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UNCTAD points to shortfall in development financing

International development cooperation is not currently delivering adequate resources to finance attainment of the Sustainable Development Goals, notes a United Nations economic body. According to the UN Conference on Trade and Development (UNCTAD), "it is fair to say that [official development assistance] is not living up to its promises, private investment flows are unreliable and falling, and much less blended finance is being mobilized than hoped for".

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ODA, blended finance insufficient to achieve SDGs

Surveying the state of international development cooperation, a UN economic body has found that public, private and blended financial flows are falling short of what is required to meet the Sustainable Development Goals.

by Kanaga Raja

GENEVA: Official development assistance (ODA) and blended finance alone are insufficient in both quantum and nature to enable the finance needed to achieve the Sustainable Development Goals (SDGs), according to the United Nations Conference on Trade and Development (UNCTAD).

This was one of the main conclusions highlighted by UNCTAD in a Secretariat Note presented at the third session of the Intergovernmental Group of Experts on Financing for Development, which took place here on 4-6 November.

Definitional and measurement inconsistencies contribute to an increasingly blurred picture on the ability of ODA in combination with blended finance to make a sufficiently substantive contribution to achieving developmental goals, including the SDGs, said UNCTAD.

"On current trends towards leveraging public funds to attract private finance, low-income developing countries and the least developed economies seem to be losing out, alongside efforts to ensure environmental protection through longer-term investment in developing countries routinely affected by natural disasters."

This requires concerted efforts in the North to meet their original commitments and reinvigorate international development cooperation through transparent and effective non-concessional resource transfers to the South, said UNCTAD.

South-South cooperation can, and increasingly has, backstopped fledgling North-South development cooperation, but does and should remain complementary to this, it added.

The theme of the third session of the Intergovernmental Group of Experts was "International development cooperation and interrelated systemic issues".

Ongoing malaise of ODA?

According to the UNCTAD Secretariat Note, the year 2015 was a landmark year for multilateralism and international decision-making that intended to fundamentally shape the post-2015 policy agenda for development. Member states reached consensus on several major development agreements including the Addis Ababa Action Agenda (July 2015), the 2030 Agenda for Sustainable Development (September 2015) and the Paris Agreement under the United Nations Framework Convention on Climate Change (December 2015). These agreements substantially established and expanded the work of the United Nations to pursue a bold global development agenda.

In particular, the 2030 Agenda identified 17 Sustainable Development Goals, spanning 169 targets, which aim to end poverty, improve education and health, reduce economic inequalities, spur economic growth and tackle climate change, among others.

The expansion of the international agenda has significantly increased the estimated costs and total investment needs in developing countries. UNCTAD estimates that the average annual financing gap to achieve the SDGs amounts to approximately $2.5 trillion per year from 2015-30.

But the boldness of the Addis Ababa Action Agenda has not yet begun to be reflected in development outcomes, with time running out rapidly.

While the OECD Development Assistance Committee countries committed to donating 0.7% of their annual gross national income (GNI) to ODA in developing countries, and 0.15-0.20% of their GNI to ODA in the least developed countries, the target has not been reached, apart from a handful of countries. Instead, ODA has remained at less than half of that commitment, with Development Assistance Committee donors reaching 0.31% of GNI, on average, in 2017.

While ODA flows drifted upwards marginally in 2016, they moderated in 2017 and the latest OECD estimates for 2018 suggest that at $153 billion, the ODA flows are only marginally above their 2013 levels, with 32.5% of this flowing to the least developed countries.

UNCTAD noted that ODA includes grants, soft loans (where the grant element is at least 25% of the total) and the provision of technical assistance. There has been a gradual shift in the direction of concessional loans rather than grants, with concessional loans and long-term capital accounting for 16% of ODA in 2008, growing to 23% in 2017.

Like non-concessional loans, concessional loans need to be repaid, albeit at a favourable (below-market) interest rate. For some time, there has been a debate regarding the extent of concessionality related to such loans, as the full face value of the loan is considered ODA, even if only 25% of the loan has concessional terms.

Reported ODA clearly falls short of the internationally agreed targets but obtaining a clear picture as to the extent to which ODA reaches the recipient country is complicated by how it is spent, said UNCTAD.

For example, the OECD Development Assistance Committee definition of ODA allows a significant portion of ODA to be spent in the donor country itself, such as housing for refugees and costs associated with their integration. Data for the last three years show that in-donor country refugee costs make up a full 10% of Development Assistance Committee country ODA.

In a similar fashion, the cost of scholarships for students from developing countries studying in a donor country is reported as ODA, although there are no consistent data on how many of those students return to their country of origin and contribute to the future development of the country.

There is also a grey area of administrative costs of delivering aid, which includes items such as vehicles for consultants in the field and various other expenditures whose developmental impact cannot be measured.

The data suggest that the diversion of ODA to in-donor costs may have a significant impact. This figure stood at $103.7 billion in 2018 (down from $105.6 billion in 2014), compared with $153 billion of overall ODA.

The longstanding problem of double-counting ODA funds has still not been resolved. While at the onset it was mostly the practice of providing debt relief and reporting those figures as ODA flows that raised concerns, at present the problem mostly revolves around accounting for funds earmarked for climate finance, said UNCTAD.

The ODA delivery system also remains misaligned with national budgeting processes that reflect domestic policy priorities. Despite various international commitments to reinforce country ownership of development priorities, such as the Paris Declaration on Aid Effectiveness, few donor funds are channelled through domestic public finances. For instance, between 2013 and 2017, less than 25% of external support, including aid, was allocated through the national budgets of the least developed countries.

Thus, not only are the actual volumes of aid below internationally agreed targets, but the actual use of the existing amounts is sub-optimal from the point of view of recipient countries.

About one-third of ODA from Development Assistance Committee countries flows to the least developed countries, which is estimated to account for some two-thirds of all external finance flowing to such countries. In states where capacity to mobilize domestic resources through increased tax revenue from a narrow tax base is constrained, and where access to international capital markets remains non-existent or capricious, grants and concessional loans through ODA are crucial to financing for development and productive capacity.

But if the total ODA flows are stagnating and falling, it is the neediest countries that are most affected, and achievement of the SDGs becomes even less likely, said the Secretariat Note.

At the same time, while foreign direct investment flows to all developing countries have remained relatively stable over the past decade, the OECD Global Outlook on Financing for Sustainable Development 2018 notes that the committed and anticipated surge in financing for the SDGs has not materialized, and the overall supply of sources of financing for development to developing countries is in decline.

Moreover, the share of foreign direct investment flows to the least developed countries is still minuscule. In the 10-year period under review, the share of total foreign direct investment flows to the least developed countries has only breached the 4% threshold twice, and has been highly volatile, said UNCTAD.

Blended finance to the rescue?

According to UNCTAD, the current narrative on ODA and development finance is that given the inadequacy of official resources – whether national or international – to meet the SDGs, the private sector needs to provide assistance through financial innovation – broadly described as blended finance.

In essence, this has come to mean that in order to meet the financing requirement of billions and trillions of dollars in guarantees, sureties and co-financing from development banks, donors and the recipient countries themselves will create the necessary private sector subsidies and incentives to generate the required finance.

The general aim of the approach is de-risking the investment environment to overcome the inhibitors that exist, so that private sector financial institutions and investors from both within and without the recipient countries will utilize innovations such as lines of credit, securitization and special-purpose vehicles to unlock finance for development. This expectation is sometimes referred to as the billions-to-trillions narrative.

