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Differences dog WTO membership

Trade diplomats at the WTO head into the summer break still divided over a host of negotiating issues ahead of the organization's Ministerial Conference this November. These faultlines were in evidence during discussions at the final WTO General Council meeting before the recess.

- **WTO members remain divided at General Council** — *p2*

.... ALSO IN THIS ISSUE ....

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CONTENTS

CURRENT REPORTS

WTO members remain divided at General Council — *p2*

Agri chair's draft ministerial decisions could harm interests of South — *p6*

Taxing the billionaire bonanza — *p9*

OPINION

Central banks must address pandemic challenges — *p11*

ANALYSIS

The global minimum corporate tax: Not high enough, not fair enough — *p13*

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WTO members remain divided at General Council

The most recent meeting of the WTO's governing body revealed persistent differences among member states over issues ranging from a COVID-19 intellectual property waiver to preferential treatment for developing countries.

by D. Ravi Kanth

GENEVA: The members of the World Trade Organization concluded the last General Council (GC) meeting before the summer break on a somewhat sombre and divisive note, failing to converge on the major agenda items that were discussed, said people familiar with the discussions.

These topics included the TRIPS waiver, the work programme on electronic commerce and moratorium on imposing customs duties on electronic transmissions, and the WTO's response to the pandemic.

WTO Director-General Ngozi Okonjo-Iweala spoke during the 27-28 July meeting on how to remain optimistic and focus on three or four areas. The areas included the fisheries subsidies negotiations, the agriculture work programme, and special and differential treatment. She acknowledged that there were wide gaps and members' positions remained far apart. She urged members to accelerate negotiations once they come back in September after the break.

COVID-19 response

Several developing countries cautioned the facilitator tasked to lead WTO members in finding a multilateral and horizontal response to the COVID-19 pandemic not to bring in market access issues by including proposals tabled by Singapore and Jamaica, as well as from the Ottawa Group of countries led by Canada, said people familiar with the development.

At the GC on 27 July, the GC-appointed facilitator, Ambassador David Walker from New Zealand, presented an initial report on his recent consultations held with members. He mentioned the proposal prepared by Singapore and Jamaica, as well as that on trade and health issues as presented by Canada, the coordinator of the Ottawa Group. He said these documents contained a wealth of information, adding that so far some 25 documents had been submitted to the GC.

The facilitator said that he would hold thematic discussions on export restrictions, trade facilitation, and reforms involving transparency and notifications, suggesting that these issues would be useful to kick off work when members return after the summer break.

He further said that he would discuss operationalizing cooperative and collaboration agreements, the Director-General's recent meetings with Big Pharma and the role of the private sector in ensuring access to medicines to tackle the pandemic.

Responding to the facilitator's report, India's Ambassador to the WTO Brajendra Navnit expressed concern over bringing in market access issues as part of the WTO's response to the pandemic, said people familiar with the discussions.

Ambassador Navnit appears to have said that there are too many proposed "deliverables", emphasizing the need to exclude the market access agenda. Such an agenda will deny policy space to developing countries, he is understood to have said. Moreover, the proposed measures impose onerous and cumbersome obligations that could only serve a few countries in the name of the pandemic.

Further, issues like export restrictions, temporary elimination of tariffs that becomes a permanent measure, and stringent transparency and notification requirements will not address the problem of access to vaccines, therapeutics and diagnostics, nor access to food.

The facilitator's approach could also lead to flight of these finished critical products to the highest bidder, thereby

making them inaccessible to resource-poor people all over the world, Navnit is understood to have said.

The Indian envoy stressed that the WTO's response to the pandemic has to include the TRIPS waiver. He urged the facilitator to include the high volume of work done on the waiver and food security due to the growing problem of hunger. He suggested that a simple, efficient and permanent solution for extending public stockholding (PSH) programmes for food security to new programmes and new products must remain a major deliverable at the WTO's 12th Ministerial Conference (MC12), which is due to take place in November.

Call for TRIPS waiver

During the GC discussion on the TRIPS waiver, around 30 out of 39 countries that spoke called for an urgent resolution of the issue, according to people familiar with the discussions.

Presenting his report to the GC, the chair of the WTO's TRIPS Council, Ambassador Dagfinn Sorli from Norway, said that the waiver discussions will be continued in September. The report said that there are differences over the issues of duration, scope and other elements of the proposed waiver.

South Africa's Ambassador Xolelwa Mlumbi-Peter made a strong statement on the need for the waiver and why the issue of intellectual property has to be a main component of any decision on the WTO's response to the pandemic.

She touched on several issues including the worsening COVID-19 situation in Africa and the need to ramp up production of vaccines. She said that all proposals and initiatives that are aimed at addressing barriers to production should not be seen as a substitute to the waiver but should contribute from different perspectives, and should be welcomed with a view to finding landing zones.

Ambassador Usha D. Canbady from Mauritius, the coordinator of the African Group of countries, highlighted the disparities in access to vaccines, with 75% of vaccines having been distributed to only 10 countries. She pointed out that only 2% of the African population have been vaccinated, compared with 45% in developed countries.

Canbady expressed concern that nine months have now elapsed since the waiver proposal was initially submitted. Notwithstanding the text-based negotiations, she said that "while we deal extensively on 'scope', 'duration', 'implementation' and on protection of information, we must understand that the negotiation by itself is not an achievement but rather the outcome of the negotiation will be."

Therefore, she said, the African Group calls for "the expediting and prioritization of solutions-oriented text-based negotiations," and calls on the TRIPS Council to "urgently conclude these so as to facilitate the diversification of production across different locations and increase production and supply of life-saving vaccines and related products. It is in global public interest to do so."

"Access to products and technology in the manufacturing of vaccines remains critical and the WTO membership must expeditiously come together to achieve the desired outcome in favour of the TRIPS waiver," she said.

Canbady argued that "the WTO and the WTO membership need to have a response to the COVID-19 and the IP [intellectual property] waiver must be a central part of the response."

She called for "policy coherence and action coherence globally, involving the WTO, WHO and other international organizations to find real solutions to the global pandemic affecting seriously developing countries, including African countries which do not have access to vaccines and therapeutics."

"This is a real issue for Africa and the emotion we heard this morning in the intervention of the South African Ambassador shows the strain that the continent is under," she said.

In his statement on the TRIPS waiver, Indonesia's Ambassador Syamsul Bahri Siregar regretted that though the waiver discussions were supposed to be in the context of a text-based process, constant repeated questions had slowed down the process.

The Indonesian envoy reiterated that "for us the TRIPS waiver proposal is a WTO top priority at this moment." He said that "we consider this proposal as a main element of the holistic WTO response to the COVID-19 pandemic."

He underlined the need to "immediately pursue and conclude the TRIPS waiver to address … IP obstacles and to scale up the production of all COVID-19-related health products and technologies to save people from the worsening pandemic."

He said that "IP rights are not absolute, they are subject to public interest, and such public interest exists now."

"The TRIPS waiver should be our way, the members' way, to uphold public interest and the livelihood of so many" countries, he said.

Chad on behalf of the least-developed countries (LDCs), Bangladesh, Nepal, Afghanistan and many other developing countries supported the call for expediting work on the waiver.

