.3 billion, or five each. Canada got 450 million for 38 million, or 12 each; the UK over 500 million, i.e., eight each; and Australia 170 million for 25 million, or seven each!

“Vaccine equity is the greatest immediate moral test of our times. It is also a practical necessity.”

With mainly adults vaccinated, the actual ratios are even more obscene. UNICEF found most high-income countries had acquired at least 350% of doses needed. Agreements for vaccine delivery to low- and middle-income countries up to 2023 will only cover half their populations, at most.

The headline-grabbing promise by the G7 leading industrial economies of a billion doses actually involves 870 million doses, far short of the 11 billion needed. Some of this involves double-counting: 130 million was previously pledged to COVAX, the arrangement to supposedly ensure equitable vaccine access. Supplies will not begin until year’s end, i.e., after their domestic vaccination programmes are largely done.

Most are doses ordered well in excess of needs. Clearly, the G7 does not have a serious plan, let alone commitment, to vaccinate the world.

Although most EU parliamentarians support the TRIPS waiver proposal, the European Commission (EC), the EU executive, adamantly opposes it, offering half-truths as excuses. European leaders block progress by claiming that increased production and exports are more urgent, and require patent protection.

EC President Ursula von der Leyen sees the pandemic as a chance for vaccine-producing countries to export more, while dismissively asserting that waivers will “not bring a single dose of vaccine in the short and medium term”.

Although world-class facilities in the Global South have long produced medicines and vaccines, French President Macron added insult to injury: “Can we really entrust laboratories that don’t know how to produce [vaccines] with this intellectual property and expect them to be producing tomorrow?”

Now, the EC has legalized world vaccine apartheid by only recognizing four vaccines – AstraZeneca (only if produced in Europe), Pfizer, Moderna and Johnson & Johnson. Hundreds of millions in the Global South vaccinated with AZ manufactured in India and many others will thus be banned from Europe!

New North-South divide

By 7 July, more than 3.32 billion vaccine doses had been administered worldwide, with 85% going to high- and upper-middle-income countries, and only 0.3% to low-income countries. Africa’s vaccination rate (4% so far) is the slowest of all the continents, with some countries yet to start, while infection rates are rising fast.

Thanks to much higher vaccination rates, deaths in rich countries fell from 59% of the official world total in January to 15% in May 2021. The developing-country share of pandemic deaths is underestimated at 85%, but nonetheless increasing rapidly.

The United Nations Secretary-General has warned, “Vaccine equity is the greatest immediate moral test of our times. It is also a practical necessity. Until everyone is vaccinated, everyone is under threat.”

The International Monetary Fund (IMF) has proposed investing \$50 billion

to help immunize at least 40% of the world population by the end of 2021 and the balance by mid-2022. Ending the pandemic would accelerate economic recovery and generate \$9 trillion more in global output plus \$1 trillion in tax revenue by 2025. Yet, the recent G20 finance meeting refused to endorse it.

Outraged former UK Prime Minister Gordon Brown has rhetorically asked, “Vaccines for all or vaccine apartheid?”

Scaling up vaccine production to immunize the world quickly requires

unprecedented international cooperation. Suspending patents can help contain the pandemic, but the selfish policies of the Global North have made COVID-19 a pandemic of the South. This is also impeding its end and recovery for all, besides deepening the North-South divide and, inevitably, associated resentments.

Meanwhile, the IMF warns of a “dangerous divergence” in economic recovery between rich and poor countries. With their limited fiscal resources, high debt burdens and weak health systems,

countries in the Global South must urgently reconsider their options to address the escalating catastrophe. (*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.

Green Deals and Implications for the Global South

TWN Environment & Development Series No. 20

By **Vicente Paolo Yu III**

A number of initiatives for a “green economy”, “Green Deal” or “Green New Deal” have been advanced at national, regional and international levels with the stated aim of putting more environmentally friendly economic arrangements in place. Such plans would see policies being crafted to, among others, respond to climate change and other global environmental crises.

Depending on how these response measures are designed and implemented, they may have positive or unintended and adverse economic and social consequences for developing countries’ economies, most often for the poorest and most vulnerable sectors of those economies.

In going “green”, therefore, there is a need to consider equity as well as economic and environmental considerations. Within such a framework, developed countries should support, not impede, developing countries’ efforts to make their economies more environmentally sustainable and climate-resilient, including through provision of financial and technological assistance.

Vicente Paolo Yu III is a Senior Legal Adviser of the Third World Network, Visiting Research Fellow at the United Nations Research Institute for Social Development (UNRISD), and Associate Fellow at the Geneva Center for Security Policy.

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