Blended finance lacks a common definition, and different definitions can have substantive implications for the implementation of blended financing programmes, said UNCTAD. For example, while most definitions refer to concessional finance as the public blending component, others include non-concessional public development finance. Similarly, blended financing can refer simply to the combination of public with private financial resources, while others more specifically reflect the concept of additionality, such that ODA or public funds more generally should provide only specific inputs and services that will not crowd out those delivered by market-based and private finance.

Blended financing also encompasses a myriad of financing instruments and mechanisms (investment grants, technical assistance, loan guarantees, structured finance and equity investment).

This further complicates measuring both the size and developmental impact of blended finance, said UNCTAD.

It is thus unsurprising that there remains an evidence gap as to how effective blended finance has been to date, underlining the need for greater transparency and accountability relating to blended finance.

Insofar as empirical evidence has been gathered, available data estimates of the mobilization of private funds within and without developing countries range from $26 billion to $52 billion per year.

A 2015 OECD survey of blended finance instruments found these had mobilized an estimated $36.4 billion over three years (2010-14) of private capital, as against the UNCTAD estimate of the annual financing gap for the SDGs in the region of $2.5 trillion per year.

This broad picture is confirmed by a recent report by the Overseas Development Institute that suggests that leverage ratios are not encouraging. They show that for low-income and upper-middle-income countries, a dollar invested in aid or concessional finance does not even mobilize itself again. Specifically, every $1 invested by multilateral development banks or development finance institutions in low-income countries mobilizes only $0.37 of private sector finance. The comparison is $1 to $0.65 in the case of upper-middle-income countries. It is only in lower-middle-income countries that the investment looks slightly more encouraging, with $1 mobilizing $1.06.

This is a far cry from the leverage ratio of 1:7 that is still claimed for blended finance, said UNCTAD.

Blended finance is intended to mobilize not only foreign but also domestic sources of private finance for development, it noted.

Less than 6% of the blended finance flows measured between 2012 and 2017 have made their way to the least developed countries. The OECD data suggest a shrinking share from year to year, so that by 2017, the least-developed-country share represented only 4.8% of all blended finance.

"This is alarming, considering the stagnant ODA flows in general and the fact that ODA may be diverted to encourage blended finance," said UNCTAD.

Guarantees are the instrument of choice in the blended finance originated over this period, regardless of income group. Guarantees represented over 41% of all private finance mobilized, followed by syndicated loans, which accounted for 17.4%.

Guarantees feature prominently in the least developed countries and low-income countries and were used in 35 least developed countries to mobilize private finance over the period. However, five such countries — Angola, Bangladesh, Myanmar, Senegal and Zambia — received over half of all private finance mobilized through guarantees.

While this may be seen as de-risking, there is currently not enough information to assess whether this is merely a shifting of the risk to the parties offering the guarantee, which may be the public sector of the developing country concerned.

Additional estimates suggest that this is in fact the case, with the public sector on average having picked up 57% of the cost of blended-finance investments so far and as much as 73% of the cost in low-income countries.

That the least developed countries are missing out is apparent when viewed from the perspective of the sectors and relative amounts that are attracting developing flows. Only in the case of water and sanitation (33%), communications (23%) and agriculture, forestry and fishing (14%) does the share of flows to these countries exceed 10% of the mobilized flows. However, in two of these cases, the total flows to developing countries taken together are so low (less than $5 billion) that the least-developed-country share is relatively large. In the case of government and civil society, for example, while the least developed countries attracted 17% of the total flows, the value was just over $200 million.

From a sectoral perspective, most blended finance goes to infrastructure (with a high bias towards energy and information and communications technology) and banking and finance.

A more detailed breakdown suggests that blended finance is directed towards certain kinds of commercial activity attractive enough for private sector buy-in but may not be prioritizing the development needs of the least developed countries, said UNCTAD.

Blended finance appears to be flowing to middle-income countries, in particular to upper-middle-income countries. According to the OECD, 71.7% of blended finance flows to middle-income countries, with the bulk – 43.2% – flowing to upper-middle-income countries.

Data insufficiencies also affect insights into the extent to which blended finance contributes to meeting the 2030 Agenda, said UNCTAD.

"Overall, available data suggest that claims on the developmental achievements of blended finance need to be made cautiously and that more evidence on its effect on the poorest and most vulnerable groups needs to be gathered."

Private donations

UNCTAD noted that philanthropy has increasingly attracted attention. While this represented 1.9% of ODA in 2009, it increased to 3.7% of ODA in 2017.

According to OECD data, private foundations provided $13.9 billion for development from 2015 to 2017.

In specific sectors, the relative size of philanthropic funds makes them a crucial source of funding. These private resources appear to target social issues more than other private international flows, with philanthropic activities towards the SDGs focused mainly on general health and education (62% of the total), followed by agriculture, forestry and fishing (9%), and government and civil society (8%).

Africa is the main beneficiary region of philanthropic giving (28% of the total), followed by Asia (17%), Latin America (8%) and Europe (2%).

Lower-middle-income countries and the least developed countries have been the main recipients of philanthropic flows. On average, 47% of the flows went to lower-middle-income countries and 37% to the least developed countries between 2009 and 2017.

About 57% of the funds cumulatively went to middle-income countries, with a noticeable shift of these funds going towards upper-middle-income countries in 2017, while the least developed countries' share fell to 34% of the total.

Despite its growing influence, philanthropy in financing for development raises a number of questions, including the high concentration from a few foundations and data transparency, said UNCTAD.

Not least in response to muted progress in North-South development cooperation, with commitments and expectations not being matched by actual North-South resource mobilization through ODA or blended finance for the 2030 Agenda, South-South development cooperation

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Both US and China losers in ongoing trade war, says study

The US-China trade war is generating a lose-lose outcome for both sides, according to a UN trade study.

by Kanaga Raja

GENEVA: Tariffs being imposed by the United States on China are economically hurting both countries, with US losses largely related to higher prices for its consumers, while China's losses are related to significant export losses, a new study by the UN Conference on Trade and Development (UNCTAD) says.

According to the study, "Trade and trade diversion effects of United States tariffs on China", US tariffs on China have resulted in a decline in imports of tariffed products by about 25% in the first half of 2019.

While substantial, this figure also shows the competitiveness of Chinese firms, which, despite the substantial tariffs, were still able to maintain 75% of their exports to the United States.

The paper quantified the trade diversion effects for the first half of 2019 to be about $21 billion, saying that these have brought substantial benefits to Taiwan Province of China, Mexico, the European Union and Vietnam.

The paper found that the hardest-hit sectors have been office machinery and communication equipment, with a total reduction of US imports from China in the order of about $15 billion for the first half of 2019. Trade diversion effects in these sectors have been below average possibly because of lack of supply capacity outside China, said the paper.

"The results of the study serve as a global warning. A lose-lose trade war is not only harming the main contenders, it also compromises the stability of the global economy and future growth," said Pamela Coke Hamilton, Director of the UNCTAD Division on International Trade and Commodities. "We hope a potential trade agreement between the US and China can de-escalate trade tensions," she added.