India lamented that due to the positions adopted by certain members, the landing zone on the waiver could not be reached before the summer break. India is understood to have said that a handful of countries continue to oppose the waiver on grounds that the IP system has contributed to innovation and rapid development of vaccines.

The European Union touted the use of voluntary licences and the contributions it has made to supporting new technology hubs in Africa, particularly in South Africa, Senegal and Rwanda. It spoke about BioNTech and Pfizer's agreement with the South African company BioVac, saying that there are about 300 companies that have entered into voluntary licensing agreements.

The EU appeared to issue a subtle threat to the waiver proponents, saying that a waiver could undermine voluntary licensing agreements signed with Big Pharma, said people familiar with the discussions.

The EU claimed that its own proposal relating to the use of compulsory licensing is the best option as compared with the waiver proposal.

E-commerce work programme

On the 1998 multilateral WTO work programme on electronic commerce, India, South Africa, Indonesia and many other countries called for focused and structured discussions in the run-up to MC12.

In its intervention, India apparently called for engaging constructively on various issues under the work programme, said people familiar with the discussions.

India appears to have called for a clear understanding on the scope of the existing moratorium on customs duties on electronic transmissions in order to allow WTO members to make an

informed decision at MC12 on whether to extend the moratorium. It suggested that a reconsideration of the moratorium is critical for developing countries to preserve policy space to regulate imports. It also said that the discussion on the e-commerce work programme should remain as a standing item on the GC agenda.

South Africa spoke about the digital divide and the growing need for discussing the issues of classification, definition and scope.

Indonesia reiterated that its longstanding position on the work programme remained unchanged. Indonesian Ambassador Siregar said that "while we attach great importance to the development of e-commerce, the WTO should also focus its work on the developmental aspect of this sector." He said "this would ensure that the benefit of this specific area would not only be offered to a specific group of members but also to all WTO members."

"Hence, Indonesia fully supports the reinvigoration of the multilaterally agreed 1998 work programme on e-commerce, [and] it is important to complete work on clarifying what constitutes electronic transmissions and the moratorium's impact on customs duties," he said.

Several other countries such as Sri Lanka also called for reinvigorating the multilateral work on the work programme because of the growing digital divide and the unaddressed issue of digital infrastructure.

The United States said it wants a permanent moratorium, stating that ending the current moratorium would create uncertainty. It said tariff-free treatment is essential and that an alternative view is difficult to accept. The US delegate pointed to certain procedural issues, cautioning that if the moratorium is discontinued, then the 1998 work programme could also be blocked.

Brazil said it would support the extension of the moratorium, adding that any bad decision or a rollback would be embarrassing for the credibility of the WTO.

Singapore, which is one of the three coordinators of the Joint Statement Initiative on digital trade, said it supports the continuation of the moratorium.

Permanent solution for PSH programmes

At the GC meeting, many developing and least-developed countries called for a decision at MC12 on a permanent solution for public stockholding programmes for food security.

Indonesia said "MC12 should not leave without a meaningful outcome towards the establishment of a permanent solution on public stockholding for food security (PSH) and a comprehensive and balanced outcome on special safeguard mechanism (SSM)."

It said "agriculture reform is urgently needed to create a fair discipline that addresses the current pandemic challenges and its impact on food security."

It welcomed "members' proposals that provide options for the conclusion of a permanent solution on PSH, such as the one submitted by the African Group, to help provide a common basis upon which further negotiations on the development of new rules on PSH can proceed."

Indonesia, which is the coordinator of the developing-country G33 coalition, said the G33 is also going to table a proposal on a permanent solution for PSH which it hopes will be seen as a realistic and reliable proposal that could work as a basis of discussion towards MC12.

India said an outcome on a permanent solution for PSH programmes is a sine qua non at MC12.

Special and differential treatment

At the GC on 28 July, South Africa, on behalf of the G90 developing-country grouping, introduced the grouping's declaration on special and differential treatment, stating that a decision on making S&DT simple and effective has been pending for 20 years.

South Africa's Mlumbi-Peter expressed concern over the lack of progress in the negotiations on S&DT in the WTO Committee on Trade and Development. She underscored the need for S&DT provisions to be made more precise, effective and operational in accordance with paragraph 44 of the Doha Ministerial Declaration to enable developing countries and LDCs to further integrate into the multilateral trading system and to address various obstacles to the achievement of this objective, including addressing COVID-19 and its impacts.

In its declaration, the G90 stated:

"1. S&D is a central tenet of the WTO system that should be preserved and reinforced. In order to ensure equity and fairness, S&D must remain an integral part of WTO agreements and be part of any deliverable at MC12.

"2. WTO Members should always undertake commitments commensurate with their level of development in recognition of differences in capabilities, capacities and resources. These differences should not stand in the way of the application of appropriate and effective special and differential treatment.

"3. Any COVID-19 invention or other technologies must be temporarily treated as global public goods so that they can be manufactured and distributed with a view to make them accessible to all. The TRIPS flexibilities and the Agreement should continue to be interpreted and implemented in a manner supportive of WTO Members' right to protect public health and, in particular to promote access to medicines for all.

"4. WTO rules must give space for economic actors to grow local production capacities, thereby energizing local, domestic, and regional markets and economies, and improving the quality of employment and living standards. SMEs [small and medium enterprises] shall be allowed preferential market access in local distribution channels and systems.

"5. Sufficient flexibility and policy space in the tariff structure should be maintained to be able to grant the tariff protection required for infant industries, promote the development of new industries, including those related to the production of COVID-19 related products.

"6. Simplification of processes and clarification of conditions to allow for temporary modification of concessions in times of crises to promote economic recovery is of critical importance. This includes the need for the development of clearer guidelines for determining the adequacy of Member's reserves within the context of developing countries' economic development programmes.

"7. In view of the impact of SPS [sanitary and phytosanitary] and

TBT [technical barriers to trade] measures on the trade interests of many developing countries and LDCs, developed countries and developing countries in a position to do so should notify all proposed SPS and TBT measures to enable early consultation with affected countries, prior to adoption of the measure, including providing adequate adjustment time and technical and financial capacity for developing countries and LDCs facing capacity constraints.

"8. Introduction of new TRIMs [trade-related investment measures] for a limited period to encourage expanded production capacity for medical devices and components and personal protective equipment, promote domestic manufacturing capabilities, accelerate industrialization, stimulate the transfer of technology and close the digital divide should be allowed.

"9. Flexibilities are required in relation to the use of subsidies in the ASCM [Agreement on Subsidies and Countervailing Measures] contingent upon the use of domestic content in order to promote resuscitation of ailing industries, upgrade and modernize domestic manufacturing capabilities, employment generation, support small and medium enterprises and to promote exports. WTO Members should exercise due restraint with respect to challenging subsidies provided by developing countries, in order to achieve development goals.

"10. Building resilient economies requires transfer of technology. Members are encouraged to put in place measures to incentivize the transfer of technology to achieve their developmental objectives. Members should adhere to the implementation of commitments under the TRIPS Agreement.