At a media briefing on 5 November, Alessandro Nicita, an economist at the UNCTAD Division on International Trade and Commodities and lead author of the paper, said the aim of the study was to provide some insights vis-a-vis three questions: (i) what sector has been hit the most in the trade war in relation to the US tariffs imposed on China; (ii) who is paying for these tariffs; and (iii) who has benefited from the trade diversion.

Asked whether US President Donald Trump has succeeded in bringing jobs back to the US, which was his goal in initiating the trade war with China, Nicita said he did not think so, mainly due to the trade diversion effects. "So if you really want to bring back manufacturing jobs, bilateral tariffs [are] not really a good or the best instrument" because other countries will replace China, he said.

According to the UNCTAD paper, economists generally agree that increases in bilateral trade costs, such as those resulting from the ongoing trade war between the United States and China, will result in lower trade, higher prices for consumers, and trade diversion effects.

By using recent import data from the US Census Bureau, the paper found empirical evidence for these arguments.

Adopting a simple identification strategy which relies on measuring differences in outcomes between goods that have been subject to additional tariffs versus goods that have not, and controlling for detailed sectoral specific effects, the paper found substantial evidence that US tariffs have resulted in a strong decline in US imports from China.

It also found that such a decline was partly replaced by a surge in US imports from elsewhere.

The analysis found implicit evidence that the cost of the tariffs has been generally passed down to US consumers. However, it also found some indication that Chinese firms may have only recently started to react to the tariffs by reducing their export prices, thus absorbing part of the cost of the tariffs (about 8 percentage points).

However, the limited evidence found in this study would need to be substantiated by further data once it becomes available, said the paper.

Though the paper does not examine the impact of the most recent phase of the trade war, it warned that the escalation in the summer of 2019 is likely to have added to the existing losses.

The analysis in the paper also did not consider the impact of Chinese tariffs on US imports, but the qualitative results are most likely to be analogous: higher prices for Chinese consumers and losses for US exporters.

Background to trade war

According to the paper, over the course of 2018, the US administration started implementing a series of trade measures aimed at curtailing imports, first targeting specific products (steel, aluminium, solar panels and washing machines) and then specifically targeting imports from China.

The first phase of the US-China trade confrontation occurred in the early summer of 2018 when the US and China raised tariffs on about $50 billion of each other's goods.

The impossibility of finding common ground to resolve the issues of trade balances and intellectual property rights resulted in the further deterioration of the US-China trade relationship. The US administration introduced additional tariffs in September 2018 to cover $200 billion of Chinese imports, to which China retaliated by imposing tariffs on imports from the US worth an additional $60 billion.

While these tariffs were initially due to rise from 10% to 25% in January 2019, in early December 2018 the parties agreed to hold off any retaliatory actions until March 2019. This truce held until June 2019 when the US went ahead with the planned increase in tariffs from 10% to 25%, to which China responded by raising the tariffs on a subset of the products which were already subject to tariffs.

The retaliation further escalated in September 2019 when the US imposed 15% tariffs on a large subset of the remaining $300 billion of imports from China not yet subject to tariffs. Further escalation is expected to take place in December 2019.

Impact of US tariffs on China

The UNCTAD paper analyzed the impact

of the two initial phases of the trade war. Phase one covered the products for which US tariffs were initially raised in July 2018. Phase two covered the products for which US tariffs were initially raised at the end of September 2018.

Phase one involved about $60 billion worth of imports from China, comprising about 1,100 HS 8-digit codes. Phase two covered about $200 billion worth of imports from China, comprising about 6,000 HS 8-digit codes.

The US tariff schedule comprises close to 11,000 HS8 tariff codes; thus phases one and two collectively covered about two-thirds of US HS8 lines.

The UNCTAD analysis makes use of data from the first quarter of 2017 to the second quarter of 2019. The paper noted that in 2018, the US imported from China about $550 billion worth of goods, $255 billion of which was in the first half of 2018. By comparison, the value of US imports from China in the first half of 2019 was less than $230 billion, corresponding to a decline of about 10%.

Chinese exports to the US started to decline soon after the imposition of tariffs, especially for those products covered under phase one. For the products covered under phase two, the effects started to be evident from the first quarter of 2019.

By comparison, imports of goods not subject to tariffs have been relatively more stable and increased during the second quarter of 2019. According to the paper, one possible reason for such an increase is US importers stockpiling due to the possibility of additional tariffs on the remaining products (which indeed happened in September 2019). Another possible explanation is that Chinese exporters were trying to maintain profit margins by increasing exports of non-tariffed goods. Another possibility relates to mis-invoicing products to avoid the tariffs.

According to the paper, office machinery has been the hardest-hit sector in the trade war. In this category, the imports of products subject to additional tariffs dropped by 65%. For other sectors, such as agri-food, communication equipment, and precision instruments, trade in the tariffed goods fell by more than 30%.

The paper found that one consequence of the US bilateral tariffs on China has been to increase US imports from elsewhere. The overall trade diversion effects observed in data for the first half of 2019 amount to about $21 billion.

To put this figure in context, one needs to consider that the observed US imports from China in goods under the list of products of phases one and two accounted for about $130 billion in the first half of 2018, but only about $95 billion in the first half of 2019, resulting in a decline in US imports from China of $35 billion (or about 25%), said the paper.

Therefore, of the $35 billion import loss, $21 billion (or about 63%) has been replaced by imports originating from other countries, while the remainder of $14 billion was lost due to lower demand in the US and/or not enough capacity from the rest of the world.

The paper also noted that despite the tariffs, China has been able to preserve almost 75% of its trade in the products affected by the tariffs.

Taiwan Province of China was the largest beneficiary of the trade diversion effects of the US tariffs on China, accounting for additional exports to the US of almost $4.2 billion in the first half of 2019. These were largely related to an increase in exports of office machinery and communication equipment.

Mexico's increase in exports to the US due to the tariffs on China was quantified at about $3.5 billion, mostly in the agri-food, transport equipment and electrical machinery sectors.

The European Union benefited by trade diversion effects of about $2.7 billion, largely due to increases in exports in the machineries sectors.

Vietnam's benefits accounted for about $2.6 billion and were mostly concentrated in communication equipment and furniture.

Trade diversion effects in favour of the Republic of Korea, Canada and India were smaller but still substantial (between $0.9 and $1.5 billion).

The remainder of the trade diversion effects was largely to the advantage of other South-East Asian countries ($1.7 billion). The rest of Latin America, Sub-Saharan Africa and the rest of the world were only marginally able to benefit from trade diversion effects.

The paper underlined that office machinery has been the hardest-hit sector in the trade war, with US imports from China falling by almost $10 billion in the first half of 2019. Trade diversion effects for this sector are quantified at about $4.5 billion, most of which to the advantage of Taiwan Province of China.

This leaves about $5.5 billion of trade losses, said the paper. "Given the magnitude of the decline in United States imports from China, and the world market dominance of Chinese firms in this sector, the fact that other countries were not able

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Business and human rights treaty negotiations start

Kinda Mohamadieh provides a progress update on efforts to draw up a binding international human rights treaty to regulate the activities of business enterprises.

GENEVA: The open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights (OEIGWG) met in Geneva for its fifth session on 14-18 October.

This marked the beginning of intergovernmental negotiations on the basis of a revised draft legally binding instrument (LBI) published in July. The document was prepared by the OEIGWG Chairmanship led by the Ambassador of Ecuador to the United Nations in Geneva, Emilio Rafael Izquierdo Mino, in his capacity as Chair-Rapporteur of the process.