"11. In simplification of processes and with the principles of universalizing the multilateral trading system in a balanced manner consistent with the level of development, ambition and developmental needs of LDCs, WTO Members are encouraged to consider sufficient flexibility and fully implement the 2012 General Council Decision on LDCs Accession to further strengthen, streamline and operationalize the 2002 Guidelines as an S&D instrument of accession for LDCs.

"12. The revised S&D proposals which were tabled by the G90 in the CTD SS [Special Session of the Committee on Trade and Development] and discussed in successive meetings are critical to increasing trade opportunities of developing countries and LDCs, promoting economic recovery, providing an effective response to the current crises and building resilience to future shocks, putting developing countries on a sustainable development path and contributing to the achievement of the SDG Agenda 2030. We urge Members to constructively engage in good faith in these discussions so as not to erode the confidence of developing countries in the multilateral trading system, and agree on meaningful outcomes before MC12."

Trade envoys from developing countries and LDCs endorsed the declaration at the meeting, saying that the credibility of the WTO hinges on whether it produces an outcome at MC12. Otherwise, the intergovernmental multilateral trade body will be seen as an organization that serves the interests of developed countries, said people familiar with the development.

However, several industrialized countries, including the US, raised objections that the G90 proposal is an old proposal and cannot be subjected to further negotiations.

LDC waiver

The US also objected to a proposal from the LDCs seeking support measures, especially special and differential treatment, for a period of 12 years after they graduate from their current LDC status.

At the GC meeting, the LDCs introduced their proposal for a decision thereon at MC12. Chad, which is the coordinator of the LDC group at the WTO, presented the draft ministerial decision for discussion.

The draft decision states that "support measures available to least developed countries shall be extended to a least developed country Member for a period of twelve years after the entry into force of a decision of the UN General Assembly to exclude the Member from the least developed country category."

The support measures shall include the following elements:

1. All special and differential treatment measures and exemptions available to an LDC under existing and future WTO Agreements, Understandings, Ministerial, General Council and other relevant Decisions;
2. All LDC-specific technical assistance and capacity-building programmes and facilities provided under the WTO system;
3. Any other relevant measures in favour of LDCs;
4. If a decision of the UN General Assembly to exclude an LDC Member from the LDC category enters into force during a transition period for LDCs provided under any existing or future WTO Agreements, Understandings, Ministerial, General Council or other relevant Decisions, the Member shall be entitled to utilize the remaining period of delay provided for LDCs;
5. Developed and developing countries granting unilateral trade preferences to LDCs shall establish procedures for extending and gradually phasing out their preferential market access scheme over a period of 12 years after the entry into force of a decision of the UN General Assembly to exclude a country from the LDC category; and
6. After the transition period provided under paragraph 1, a graduated LDC Member shall automatically benefit from the most favourable special and differential treatment granted to other developing country Members.

Many LDCs and developing countries, including the African Group, strongly supported the draft GC decision tabled by the LDCs.

The US, however, objected to the draft decision, saying that countries such as Bangladesh and Laos cannot be retained in the same group as their economic status is much higher than that of several developing countries.

It appears that the developed countries will go to any extent to block the proposals on the LDC waiver and S&DT at MC12, thereby making clear that the concerns of developing and least-developed countries are unlikely to be addressed at the ministerial meeting, said people familiar with the development. *(SUNS9397/9398)*

Agri chair's draft ministerial decisions could harm interests of South

Draft decisions put forward by the chair of the WTO negotiations on agricultural trade appear to be weighted against the concerns of developing countries.

by D. Ravi Kanth

GENEVA: The chair of the Doha agriculture negotiating body, Ambassador Gloria Abraham Peralta from Costa Rica, has issued a 27-page draft text containing nine draft decisions for the WTO's 12th Ministerial Conference (MC12) that could impose a huge burden and cost on the developing and least-developed countries, said people familiar with the development.

The draft text, issued as a restricted document and seen by this writer, is excessively packed with transparency provisions, including a specific draft decision on transparency and notification requirements apparently proposed by the United States and the European Union.

The transparency provisions are unprecedented as they are included in each of the eight draft ministerial decisions plus the specific "transparency" decision, and are seen as imposing an onerous burden on the developing and least-developed countries, said people familiar with the text.

The chair presented the draft text containing the nine draft ministerial decisions at a meeting of the Doha agriculture negotiating body on 29 July.

The draft ministerial decisions relate to: (1) domestic support; (2) elements for the continuation of work on market access after MC12; (3) export competition; (4) export prohibitions and restrictions; (5) cotton; (6) special safeguard for developing countries; (7) public stockholding (PSH) programmes for food security purposes; (8) another draft ministerial decision on PSH programmes; and (9) transparency and notifications.

All these draft decisions will be further negotiated from September to November before being presented to trade ministers at MC12, which takes place in Geneva end-November.

A cursory glance at these draft decisions such as on proposed disciplines on domestic support, market access and PSH programmes reveals that they appear to be largely aimed at preventing the developing and least-developed countries from pursuing development-related measures in agriculture, said people familiar with the text.

Domestic support

On domestic support, the chair appears to have lifted the textual proposals made by the Cairns Group of agriculture exporter countries in their draft ministerial statement issued on 15 July. She has added a few somewhat "divisive" elements and created more confusion, particularly in regard to Article 6.2 of the WTO's Agreement on Agriculture (AoA), which is referred to as the "development box" for developing countries.

She has proposed in square brackets that "[Developing countries shall be accorded special and differential treatment, including for domestic support provided by them to low-income or resource-poor farmers under Article 6.2.]"

The confusion created by the chair's proposed text on Article 6.2 is over lack of clarity. For example, it is not clear whether she is referring only to low-income or resource-poor farmers in regard to investment and input subsidies, which are exempt from reduction commitments under Article 6.2.

A large majority of developing countries have consistently opposed any change in Article 6.2 on grounds that both investment and input subsidies are at the heart of their development programmes.

The third form of domestic support covered in Article 6.2 besides investment and input subsidies, namely domestic support provided to encourage diversification from growing illicit narcotic crops, is omitted in the draft decision.

Separately, the chair alluded to Amber Box measures by suggesting that "Members agree to address AMS [Aggregate Measurement of Support] above *de minimis* entitlements with the aim of reducing subsidy concentration and to level the playing field", but did not call for any reduction commitments in the AMS, which signifies the most trade-distorting subsidies.

All the developed countries and some developing countries have an AMS entitlement – the US has close to $19 billion, the EU has more than $70 billion, as well as billions of dollars of AMS support by Japan and other farm-defensive countries.

China and India have called for the elimination of the AMS entitlements, but the chair has not adhered to that proposal.

The chair's reliance on the Cairns Group proposal could raise some doubts about the integrity of her textual proposals on domestic support, said a trade envoy who asked not be quoted.

The chair's draft ministerial decision on domestic support contains the following principles:

"1. Members commit to capping and reducing the sum of current global agricultural trade- and production-distorting domestic support entitlements by at least half by 2030 [alternatively: Members commit to a substantial reduction of trade- and production-distorting domestic support entitlements] according to modalities to be negotiated.