This process is rooted in the mandate of the UN Human Rights Council's Resolution 26/9, which established the OEIGWG to "elaborate an international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises".

The OEIGWG's fifth session witnessed active contributions by a number of countries, civil society groups, scholars and other experts on different elements of the text.

The states actively participating in the discussions were mainly developing countries, representing various regions. Few developed countries participated, mainly sharing national experiences and raising questions and points of clarification on the proposed text.

While several delegations said they were still awaiting detailed instructions from their capitals pertaining to the draft text, there was sharing of concrete and specific suggestions and proposals by many participating countries throughout the week.

(While representatives of the European Union were present in the room and active in raising comments and questions, they stated that they were awaiting a negotiation mandate from the new lineup of the EU Commission, which was due to take office in November, and thus reserved their position on the draft text.)

Generally, the revised text was welcomed by participants – both states and civil society representatives – as a viable basis for negotiations towards fulfilling the mandate of Resolution 26/9.

The text presents a clear attempt to accommodate and reconcile different views and proposals shared by states, civil society groups and other stakeholders that have participated in the process thus far.

However, a few participating countries, particularly China and Russia, pointed out that the text requires further development and amendments in order to provide a sufficiently developed and clear basis for negotiations.

It can be noted that the revised text enhances alignment with the UN Guiding Principles on Business and Human Rights. It was also clear that what is proposed could contribute to clarifying regulations pertaining to business entities.

In this way, it could enhance certainty and predictability (often demanded by business), and address unfair competition practices by some businesses that exploit weaknesses or lack of regulation in certain jurisdictions.

The OEIGWG session can thus be seen as a success in advancing the discussions and clarity on various elements of the revised text. Yet, differing approaches have been put forward in the working group towards some core issues, including the scope of the proposed treaty, the extent of new obligations that the proposed treaty should impose on states, the possibility and ways of addressing direct obligations of business enterprises, and the scope of human rights law to be covered under the treaty.

The purpose of the proposed LBI, as captured under the revised text, focuses on strengthening respect, promotion, protection and fulfilment of human rights, preventing violations and ensuring effective access to justice and remedy, and promoting and strengthening international cooperation (Article 2 of the revised draft).

Some of the main issues addressed in the negotiations included the scope of the instrument, rights of victims, the grounds of corporate legal liability, adjudicative jurisdiction and victims' access to a forum to bring legal proceedings, mutual legal assistance including in investigating and enforcing judgments across borders, and issues pertaining to consistency with international law, including interaction of human rights law with international economic law.

Scope (Article 3 of the revised text)

The revised text provides for a scope that covers "all business enterprises, including particularly ... those of a transnational character".

Generally, such an approach could allow the challenges pertaining to transnational corporations to be addressed, as long as the operational sections of the proposed treaty, particularly those pertaining to prevention and human rights due diligence, legal liability of corporations, adjudicative jurisdiction and enforcement, are focused on cross-border cases.

For example, David Bilchitz, one of the experts participating in the discussions, proposed that there might be no need to guard a provision on scope, noting that generally human rights treaties do not include such a provision, and adding that the focus on transnational corporations and cross-border business activities could actually be achieved through focusing on the operational elements of the proposed treaty.

However, some countries and civil society groups argued that the scope should replicate the language of Resolution 26/9, which refers specifically to "transnational corporations and other business enterprises" with a clarification that the latter means those entities with a transnational character.

Specific circumstances of groups impacted disproportionately

Participants from among states and civil society generally commended how the revised text mainstreams references to the specific circumstances of groups impacted disproportionately, including women and girls, children, indigenous peoples, persons with disabilities, and migrants and refugees.

The revised text also emphasizes the role and guarantees of human rights defenders, as well as the role of civil society actors.

References to international humanitarian law are included across the revised text, although this was questioned by some states participating in the negotiations.

Rights of victims (Article 4)

The proposed text includes a section on "rights of victims", which generally reflects rights and obligations recognized under existing international instruments.

Several suggestions on this topic proposed avoiding the use of the term "victims" and replacing it with more empowering terminology such as "rights holders".

Other suggestions pointed to the need to differentiate between victims and alleged victims.

A core element under this section is the right to access information by claimants, including obtaining the disclosure of evidence held by a corporate defendant.

The reversal of the burden of proof, in certain situations, was also addressed.

Prevention and human rights due diligence (Article 5)

With regard to prevention and human rights due diligence, there was a recognition that this element elaborates on an existing state obligation under international human rights law to regulate the activities of business enterprises within its territory or jurisdiction.

It was noted that the revised text aligns more clearly with the approach of the Guiding Principles to human rights due diligence.

The reach of the prevention obligation down the corporate and supply chain was an issue of discussion, especially given the use of "contractual relationships" to define the scope of this obligation. There was a clear sentiment in the room that the use of the term "contractual relationships" should be reviewed and potentially replaced.

Another issue discussed was whether fulfilment of obligations under human rights due diligence should form a defence or a mitigating factor in considering the liability of a business enterprise in the case of harm committed by another entity that it sufficiently controls or supervises.

The responsibilities and burdens on small and medium enterprises in this area were discussed, including how these could be distinguished in accordance to the size, nature and risk associated with a business entity and its activities.

Several participants, from among states and civil society organizations, stressed the importance of strengthening the references to the obligation by business to undertake human rights and environmental impact assessments, including publishing these assessments, as well as strengthening the references to the standard of free, prior and informed consent.

Civil society groups highlighted the importance of guarding and strengthening a clause in the revised text providing for an obligation on State Parties to protect the policies undertaken for implementing the future LBI from commercial and other vested interests of persons conducting business activities, particularly those of transnational character.

This provision is inspired by a very similar article under the WHO Framework Convention on Tobacco Control, which has proved to be crucial in the implementation of the Convention.

Legal liability and adjudicative jurisdiction (Articles 6 and 7)

These are two central elements in the proposed LBI. The revised text provides that states shall develop "a comprehensive and adequate system of legal liability for human rights violations and abuses in the context of business activities".

It addresses legal liability for acts that a corporation undertakes or participates in, and in relation to international crimes.

With regard to civil liability of a corporation for actions and harms undertaken by another entity, including, for example, the obligations of parent companies towards actions by their subsidiaries, the proposed text seeks to provide alternative grounds to piercing the corporate veil.

It proposes that a corporation shall be liable where it "sufficiently controls and supervises" the specific activities by another entity leading to harm to a third party.

The revised text also proposes that liability shall arise where a corporation should have foreseen a risk in the conduct of its business activities.

The proposed approach to liability focuses on the substance of the relationships within a corporate group and is not predicated on the form of ownership relationship among different entities. Under such an approach, liability would not arise by the mere shareholding or equity participation that a company may have in another.

This is an approach that aligns with the latest jurisprudence of some countries, like the United Kingdom, in relation to parent-subsidiary liability cases, and with the approach of the Guiding Principles.

The revised text also addresses liability regarding crimes recognized under international law and proposes a closed list of offences to be covered under the future instrument.

Several states and civil society groups noted that the list should be open and should evolve with international law.

On adjudicative jurisdiction in civil cases, the text provides for a broad approach whereby jurisdiction would be vested with courts where victims are domiciled, acts or omissions have occurred, or those alleged to have committed harm are incorporated, have their statutory seat, or have their central administration or substantial business interest.