"2. To this end, these negotiations shall take into consideration all forms of trade- and production-distorting domestic support under Article 6 of the Agreement on Agriculture [taking into account the different potential of each category to distort production and trade]. [Developing countries shall be accorded special and differential treatment, including for domestic support provided by them to low-income or resource-poor farmers under Article 6.2.] [Members agree to address AMS above *de minimis* entitlements with the aim of reducing subsidy concentration and to level the playing field.]

"3. The contributions by individual Members in these reductions will need to be proportionate to the size of those Members' current entitlements and their potential impact on global markets, taking into account the individual circumstances and development needs of Members, [to ensure the global target is reached by 2030].

"4. LDCs will not be required to undertake any new reduction commitments.

"5. Members note the importance of the implementation of existing notification obligations under Article 18 of the Agreement on Agriculture and undertake to make the necessary efforts to provide all outstanding DS:1 notifications to enhance transparency with respect to existing domestic support commitments. [Members undertake to provide the value of production data as part of their DS:1 notifications.]

"6. [Members shall consider reviewing and clarifying Annex 2 criteria and related transparency requirements, where necessary, to ensure that relevant domestic support measures have no, or at most minimal trade-distorting effects or effects on production.]

"7. [Members also commit to simplifying and updating the current transparency requirements in G/AG/2, taking due account of the capacity constraints of some Members.]"

The Cairns Group's draft ministerial decision submitted by Australia, Argentina, Brazil and several other countries proposes the following disciplines on domestic support:

"1. The Members shall commit to cap and reduce the sum of current global agricultural trade- and production-distorting domestic support entitlements by at least half by 2030.

"2. To this end, Members shall negotiate an agreement to cap and reduce trade- and production-distorting domestic support entitlements. Such negotiations shall take into consideration all forms of trade- and production-distorting domestic support under Article 6 of the Agreement on Agriculture.

"3. The contributions by individual Members in these reductions will need to be proportionate to the size of those Members' current entitlements and their potential impact on global markets, taking into account the individual development needs of Members, to ensure the global target is reached by 2030.

"4. The implementation of existing notification obligations under Article 18 of the Agreement on Agriculture, thus strengthening transparency with respect to existing domestic support commitments, is imperative, and that utmost effort must be made to provide all outstanding DS:1 notifications."

PSH programmes

On the key issue of a permanent solution for public stockholding programmes for food security, the chair offered two alternative draft ministerial decisions.

The first draft is based on the Buenos Aires draft ministerial decision that was blocked by the US in December 2017. Perhaps this would be largely acceptable to a majority of developing countries and LDCs, said people familiar with the development.

However, in an apparent move to deny an outcome on the permanent solution, the chair proposed an alternative text that is seen as being acceptable to the Cairns Group, the US and the EU. This second draft, which emphasizes on a work programme, states:

"1. Pursuant to the Nairobi Ministerial Decision (WT/MIN(15)/44 - WT/L/979), Members shall continue to pursue negotiations and make all concerted efforts to agree and adopt a permanent solution to the issue of public stockholding for food security purposes in dedicated sessions of the Committee on Agriculture in Special Session (CoA-SS).

"2. [In the interim, Members agree to extend the Interim Solution established by the Ministerial Decision of 7 December 2013 (WT/MIN(13)/38 - WT/L/913) and the General Council Decision of 27 November 2014 (WT/L/939) to public stockholding programmes for food security purposes of least developed countries enacted after 7 December 2013.]

"3. The General Council shall regularly review progress in these negotiations."

Transparency

Apart from proposing transparency and notification requirements in the first eight draft ministerial decisions, the chair has created a specific draft ministerial decision on transparency, which seems to have been made at the behest of the US and the EU. This decision proposes the following disciplines:

"1. Further to the provisions in Article 18 of the Agreement on Agriculture and in document G/AG/2 of 30 June 1995 on 'Notification requirements and formats', Members commit to enhancing transparency to improve monitoring in all areas of agriculture.

"2. The WTO Secretariat is directed to provide information on a regular basis to the Committee on Agriculture on available technical assistance, including examples of recent cooperation, in an effort to assist Members in preparing notifications pursuant to document G/AG/2 and fulfilling other relevant transparency and monitoring requirements.

"3. Members welcome the development of information technology (IT) tools through the Agriculture Informational Management System (Ag-IMS) to facilitate data processing and on-line data submission by Members in implementing their notification obligations pursuant to document G/AG/2 and other relevant transparency and monitoring requirements.

"4. [Members agree to establish a work programme under the auspices of the Committee on Agriculture to implement all revisions and additions to document G/AG/2 that Members agreed to explore in other Ministerial Decisions adopted as part of the outcome on agriculture at the Twelfth Ministerial Conference by [date].]"

Market access

In a similar vein, the draft decision on market access excessively focuses on transparency and notification requirements while ignoring crucial issues such as tariffication based on *ad valorem* equivalents, as they are anathema to the EU and the G10 farm-defensive countries, said people familiar with the text.

On market access, the chair has resorted to a proposal from Australia, the US and the EU. The EU does not wish to enter into market access negotiations,

while Australia and the US want greater transparency and legal certainty over the application of applied tariffs.

The chair's draft ministerial decision on market access states:

"Scope:

"1. This Decision applies to changes in MFN applied tariffs in respect of both agricultural and non-agricultural goods.

"Best practices in the application of changes to MFN applied tariff rates:

"2. In order to promote predictability in the application of changes to MFN applied tariff rates, whilst recognizing that Members have different domestic frameworks and customs administration practices, Members agree that the options presented in Annex 1 to this Decision represent best practices in the application of such changes.

"3. Members also agree to examine options to inform the WTO as soon as practicable of MFN applied tariff changes as part of broader efforts to improve transparency in the WTO.

"Application of Best Practices:

"4. Recognizing that Members have different domestic frameworks and customs administration practices, Members [shall][should] apply at least one of the best practices listed in Annex 1 of this Decision.

"5. Least Developed Country (LDC) Members in a position to do so should apply [at least] one of the best practices listed in Annex 1 of this Decision.

"Ongoing Development of Best Practices:

"6. Members recognize that additional best practices may be developed to improve predictability and transparency when an MFN applied tariff rate changes.

"7. To this end, Members are encouraged to present additional best practices to the Committee on Market Access (CMA), which will be responsible for an annual review of this Decision. If no objections are raised in the annual review, the best practice(s) shall be added to the list in Annex 1 to this Decision.

"Notification:

"8. Members [shall] [are encouraged to] notify to the CMA the best practice(s) they use, outlined in Annex 1 to this Decision, no later than [12] [6] months after the adoption of this Decision. Members [shall] [should] notify to the CMA of subsequent changes to their practices.

"9. If a Member is not in a position to implement one of the best practices presented in Annex 1 to this Decision, the Member [shall][should] notify to the CMA its current practice in this matter.

"10. Members [should][shall] use the template in Annex 2 to this Decision to notify their practice(s) to the WTO.

"11. The WTO Secretariat shall maintain a list of practices notified by Members.

"12. Members facing resource constraints in meeting this notification shall, upon request from another Member, provide information on the current practice(s) used by them.