It was noted that in the absence of an international forum with jurisdiction to address cases of business and human rights, such broad approach to jurisdiction is essential for advancing access to justice and remedy.

Multiple issues were under discussion including the need to prohibit the application of the *forum non conveniens* doctrine, which allows a court, whose jurisdiction is established under the applicable rules, the discretion to decline to hear a case if it finds that it is an inappropriate forum or that another forum would be more appropriate.

Another consideration discussed was the possibility of inserting a *forum necessitatis* clause, which would provide that a court hears a case although ordinarily it would lack jurisdiction due to the fact that no other competent forum is available to the claimant, or the court that otherwise would have jurisdiction refuses to permit the action.

Issues pertaining to potential forum shopping, given the broad approach to jurisdiction, were addressed.

Questions on applicable law were raised, including whether victims should be entitled to choose which laws would be applied (i.e., laws of the jurisdiction where harm has occurred, or where the victim is resident, or where the company is domiciled). It was also discussed whether universal jurisdiction for some crimes should be included in the text.

The particularities of the statute of limitations in criminal and civil matters were highlighted, as well as the need to address connected claims or joining claims, where needed.

Other issues

Among other elements central to the proposed treaty is mutual legal assistance including in, but not limited to, sharing of information, enforcement of judgments, extradition in criminal cases, and the relation of the proposed LBI to existing bilateral and regional agreements on mutual legal assistance.

The interaction between human rights law and economic law was also part of the discussion.

The proposed text provides that bilateral and multilateral agreements by State Parties to a future instrument shall be "compatible and shall be interpreted in accordance with their obligations under the [instrument]".

The way forward

The Chairperson-Rapporteur invited delegations and other stakeholders, including civil society organizations, to provide written versions of their suggestions and positions shared during the fifth OEIGWG session to the secretariat of the process, no later than the end of November 2019. Additional proposals could be presented until the end of February 2020.

Regional and political groups as well as intergovernmental organizations and civil society organizations and other relevant stakeholders were invited by the Chairperson-Rapporteur to organize consultations in the run-up to the sixth session in order to contribute to the work of the OEIGWG.

The sixth session is envisioned for the last quarter of 2020.

The role of experts from different regions and legal backgrounds was stressed as a source of independent expertise and advice in relation to the preparation of the second revised draft.

A draft report of the discussions during the fifth session will be released soon, with annexes including compilations of the statements and textual suggestions made during the session. The report will be presented for adoption by the Human Rights Council during its first session of 2020 in February.

During an informal part of the OEIGWG session, states highlighted the state-led nature of the process.

Much discussion was dedicated to the format of the sixth session. Negotiations in a manner that envisions direct interaction between states on their textual proposals and suggestions were proposed for the sixth session. (*SUNS9002*)

World stumbling zombie-like into a digital welfare dystopia?

A UN rights expert has called for digitized welfare services systems to incorporate human rights protections or "risk becoming a Trojan Horse for neoliberal hostility towards social protection and regulation".

by Kanaga Raja

GENEVA: As humankind moves, perhaps inexorably, towards the digital welfare future, it needs to alter course significantly and rapidly to avoid stumbling zombie-like into a digital welfare dystopia, a UN human rights expert has warned.

This was one of the main conclusions highlighted by Philip Alston, the UN Special Rapporteur on extreme poverty and human rights, in a report presented to the UN General Assembly in New York on 18 October.

Expressing concerns over the emergence of the "digital welfare state", the UN expert said that such a future would be one in which: unrestricted data matching is used to expose and punish the slightest irregularities in the record of welfare beneficiaries (while assiduously avoiding such measures in relation to the well-off); ever more refined surveillance options enable around-the-clock monitoring of beneficiaries; conditions are imposed on recipients that undermine individual autonomy and choice in relation to sexual and reproductive choices, and in relation to food, alcohol and drugs and much else; and highly punitive sanctions are able to be imposed on those who step out of line.

"Digital welfare states thereby risk becoming a Trojan Horse for neoliberal hostility towards social protection and regulation," said the Special Rapporteur.

"Moreover, empowering governments in countries with significant rule of law deficits by endowing them with the level of control and the potential for abuse provided by these biometric ID systems should send shudders down the spine of anyone even vaguely concerned to ensure that the digital age will be a human rights friendly one."

The digital welfare state is either already a reality or emerging in many countries across the globe. In these states, systems of social protection and assistance are increasingly driven by digital data and technologies that are used to automate, predict, identify, surveil, detect, target and punish, Alston noted.

Big Tech operates in an almost human-rights-free zone, and this is especially problematic when the private sector is taking a leading role in designing, constructing and even operating significant parts of the digital welfare state, he said.

He recommended that instead of obsessing about fraud, cost savings, sanctions and market-driven definitions of efficiency, the starting point should be on how welfare budgets could be transformed through technology to ensure a higher standard of living for the vulnerable and disadvantaged.

In this context, the Special Rapporteur called for the regulation of digital technologies, including artificial intelligence (AI), to ensure compliance with human rights, and for a rethinking of the positive ways in which the digital welfare state could be a force for the achievement of vastly improved systems of social protection.

Era of digital governance

According to the report by the Special Rapporteur, "the era of digital governance is upon us. In high and middle income countries, electronic voting, technology-driven surveillance and control including through facial recognition programs, algorithm-based predictive policing, the digitization of justice and immigration systems, online submission of tax returns and payments, and many other forms of electronic interactions between citizens and different levels of government are becoming the norm."

And in lower-income countries, national systems of biometric identification are laying the foundations for comparable developments, especially in systems to provide social protection, or "welfare", to use a shorthand term.

Invariably, improved welfare provision, along with enhanced security, is one of the principal goals invoked to justify the deep societal transformations and vast expenditures that are involved in moving the entire population of a country not just on to a national unique biometric identity card system but on to linked centralized systems providing a wide array of government services and the provision of goods ranging from food and education to healthcare and special services for the ageing or those with disabilities.

The result is the emergence of the "digital welfare state" in many countries across the globe. In these states, systems of social protection and assistance are increasingly driven by digital data and technologies that are used to automate, predict, identify, surveil, detect, target and punish, said Alston.

Commentators have predicted "a future in which government agencies could effectively make law by robot", and it is clear that new forms of governance are emerging which rely significantly on the processing of vast quantities of digital data from all available sources, use predictive analytics to foresee risk, automate decision-making, and remove discretion from human decision-makers.

In such a world, citizens become ever more visible to their governments, but not the other way around.

According to the Special Rapporteur, welfare is an attractive entry point not just because it takes up a major share of the national budget or affects such a large proportion of the population but because digitization can be presented as an essentially benign initiative. The embrace of the digital welfare state is presented as an altruistic and noble enterprise designed to ensure that citizens benefit from new technologies, experience more efficient government and enjoy higher levels of well-being.

Often, however, the digitization of welfare systems has been accompanied by deep reductions in the overall welfare budget, a narrowing of the beneficiary pool, the elimination of some services, the introduction of demanding and intrusive forms of conditionality, the pursuit of behavioural modification goals, the imposition of stronger sanctions regimes, and a complete reversal of the traditional notion that the state should be accountable to the individual.

These other outcomes are promoted in the name of efficiency, targeting, incentivizing work, rooting out fraud, strengthening responsibility, encouraging individual autonomy and responding to the imperatives of fiscal consolidation.