"Technical Assistance:

"13. Upon request, the WTO Secretariat shall provide technical assistance to [developing] Members who encounter challenges in applying a best practice presented in Annex 1 to this Decision. In addition, [developing] Members and LDCs are encouraged to reach out to Members to discuss how to apply the best practice(s) or develop a best practice that fits their domestic system."

In a nutshell, never in the recent past has a chair of the agriculture negotiations seemingly shown such blatant bias to promote the interests of the Cairns Group, the US, the EU, Japan and Switzerland of the G10, said several members familiar with the text.

Ambassador Peralta appears to have destroyed the high standards set by the previous agriculture chairs such as Ambassador Crawford Falconer and Ambassador Vangelis Vitalis, both from New Zealand. Both Falconer and Vitalis created trust and integrity in their proposals that were largely acceptable to both the industrialized and developing countries, said a trade envoy who asked not to be quoted. *(SUNS9399)*

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Taxing the billionaire bonanza

As the wealth divide grows deeper, global advocates are calling for a one-time 99% emergency tax on billionaires' pandemic windfalls to fund COVID-19 vaccines for the entire world.

by Chuck Collins

The world's billionaires have seen their wealth surge by over $5.5 trillion since the beginning of the pandemic in March 2020, a gain of over 68%. The world's 2,690 global billionaires saw their combined wealth rise from $8 trillion on 20 March 2020 to $13.5 trillion as of 31 July 2021, drawing on data from *Forbes*.

Global billionaire total wealth has increased more over the past 17 months of the pandemic than it did in the 15 years prior to the pandemic. Between 2006 and 2020, global billionaire wealth increased from $2.65 trillion to $8 trillion, a gain of $5.35 trillion.

Billionaires have reaped an unseemly windfall at a time when millions have lost their lives and livelihoods. The pandemic has supercharged existing global inequalities, with the wealthy profiteering from the shuttering of the main street economies around the world.

Tax call

Global equality advocates are calling on national governments to levy a one-time 99% tax on these billionaire windfall pandemic gains, to pay for everyone on Earth to be vaccinated against COVID-19 and provide a $20,000 cash grant to all unemployed workers. The analysis and proposal were released on 11 August by Oxfam, the Fight Inequality Alliance, the Institute for Policy Studies, and the Patriotic Millionaires. The organizations are calling on governments to tax the ultra-wealthy who profited from the pandemic crisis to help offset its costs.

The one-time emergency COVID-19 billionaire tax would raise $5.445 trillion and still leave the world's 2,690 billionaires $55 billion richer than before the virus struck (an average of $37 million per billionaire). Governments across the world are massively under-taxing the wealthiest individuals and big corporations, which is undermining the fight against COVID-19 and poverty and inequality.

Amazon's Jeff Bezos's wealth increased by $79.4 billion during the pandemic, rising from $113 billion in March 2020 to $192.4 billion on 31 July 2021. An estimated 325 new billionaires joined the "3-comma club" since the pandemic began – equivalent to roughly one new billionaire minted every day.

Less than 1% of people in low-income countries have received a vaccine, while the profits made by Big Pharma have seen the CEOs of Moderna and BioNTech become billionaires. The COVID-19 crisis has pushed over 200 million people into poverty and cost women around the world at least $800 billion in lost income in 2020, equivalent to more than the combined GDP of 98 countries. At the same time, 11 people are now dying of hunger and malnutrition each minute, outpacing COVID-19 fatalities.

"The surge in global billionaire wealth as millions of people have lost their lives and livelihoods is a sickness that countries can no longer bear."

"With a 99% tax on billionaires' COVID-19 wealth gains we are calling time on this age of greed," said Njoki Njehu, Pan Africa coordinator of the Fight Inequality Alliance. "Billionaire wealth is not earned. Billionaires are profiting from working people's hard graft and pain. It's their money 'earned' by your sweat – and it's high time that sweat began to pay off. Governments need to tax the rich for us to stand any chance of reversing the inequality crisis we're in."

The Fight Inequality Alliance convened the Festival to Fight Inequality, a virtual gathering of thousands of activists from nearly 30 countries, on 13-14 August to discuss solutions to the worsening global inequality crisis, including taxing the rich.

"The surge in global billionaire wealth as millions of people have lost their lives and livelihoods is a sickness that countries can no longer bear," said Morris Pearl, former managing director at BlackRock and chair of the Patriotic Millionaires. "Rich people getting endlessly richer is not good for anyone. Our economies are choking on this hoarded resource that could be serving a much greater purpose. Billionaires need to cough up that cash ball – and governments need to make them do it by taxing their wealth."

Governments have in the past turned to the wealthiest in response to major crises. After World Wars I and II, one-off wealth taxes were levied in European countries and Japan to fund reconstruction. France, for example, taxed excessive wartime wealth gains at a rate of 100% after the Second World War. More recently, following the global financial crisis of 2008, countries including Iceland introduced temporary wealth taxes to help refill public coffers.

Policymakers, leading economists, civil society organizations, the UN, the IMF and the World Bank are calling for one-time "solidarity taxes" and longer-term wealth taxes targeted at the super-rich to mitigate the economic impacts of the pandemic and reduce inequalities. In December 2020, debt-saddled Argentina adopted a one-off special levy dubbed the "millionaire's tax" that has brought in around $2.4 billion to pay for pandemic recovery.

"Billionaire Jeff Bezos could personally pay for enough vaccines for the whole world, yet he would rather spend his wealth on a thrill ride to space," said Max Lawson, Oxfam International's

Global Inequality Policy Lead. "COVID-19 is turning the gap between rich and poor into an unbridgeable chasm. The obscene levels of wealth gained from the pandemic by a handful of mega rich individuals should immediately be taxed at 99% – enough to fully vaccinate everyone on Earth and help millions of workers who lost their jobs due to COVID-19. Only with this kind of radical and progressive policy making will we be able to fight inequality and end poverty."

The cost of vaccinating the world's adult population was calculated as follows: two doses at $7 per dose for 5 billion people, for a total of $70 billion. This is based on the average cost per dose. Oxfam, the Fight Inequality Alliance, the Patriotic Millionaires and the Institute for Policy Studies do not endorse such high prices for vaccines and are campaigning for patent-free access to allow generic manufacturers to produce COVID-19 vaccines to drive down prices.

According to the International Labour Organization's *World Employment and Social Outlook 2021* flagship report, 220 million people are currently unemployed. Of these, 114 million people were made jobless by COVID-19. To give a one-off $20,000 cash grant to all workers currently unemployed would cost $4.4 trillion.

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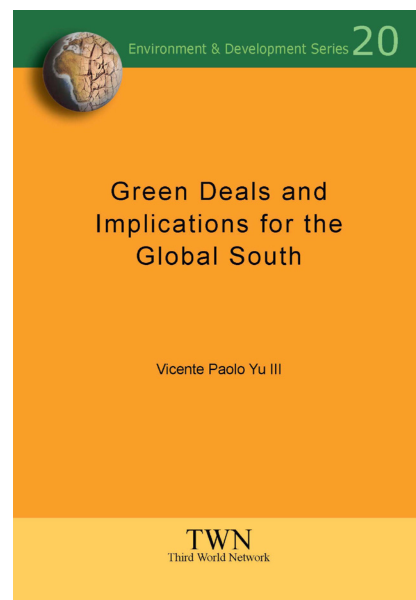
Green Deals and Implications for the Global South

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.