Through the invocation of what are often ideologically charged terms, neoliberal economic policies are seamlessly blended into what are presented as cutting-edge welfare reforms, which in turn are often facilitated, justified and shielded by new digital technologies, said Alston.

Although the latter are presented as being "scientific" and neutral, they can reflect values and assumptions that are far removed from, and may be antithetical to, the principles of human rights, he cautioned.

Despite the enormous stakes involved not just for millions of individuals but for societies as a whole, these issues have, with a few notable exceptions, garnered remarkably little attention. The mainstream tech community has been guided by official preoccupations with efficiency, budget savings and fraud detection. The welfare community has tended to see the technological dimensions as separate from the policy developments, rather than as being integrally linked. And those in the human rights community concerned with technology have understandably been focused instead on concerns such as the emergence of the surveillance state, the potentially fatal undermining of privacy, the highly discriminatory impact of many algorithms, and the consequences of the emerging regime of surveillance capitalism.

But the threat of a digital dystopia is especially significant in relation to the emerging digital welfare state, Alston argued.

Use of digital technologies

The Special Rapporteur cited several instances in the welfare context in which digital innovation has been most prominently used.

For example, he said, automated programs are increasingly used to assess eligibility in many countries. An especially instructive case was the automation of eligibility decisions in Canada's Ontario province in 2014 through the Social Assistance Management System (SAMS) which relied on Curam, a customizable off-the-shelf IBM software package also used in welfare programmes in the United States, Germany, Australia and New Zealand.

In 2015, the Ontario Auditor-General reported on 1,132 cases of errors with eligibility determinations and payment amounts under SAMS involving about $140 million. The total expenditure on SAMS by late 2015 was $290 million. The new system reportedly led caseworkers to resort to subterfuges to ensure that beneficiaries were fairly treated, made decisions very difficult to understand, and created significant additional work for staff.

The calculation and payment of benefits is increasingly done through digital technologies without the involvement of caseworkers and other human decision-makers, Alston pointed out. While such systems offer many potential advantages, the Special Rapporteur said that he also received information about prominent examples of system errors or failures that generated major problems for large numbers of beneficiaries. These included the "Robodebt" fiasco in Australia, the Real Time Information system in the United Kingdom and the SAMS system in Canada.

Fraud and error in welfare systems can potentially involve very large sums of money and have long been a major concern for governments, Alston acknowledged. It is thus unsurprising that many of the digital welfare systems that have been introduced have been designed with a particular emphasis on the capacity to match data from different sources in order to expose deception and irregularities on the part of welfare applicants.

Nevertheless, evidence from country missions undertaken by the Special Rapporteur, along with other cases examined, suggests that the magnitude of these problems is frequently overstated and that there is sometimes a wholly disproportionate focus on this particular dimension of the complex welfare equation. Images of supposedly wholly undeserving individuals receiving large government welfare payments, such as Ronald Reagan's "welfare queen" trope, have long been used by conservative politicians to discredit the very concept of social protection.

The risk is that the digital welfare state provides endless possibilities for taking surveillance and intrusion to new and deeply problematic heights, said the Special Rapporteur.

He noted that risk calculation is inevitably at the heart of the design of welfare systems and digital technologies can achieve very high levels of sophistication in this regard.

In addition to fraud detection and prevention, child protection has been a major focus in this area, as illustrated by examples from countries as diverse as the United States, New Zealand, the United Kingdom and Denmark. Governments have also applied these techniques to determine whether unemployment assistance will be provided and at what level. A prominent such scheme in Poland was held unconstitutional, but an algorithm-based system in Austria continues to categorize unemployed jobseekers to determine the support they will receive from government job centres.

Many other areas of the welfare state will also be affected by new technologies used to score risks and classify needs, said Alston. While such approaches offer many advantages, it is also important to take account of the problems that can arise. First, there are many issues raised by determining an individual's rights on the basis of predictions derived from the behaviour of a general population group. Second, the functioning of the technologies and how they arrive at a certain score or classification is often secret, thus making it difficult to hold governments and private actors to account for potential rights violations. Third, risk-scoring and need categorization can reinforce or exacerbate existing inequalities and discrimination.

Further, communications that previously took place in person, by phone or by letter are increasingly being replaced by online applications and interactions, Alston said.

Various submissions to the Special Rapporteur cited problems with the Universal Credit system in the United Kingdom, including difficulties linked to a lack of Internet access and/or digital skills, and the extent to which online portals can create confusion and obfuscate legal decisions, thereby undermining the right of claimants to understand and appeal decisions affecting their social rights. Similar issues were also raised in relation to other countries including Australia and Greece.

Another problem is the likelihood that once the entire process of applying and maintaining benefits is moved online, the situation invites further digital innovation. In 2018, Sweden was forced to reverse a complex digital system used by the Employment Service to communicate with jobseekers because of problems that led to as many as 15% of the system's decisions probably being incorrect.

Digital technologies, including artificial intelligence, have huge potential to promote the many benefits that are consistently cited by their proponents, said Alston. They are already doing so for those who are economically secure and can afford to pay for the new services. They could also make an immense positive difference in improving the well-being of the less well-off members of society, but this will require deep changes in existing policies.

The leading role in any such effort will have to be played by governments through appropriate fiscal policies and incentives, regulatory initiatives, and a genuine commitment to designing the digital welfare state, not as a Trojan Horse for neoliberal hostility towards welfare and regulation, but as a way to ensure a decent standard of living for everyone in society, the Special Rapporteur underlined.

Promoting digital equality

Egalitarianism is a consistent theme of the technology industry, as exemplified by Facebook's aim "to give people the power to build community and bring the world closer together". But at the macro level, Big Tech has been a driver of growing inequality and has facilitated the creation of a "vast digital underclass", said Alston.

For its part, he noted, the digital welfare state sometimes gives beneficiaries the option to go digital or continue using more traditional techniques. But in reality, policies such as "digital by default" or "digital by choice" are usually transformed into "digital only" in practice.

This in turn exacerbates or creates major disparities among different groups. A lack of digital literacy leads to an inability to use basic digital tools at all, let alone effectively and efficiently. Limited access or no access to the Internet poses huge problems for a great many people. Additional barriers arise for individuals who have to pay high prices to obtain Internet access, travel long distances or absent themselves from work to do so, visit public facilities such as libraries in order to get access, or obtain assistance from staff or friends to navigate the systems.

And while the well-off might have instant access to up-to-date and easy-to-use computers and other hardware, as well as fast and efficient broadband speeds, the least well-off are far more likely to be severely disadvantaged by out-of-date equipment and time-consuming and unreliable digital connections.

Submissions to the Special Rapporteur from a wide range of countries emphasized the salience of these different problems.

In both the Global North and the Global South, many individuals, especially those living in poverty, do not have a reliable Internet connection at home, cannot afford such a connection, are not digitally skilled or confident, or are otherwise inhibited in communicating with authorities online, said Alston.

He said that the United Kingdom provides an example of a wealthy country in which, even in 2019, 11.9 million people (22% of the population) do not have the "essential digital skills" needed for day-to-day life. An additional 19% cannot perform fundamental tasks such as turning on a device or opening an app. In addition, 4.1 million adults (8%) are offline because of fears that the Internet is an insecure environment, and proportionately almost half of those are from a low-income household and almost half are under 60 years of age.

These problems are compounded by the fact that when digital technologies are introduced in welfare states, their distributive impact is often not a significant focus of governments. In addition, vulnerable individuals are not commonly involved in the development of IT systems and the IT professionals are often ill-equipped to anticipate the sort of problems that are likely to arise.

Programmes often assume, without justification, that individuals will have ready access to official documents and be able to upload them, that they will have a credit history or broader digital financial footprint, or even that their fingerprints will be readable, which is often not the case for those whose working lives have involved unremitting manual labour.

In terms of digital welfare policy, several conclusions emerge, said the Special Rapporteur.

First, there should always be a genuine non-digital option available.

Second, programmes that aim to digitize welfare arrangements should be accompanied by programmes designed to promote and teach the needed digital skills and to ensure reasonable access to the necessary equipment as well as effective online access.

Third, in order to reduce the harm caused by incorrect assumptions and mistaken design choices, digital welfare systems should be co-designed by their intended users and evaluated in a participatory manner.

Many of the programs used to promote the digital welfare state have been designed by the very same companies that are so deeply resistant to abiding by human rights standards, the Special Rapporteur noted. Moreover, those companies and their affiliates are increasingly relied upon to design and implement key parts of the actual welfare programmes.

It is thus evident that the starting point for efforts to ensure human-rights-compatible digital welfare state outcomes is to ensure through governmental regulation that technology companies are legally required to respect applicable international human rights standards, Alston concluded. *(SUNS9001)*

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has gained renewed attention, it noted.

A survey by the UN Department of Economic and Social Affairs in 2017 found that 74% of developing countries provided some form of South-South development cooperation, confirming a rising trend. However, for the vast majority of developing countries, these expenditures remain below $1 million, with only 16% of countries reporting higher expenditures on South-South cooperation.

The Belt and Road Initiative of China, now including over 100 developing countries, clearly is the dominant driver of South-South cooperation today, with India also approving nearly $28 billion in concessional credits, including about $10 billion for approximately 40 African partners, with a special emphasis on partnerships with the least developed countries and small island developing States, said UNCTAD.

Some conclusions

The analysis of ODA and the state of blended finance available from several sources creates an impression of disquiet, said UNCTAD. This in part is a consequence of the lack of transparency and accountability associated with these flows, the quantum and the parties involved, the lack of information relating to the share of concessional and non-concessional finance employed, the link between the flows and development needs and strategies, the debt implications for developing countries and the longevity of development benefits.

"To the extent that the data permit, it is fair to say that ODA is not living up to its promises, private investment flows are unreliable and falling, and much less blended finance is being mobilized than hoped for."

The clear urgency in terms of meeting the financial shortfall for development needs to be tempered with a hard look at the developmental needs, on a country basis, and aligned with development strategies.

Ideally, a holistic view should be taken where the development needs of each country are evaluated in terms of the full range of development finance options, and an evaluation is made of the most effective use of grants, concessionary loans, non-concessionary loans, private investment, public investment and debt in terms of their capacity to achieve the SDGs.

The lack of a common official blended finance framework presents challenges in terms of data collection, analysis and comparability of data.

There is a need to protect existing ODA and put in place mechanisms to ensure that the risks and trade-offs associated with investing ODA in blended finance do not fall on the intended beneficiaries of aid. This is particularly important, as the pressure to incentivize blended finance may result in more aid being used in this way. In addition, aid and blended finance need to be managed by developing countries in the broader context of development finance and management of domestic resources.

Even effectively increased aid and blended financing flows for sustainable development may achieve little if developing countries continue to face systemic failures of the global economy that undermine their external debt sustainability and divert their resources to prop up internal reserves for self-insurance against external capital flow and commodity price shocks.

More effective, long-term and non-conditional international development cooperation will also be required to mitigate the impact of climate change on developing countries, disproportionally affected by natural disasters, and, more generally, promote environmental protection, UNCTAD concluded. *(SUNS9013)*

Financing of Agenda 2030 way off-track

Manuel F. Montes highlights the challenges of harnessing funds to finance sustainable development.

Four years ago, UN member states proclaimed their ambitions for development in a document named "Transforming Our World", also known as Agenda 2030.

Today, according to several assessments including of the UN's inter-agency task force on financing for development (FfD), transformation has fallen off-track. It has received too little money, political commitment and action to change the workings of the global economy.

Agenda 2030 spells out the Sustainable Development Goals (SDGs) needed to "transform our world". A cottage industry has arisen to produce estimates of the financial resources required, ranging from $1 trillion to $3 trillion per year.

A second industry has emerged around the question of where to get the money. By one UN estimate, global public and private investment amounts to around $22 trillion a year. It would take a redeployment of about 14% of that to meet the high-end estimate of $3 trillion.

Many have questioned whether there is enough money, and more have lamented that international aid flows appear insufficient. They miss two critical issues.

First is how to make sure that available resources are used for actual investments in the real world. Second is how to make sure that the investments that get funded advance goals of ending poverty, fighting climate change and providing decent work.

As things stand, vast sums are invested in ways that work against these goals. This is especially true of private investment, much of which is directed at "securitization", or the buying of other financial assets to turn a quick profit rather than supporting longer-term endeavours that boost jobs, welfare and the environment.

Securitization is the result of decades of financial deregulation and tax cuts on capital gains and is driven by the thirst for large, instantaneous profits. To persuade the private sector to partner in long-term projects with real-world benefits involves offering such enticements as a return of 10% or more. Meeting such guarantees involves subsidies from public resources, diminishing the public sector's ability to make its own SDG investments.

This unfortunate logic propels efforts at "impact investing", "blended finance" and "public-private partnerships" – efforts which consume precious public-sector time and analytical resources, and where returns go to private finance and risks are dumped on the public sector.

For the most part, the global financial system remains a part of the problem and not a partner in socially or environmentally sound development.

What is to be done?

The global financial system must be transformed to give priority to real investments in environmentally sound, employment-creating, long-term projects. Private finance must be freed from the tyranny of asset-price-driven financial markets. The logic of short-termism and of offloading risk onto others needs to be overturned.

This kind of systemic reform once championed by academics and NGOs is now even taken on by the Financing for Sustainable Development Report, the UN's "bible" on financing.

Even as private finance begins to evolve to embrace new kinds of risk, governments – for all their flaws – will retain the central role in identifying, designing, financing and completing projects. This means that public finances need to be shored up. The best source of public money is taxation.

ActionAid research shows that where this is through an increase in value-added or other consumption taxes, it may unfairly burden poorer citizens, who spend larger portions of their incomes on buying goods and services.

What needs to be done involves multinational corporations with operations in developing countries.

Capital flows need to be regulated to staunch the siphoning off of resources generated in developing countries; sums which, for example, amount to $147 million in Burundi in 2018, according to ActionAid research.

The current investment regimes endorsed and enforced by the International Monetary Fund (IMF) and others need to be upended. Investment treaties and so-called free-trade agreements should no longer protect investors and corporations that make short-term loans (mostly searching for quick profits derived from high interest rates) to developing countries and those who gamble in international markets, using massive sums of money taken from the developing countries.

How multinational companies hosted by developing countries are taxed also needs to be changed to make possible the "re-shoring" of domestic resources. Rules that allow or encourage companies to shift profits to rich countries or tax havens must be scrapped.

Developing countries have faced significant resistance in pursuing global financial and tax reforms, not only from some of the world's most powerful banks and companies, but also from the governments of the wealthy countries in which those enterprises are headquartered.