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Available at https://twn.my/title/end/pdf/end20.pdf

Third World ECONOMICS No. 729, 16-31 August 2021

Central banks must address pandemic challenges

Central banks have a key role to play in financing not only governments' pandemic response but also longer-term development objectives.

by Anis Chowdhury and Jomo Kwame Sundaram

Hopes for an inclusive global economic recovery are fast fading. As rich countries have done little to ensure poor countries' access to vaccines and fiscal resources, North-South "faultlines" will certainly widen.

While the International Monetary Fund (IMF) has revised rich countries' recovery prospects upward, the United Nations notes formidable challenges, especially for developing countries, due to the pandemic. The UN warns of more setbacks for the Sustainable Development Goals (SDGs), already behind schedule before the pandemic. Grim recovery prospects have been worsened by debt distress and dramatic drops in investment and trade.

Designing appropriate relief, recovery and reforms well is necessary. For the IMF, growth-enhancing reforms could significantly improve growth in emerging market and developing economies over the next decade.

Countries must quickly spend much more to contain the pandemic and offset adverse effects of policy responses. This is needed to protect incomes, jobs and businesses, while paying more attention to the most vulnerable. Also, the SDGs still need more financing.

Policy choices now will determine chances of a greener, more inclusive and resilient future. There have to be better synergies among short-, medium- and long-term policies through improved coordination.

Although public debt is already high while tax revenue has shrunk, governments need to spend more. Central banks (CBs) must lend more to governments to create more fiscal space.

Better monetary policy support for government spending should strengthen relief, recovery and reform, not enable more corporate debt and asset price bubbles.

In turn, fiscal authorities can create monetary policy space by enabling spending on nationally produced goods and services, investing in productive capabilities, enabling new jobs and occupations, and expanding social protection. Policy design should ensure that more liquidity does not generate excessive inflationary pressures or net imports.

Greater CB independence in recent decades has undermined macroeconomic policy coordination, preventing them from lending directly to governments. Keeping inflation low has become paramount, ignoring other policy goals. Supposedly for CB and monetary policy credibility, such priorities actually serve financial investors, especially speculators.

But with "unconventional monetary policies" after the 2008 global financial crisis, CB lending to governments has become more acceptable. Many rich-country governments have since turned to CBs for fiscal space and other finance. With little affordable finance available from both private and official sources, some developing countries, such as Indonesia, have temporarily suspended laws preventing direct borrowing from CBs. Others, like the Philippines, have amended legislation to allow CBs to directly lend to governments.

Thus, how countries emerge from recessions in the short term, and transform their economies to achieve progress in the longer term, critically depends on effective cooperation between CBs and governments.

Central banks' developmental role

Historically, CBs have played a developmental role, such as financing public investment.

Even though many CB statutes are not explicit about such roles, the two oldest CBs – the Bank of England and Sweden's Riksbank – are not prohibited from vigorously promoting policy priorities, such as the latter's commitment to housing for all.

The Bank of England has even pioneered creating specialized development institutions, such as the Industrial and Commercial Finance Corporation, the Finance Corporation for Industry, and the Bankers' Industrial Development Company.

The US Federal Reserve Act is committed to realizing "the economy's long run potential to increase production, so as to promote effectively the goals of maximum employment, stable prices, and moderate long-term interest rates ... in furtherance of the purposes of the Full Employment and Balanced Growth Act of 1948."

CBs of Italy, Germany, Japan and the Netherlands have used various means to finance activities under-served by credit markets. These include lowering bank reserve requirements and lending for priorities such as housing, agriculture, exports, small business and under-developed regions.

Well before independence, the Reserve Bank of India observed "it may be desirable for Central Bank credit to be made available in a larger number of ways and with less restrictions".

Hence, development objectives are explicit in many developing countries' CB statutes.

The statutes of some CBs established in the 1970s and 1980s with IMF technical assistance also have specific provisions for developmental roles, such as in Bhutan, Botswana, Fiji, Maldives, Solomon Islands, Swaziland and Vanuatu. This is consistent with IMF Article of Agreement IV, under which "each member shall endeavor to direct its economic and financial policies toward the objective of fostering orderly economic growth with reasonable price stability, with due regard to its circumstances".

The Bangladesh CB, a financial inclusion pioneer, also adopted a sustainable finance policy in 2011 to promote green investment and sustainable agriculture.

Ninety developing-country CBs have since signed the Maya Declaration to advance financial inclusion.

Borrowing to finance recovery and reform has to promote desirable changes, creating new productive capacities, accelerating digitalization, revitalizing rural and regional economies, conducting

business and work in new ways, and making economies more sustainable.

The European Central Bank (ECB) has aligned "quantitative easing" with the European Commission (EC)'s pandemic response. By indicating that it would buy newly issued government bonds in the secondary market, the ECB has effectively financed government borrowing despite the ban on directly lending to the government. Thus, considerable ECB purchase of government bonds has lowered borrowing costs for member states' pandemic responses. These include the EC's Next Generation package, including the European Green Deal and its "digitalization transition".

The Bank of Japan is also supporting government efforts for relief, recovery, economic growth, structural change, disaster management and global warming mitigation. It is also encouraging companies to invest in digitalization and green technologies.

The South Korean CB has also purchased more government bonds. Several measures have provided monetary support for the "Korean New Deal", including pandemic relief, recovery, digital and green investments, and employment safety nets.

China's CB's targeted monetary policy tools are also increasingly aligned with the government's long-term strategic goals. These include supporting key sectors while preventing asset price bubbles and "overheating".

Bolder actions needed

Over the last year, poorer countries have been condemned to protracted recessions and delayed recoveries. Vaccine imperialism and apartheid mean that their vaccination efforts will be delayed and limited, if not worse. Extended slowdowns threaten not only to become depressions, but also to further set back the modest progress achieved in recent decades.

The North-South gap between rich and poor countries is certain to grow again. Recovery prospects have been set back by poor countries' lack of "fiscal space". The IMF must help them use monetary policy much more creatively, not only to enhance fiscal space but also to complement other policies for relief, recovery and transformation. *(IPS)*

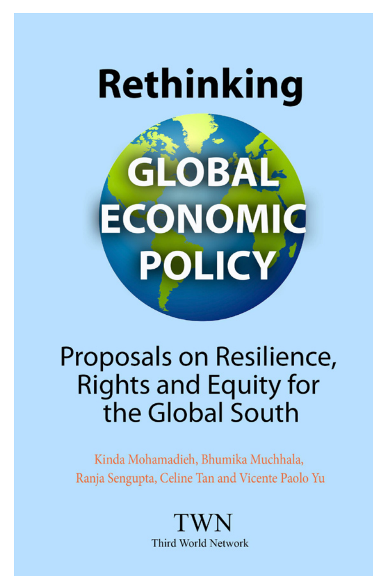
***Anis Chowdhury**, Adjunct Professor at Western Sydney University (Australia), held senior United Nations positions in New York and Bangkok. **Jomo Kwame Sundaram**, a former economics professor, was UN Assistant Secretary-General for Economic Development, and received the Wassily Leontief Prize for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

Rethinking Global Economic Policy

Proposals on Resilience, Rights and Equity for the Global South

By Kinda Mohamadieh, Bhumika Muchhala, Ranja Sengupta, Celine Tan and Vicente Paolo Yu

The COVID-19 crisis has thrown into stark relief the inequities and iniquities of an international economic order that consigns the Global South to the development margins while augmenting the power of rich countries and firms. Redressing this demands a bold multilateralism to support public health and economic recovery in developing countries and, beyond this, an overhaul of the unjust structures underpinning the global economy. This report surveys a myriad of areas – from trade, debt and public finance to investment and intellectual property rights – where fundamental reform and rethink of international policy regimes is urgently required for the developing world to emerge stronger and more resilient from the present turmoil.



***Available at** https://twn.my/title2/books/pdf/Rethinking%20Global%20Economic%20Policy.pdf*

Third World ECONOMICS No. 729, 16-31 August 2021

The global minimum corporate tax: Not high enough, not fair enough

What has been touted as a historic international pact on corporate taxation will fall short of raising sufficient resources and fairly distributing them to governments of the developing world.

by C.P. Chandrasekhar

Following years of negotiations, most nations in the world now appear to be willing to align their corporate tax regimes to prevent multinationals from evading taxation in the jurisdictions in which they operate. They have now tentatively agreed on the need for a global minimum corporate tax rate and a system of allocating the global profits of multinational firms to the different national markets in which they operate, where they can then be taxed. After the G7 and G20 finance ministers agreed at meetings in London (4-5 June) and Venice (9-10 July) on the principal elements of a compact that can address the issue, 130 of the 139 countries engaged in talks on an "Inclusive Framework on Base Erosion and Profit Shifting" signed on to the proposal.

Problem of taxation of multinationals

The need for aligning corporate tax regimes through a common global minimum corporate tax rate arises because while goods and services are increasingly produced and sold by multinational firms, the markets they serve remain segmented and subject to national rules. This creates claims for tax revenues by multiple governments from these corporations: in countries where the multinational firms are headquartered, countries where their subsidiaries operate, and countries where the global firms market their goods and services and earn revenues even if they do not have a commercial presence.

Corporate taxes allow governments to appropriate a portion of the net revenues or profits of firms from their activities either in a particular jurisdiction or globally. A simple way to do that is to tax profits directly where they are recorded. But in the case of multinational firms, profits are partly recorded in the accounts of their subsidiaries in other countries and are subject to taxation by governments of those countries. Another portion is often recorded in the accounts of the parent, either as dividend repatriated by the subsidiary or as net revenues from exports of capital equipment and intermediates, or intangibles such as intellectual property or goodwill.

A range of developments have increased the flexibility that multinational firms have of where they can record their profits. They can shift profits out of a subsidiary as payments for the use of intangible assets to the parent or to a third-country subsidiary, thus depriving the host country of taxes. They can shift the headquarters out of the country in which the parent was originally located. They can focus on cross-border provision of goods and services rather than local production and earn profits from a national market in which they do not have a commercial presence.

This flexibility for multinational firms in deciding where to record their profits matters because rates of taxation of corporate profits differ significantly between countries. Some that want to attract multinational firm investments keep taxation rates deliberately low. There are others that do not attract actual investment but set themselves up as low-tax havens to serve as locations where international firms register shell companies to park their profits and manage their financial transactions. For profit-maximizing multinational firms, evading taxes by reporting profits in these jurisdictions and not transferring any to the home country of the parent is the best strategy. This deprives the governments of countries in which the multinationals sell their goods and services or in which they are headquartered of a share of taxes.

Tax avoidance by Apple

An egregious instance of this kind of tax avoidance is Apple's use of Ireland as a tax haven, by locating two of its subsidiaries – Apple Sales International (ASI) and Apple Operations Europe – in that country. Apple Inc, the parent firm in the US, has given ASI the rights to use its "intellectual property" to manufacture and sell its products outside of North and South America. In return, Apple Inc receives payments of more than $2 billion per year. The arrangement implies that any Apple product sold outside of the Americas is first acquired by ASI Ireland from Apple-contracted manufacturers and sold along with the intellectual property to buyers. All profits from these sales accrue to ASI and are recorded in Ireland. These profits are large because the payments made to Apple Inc for the right to use intellectual property are a fraction of the net earnings of ASI. That helps because corporate tax rates in Ireland are much lower than in the US and most other countries.

The evasion of taxes potentially payable does not end there. The Irish tax authorities have allowed ASI to split its profits into two parts: one accruing to the Irish branch of Apple and the other to a "Head Office". That "Head Office" exists purely on paper, with no formal location, actual offices, employees or activities. Interestingly, this shell office gets the lion's share of the profits that accrue to ASI, with only a small fraction going to the Irish branch office. An investigation by the European Competition Commissioner found that in 2011, out of ASI's profits of $16 billion, less than $50 million was retained by the Irish branch. The rest was allocated to the "Head Office" and remained untaxed. The effective tax rate on Apple's aggregate profits that were shifted to Ireland was less than 1%. For the books, however, the taxes due on "Head Office" profits were

treated as including a component of deferred taxes, which, it was claimed, will have to be paid to the US government when a part of the profits is finally repatriated to the US parent. In practice, though, Apple holds large volumes of surplus funds abroad to avoid US taxation and the evidence is they take very little of it back to the home country.

Apple is not alone in this regard. According to one estimate, from Jannick Damgaard, Thomas Elkjaer and Niels Johannesen of the International Monetary Fund and the University of Copenhagen, 40% of foreign direct investment "passes through empty corporate shells", in order to save on tax payments by "locating" in low-tax jurisdictions.

Case for a global minimum tax

Allowing multinational firms such opportunities encourages the transfer of profits to low-cost locations, resulting in tax losses to the parent and/or host country. An agreement on a global minimum corporate tax rate seeks to address this problem. If all countries adopt a corporate tax rate of at least 15%, it is presumed there would be no incentive for transnational firms to shift the location in which they record profits. Moreover, the government in a parent country such as the US, which accounts for a disproportionate share of the world's multinationals, could even set its corporate tax rate above the minimum, since the cost of relocating headquarters and operating from an alternative location may outweigh any marginal benefit in terms of tax saving.

All this applies only to locations in which multinationals have a commercial presence, in the form of either a parent firm or a subsidiary. There are many jurisdictions where multinational firms do not have a commercial presence but where they record significant sales through cross-border provision. The prevalence of this trend has intensified with the growth in digital services provision, where digital platforms offer a range of services to a large clientele, garnering revenues and profits in jurisdictions in which they do not have a registered office or operation. If the advanced nations want the right to tax the global profits of firms that originated in their geographies and grew to global scale, then countries where sales by these same firms "contribute" a significant share to total profits must also have a right to tax that share.

It was a principle of that nature that encouraged countries such as Austria, India, Italy, Spain, Turkey and the United Kingdom, among others, to impose or propose imposition of a tax on digital services delivered across borders. India, for example, introduced in 2016 an equalization levy of 6% on payments for online advertisement services to non-resident agents. In 2020, the ambit of the levy was extended to include payments to non-resident e-commerce operators deriving revenues from provision of e-commerce services, such as digital platform services, digital content sales and data-related services, with the rate fixed at 2%.

While the US wanted these taxes rescinded because they "discriminated against US digital companies, were inconsistent with principles of international taxation, and burdened US companies", it has had to accommodate the demand for a share of taxes on profits of multinational firms from countries that were targets of cross-border supply.

The new agreement

In the event, the proposed compact of the "Inclusive Framework on Base Erosion and Profit Shifting" on globally aligned taxation of multinationals that was finalized in July by the G20/Organisation for Economic Co-operation and Development (OECD) has two pillars.

Pillar 1 of the proposal drafted by the G7 finance ministers is meant to appease and win the support of nations where multinationals earn profits without a physical presence. "The largest global companies" with annual global turnover of more than €20 billion and pre-tax profit margins of at least 10% of revenue must allocate around 20% of their global profits, which are more than that 10%, to countries where they make their sales, thereby allowing the latter to tax that allocation.

Pillar 2 requires each country to impose a minimum corporate tax of 15% on firms registered and recording profits in their jurisdiction.

Many features of this still incompletely defined plan have disappointed those who had been campaigning for "unitary taxation" that would treat a multinational group of companies rather than subsidiaries in different countries as the taxable unit. The G20 proposal does move in that direction by disincentivizing profit shifting and distributing the tax base across countries. But the reasons for disappointment are many.

First, to win agreement, the floor of the proposed common minimum tax has been set at 15%. That is far below the current average global corporate tax rate of 25% and not very much higher than that in the three OECD countries with rates lower than 15% – Ireland (12.5%), Chile (10%) and Hungary (9%). While a 15% minimum tax will hit tax havens with low rates and prevent a race to the bottom, the concerns are that it would trigger a "race to the minimum", with countries seeking to match tax rates elsewhere for fear of driving foreign investors away.

Many developing countries currently have tax rates higher than 15%. If they persist with those rates, they will remain victims of profit shifting to locations where the rate is kept at the minimum. If they lower rates to 15%, they will lose much-needed tax revenues.

The EU Tax Observatory estimates that a 15% tax rate would deliver an additional €500 million, €600 million and €900 million to Mexico, South Africa and Brazil, respectively, of corporate income tax revenues in 2021. In contrast, the Independent Commission for the Reform of International Corporate Taxation estimates that with a minimum rate of 25%, which many campaigners had long argued for, the additional revenue for these three countries would be €1.3 billion, €3 billion and €7.4 billion, respectively. The US had initially suggested fixing the minimum global rate at 21% and many African countries had suggested 20%.

With a minimum rate of 15%, the cause of making the world's most profitable multinational firms contribute a fair share to public revenues to finance a green and inclusive global recovery is unlikely to be advanced. Moreover, much of the additional revenue would accrue in the advanced nations. The EU Tax Observatory estimates that a 15% minimum rate will pull in around $100 billion in a year for the US and Europe.

Second, the proportion of profits for which the right to tax is shifted from the place of residence to place of sale has been kept low. That right is restricted to the world's largest companies

with annual global turnover exceeding €20 billion and pre-tax profit margins of at least 10% of revenue. They will pay tax on 20-30% of the profits they make, over and above the first 10% of profits. Developing countries had been demanding reallocation of 30-50% of residual profits.

Restricting the universe of companies to be taxed in foreign jurisdictions and the share of profits allocated for such taxation substantially reduces the scope of Pillar 1. The number of firms in the taxable universe may not exceed the top 100. Some of them like Amazon do not even record a profit margin of 10%. Others are likely to resort to accounting devices to reduce their margins to below 10%. And taxes on one-fifth of the excess where profit margins exceed 10% are unlikely to yield much.

An estimate by researchers Michael Devereux and Martin Simmler places the volume of profit that will be allocated to "countries of sale" for taxation at $87 billion. Another from France's official Council of Economic Analysis (CAE) places the figure at $130 billion. But in return for this "historic shift" away from taxation based on physical presence, countries imposing or planning to impose digital service taxes would have to give up ambitions to tax firms from abroad that earn revenues and profits by providing digital services in their jurisdictions. The resulting loss can be large and significantly more than the gain from the new Pillar 1. For example, the office of the US Trade Representative estimates that India collects $55 million annually from the 2% digital services tax it imposes on revenues of foreign e-commerce companies serving Indian buyers.

Third, in return for participation in the final agreement, individual countries have negotiated or are in the process of negotiating carve-outs. To persuade China, India and some Eastern European nations to sign up, the OECD has proposed a carve-out from the global minimum tax plan, based on "substance". The new rules would not apply to corporate tax incentives for investment in tangible assets such as manufacturing factories and machinery. The global shipping industry has also benefited from an exemption because it is almost impossible to determine where entities are located. The UK's case that the financial services industry be carved out of the proposed new global tax system has been accepted on the grounds that it "profits from ... activities that arise in a particular market jurisdiction [and] will generally be taxed in that market location". Natural resource sectors have also been exempted. Cumulatively such exemptions can significantly reduce the tax generated globally by the new regime.

Finally, it appears that under the new regime, not only will developing countries give up their option to impose taxes on cross-border sales of commercial digital services in their markets, which can be substantial, but taxes on profits would disproportionately accrue to governments of developed countries in which these firms are headquartered. Since only a small share of profits of a few large firms are to be allocated to markets where they earn substantial revenues, the tax revenues garnered in those jurisdictions would be low.

Conclusion

Thus, while the global minimum tax proposal is a step forward, that step is disappointingly short of what is needed and possible. If yet the proposal has caught the media's attention, it is because it speaks of a new effort by the richest nations to enforce tax rules on powerful multinationals. Whatever that delivers would increase their own room for manoeuvre but leave little for the rest of the world.

Among the nine of the 139 countries which have not signed on to the Inclusive Framework on Base Erosion and Profit Shifting are, significantly, three OECD members, Ireland, Estonia and Hungary. The other dissenters are developing countries: Barbados, Kenya, Nigeria, Sri Lanka, and St Vincent & the Grenadines, with Peru abstaining on the grounds that at the time it was in the midst of electing a government that must take the decision. But the views of these countries are unlikely to stall progress to the next stage. Once all required features of the framework have been spelt out, a version is likely to be soon available for ratification by national governments.

However, there is no guarantee of ratification by all nations. Ratification is unlikely to be easy even in the US, though the Biden administration's call for a 21% global minimum corporate tax rate is what hastened to conclusion talks that have been prolonged for years. American participation in a final agreement would require approval of the Senate, where Democrats have a majority only when Vice-President Kamala Harris exercises her tie-breaking vote. However, parts of the global agreement must be preceded by revision of US treaties with other nations, which require at least 10 Republican Senators besides 50 Democrats in the Senate to approve the proposal under "filibuster" rules that apply. That seems difficult.

For all the hype then, the new agreement is unlikely to extract much surplus from multinational firms or provide a fair share of whatever is extracted to the poorer countries.

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