But rich-country governments need to become part of the solution. From climate change to widespread poverty and inequality, the problems confronting us are immense and the actions embodied in the SDGs are urgent.

Systemic changes are vital to build the foundations on which to "transform our world" in keeping with the vision of Agenda 2030. *(IPS)*

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to supply for the loss of imports from China is not a surprising outcome," it added.

Communication equipment and furniture are two other sectors where the increase in imports from other countries was not sufficient to replace the decline in US imports from China. In these two sectors, Vietnamese exporters benefited the most.

Trade diversion effects in the machinery sectors have been more diverse, with a substantial share of the increase in US imports coming not only from the East Asian region. For these sectors, Mexico and the European Union were the major beneficiaries of the trade diversion effects, as well as Japan, said the paper. *(SUNS9014)*

World Bank rankings promote deregulation at the expense of working people

Worker protections are one casualty of a World Bank initiative that champions business-friendly deregulation.

by Leo Baunach

Through its annual Doing Business rankings, the World Bank promotes blindly deregulatory measures, including a race to the bottom on taxes and fewer protections for workers.

In the recently released 2020 edition, countries get high marks if they demonstrate a commitment to slashing regulations rather than policies that support sustainable development, poverty elimination and inequality reduction. Both the World Bank and the International Monetary Fund (IMF) have used the report's indicators to pressure countries to reduce regulations, sometimes through loan conditions.

Doing Business has long been dogged by controversy. In 2018, World Bank chief economist Paul Romer sharply criticized the report, noting that methodological changes – not reforms – had led to dramatic swings in Chile's ranking. Romer speculated that staff could have manipulated the rankings for political purposes, an overreach that distracted from his valid criticisms of the methodology. As the Center for Global Development pointed out, Doing Business does not require political manipulation because "the index starts from an extreme ideological premise". The creation of Doing Business in the early 2000s drew inspiration from the right-wing Heritage Foundation's Index of Economic Freedom.

For decades, Chile pursued the neoliberal policies championed by Doing Business and the World Bank. Under dictator Augusto Pinochet, Chile privatized its pension system. The Bank held up Chile as a model and promoted pension privatization across the world, an experiment that ended in failure. In Chile, the pension system is in crisis, wages are low, jobs are insecure, and public services including water are privatized. In recent weeks a mass movement has risen up to demand a new model that benefits everyone.

Nonetheless, supply-side ideology may have gained new life at the World Bank. President David Malpass, selected this year by the Trump administration, described how financial deregulation in Kenya enabled an explosion of short-term microloans via mobile phones. "It's the kind of liberalization process we need to unleash across the developing world," Malpass said. This deregulation gave Kenya a significant boost in its Doing Business score from the "Getting Credit" indicator, where it ranks 4th globally.

While the Bank hypes mobile lending as a tool for entrepreneurship and development, there is a much darker side. Mobile lenders in Kenya aggressively market high-interest loans that trap people in unaffordable debt. These loans are not fuelling business or investment either: only 10% of mobile borrowers in Kenya used a loan for that purpose. Most borrowers use loans for consumption, medical needs and school fees.

Bridge Academies, which received funding from the World Bank's private sector lending arm, is among the sources of school fees in Kenya. The World Bank Group is under pressure to divest from Bridge, which has been scrutinized for evading regulations on education standards and providing untrained teachers with poor working conditions.

Labour market flexibility

In Kenya and around the world, the solution is not predatory finance and private education. People need quality jobs with living wages, a goal that Doing Business undermines. The World Bank suspended the "Employing Workers" indicator (originally "Hiring and Firing Workers") from the ranking calculations in 2009, after criticism that it degraded labour standards. However, Doing Business continues to gather the data, and the 2020 report devotes a chapter to the subject.

Countries are lauded for "making employment regulation more business-friendly" through flexibility measures including higher caps on overtime hours, reducing extra pay for working at night or on rest days, longer probationary periods before workers become permanent, and expanding the allowability of temporary and fixed-term employment relationships.

Doing Business justifies these flexibility measures in the name of letting workers "choose their jobs and working hours more freely." Workers do need a genuine measure of control over their time and input in scheduling, especially to balance care responsibilities. This can be achieved through negotiations between employers, trade unions and governments to balance the needs of everyone.

The ILO Global Commission on the Future of Work highlighted the need to address both insecure under-employment and excessive hours. The Commission recommended "the adoption of appropriate regulatory measures that provide workers with a guaranteed and predictable minimum number of hours" and actions to ensure that on-call work is dignified and "the choice for greater flexibility is a real one". They suggest additional pay for work that is not guaranteed and compensation for the waiting time of on-call workers.

The changes promoted by Doing Business give employers even more power, allowing them to threaten non-renewal of employment contracts and keep workers insecure with unpredictable scheduling. Doing Business 2020 states that Serbian "authorities could benefit from the experience of Hungary where employers have the freedom to use fixed-term contracts of up to five years for tasks of a permanent nature". The interest here is only in the "freedom" of business to do whatever it pleases, without considering the effect on working people.

Another justification is that flexibility will improve the ability of women and youth to participate in the workforce. The citation for one such claim is a decade-old study from Simeon Djankov, a central figure in the founding and survival of Doing Business. Evidence from the real world contradicts these claims. In reviewing the effects of labour market flexibility measures in Europe, researchers found "no support for the notion that lowering restrictions on the use of temporary employment relations can help reduce youth unemployment".

The discredited "Employing Workers" indicator recently made an appearance in a World Bank white paper on social protection. It is no surprise that the indicator is used in a paper that calls for fewer labour regulations and a social protection system built around individual savings, reduced employer contributions, and narrowly targeted social safety nets.

In India, trade unions will hold a nationwide general strike in January 2020 to oppose the policies of Prime Minister Narendra Modi, including the reduction of employer contributions to pension funds and social insurance. India has aggressively pursued higher rankings in Doing Business, lobbying the Bank for favourable methodology changes and letting the pursuit of a higher ranking guide policymaking.

"The Government boasts that India's ranking is going up," the Indian unions note. However, "All this is being done at the expense of the working people."

Leo Baunach is the Director of the International Trade Union Confederation and Global Unions Office in Washington, DC, which advocates for reforming multilateralism and a development model that benefits working people everywhere. This article is reproduced from Inequality.org.

Industrial policy still relevant

Once dismissed as passé, industrial policy is back on the policy agenda, and for good reason.

by Jomo Kwame Sundaram and Anis Chowdhury

Industrial policy refers to the promotion of new investments and technology by governments to encourage the growth and development of specific economic sectors.

However, scepticism persists about the feasibility and desirability of using industrial policy, especially of the ability to "pick winners", which is often accused of leading to "propping up failing industries".

The debate over industrial policy has arguably been among the most ideological and contentious in the history of economics. Sometimes, the same evidence is cited in support of opposing policy positions.

However, differences in opinion on the desirability of industrial policy are not simply ideological. They are also due to genuine differences in theoretical and related perspectives as well as perceptions and interpretations of particularly influential experiences.

For many, industrial policy only refers to promoting manufacturing activity because of its special features, advantages and benefits – especially in terms of its potential employment, productivity and linkages – compared with the agriculture and services sectors.

Others insist that industrial policy should be "general" (or "functional" or "horizontal"), rather than "selective" ("sectoral" or "vertical"). They argue that the state should concentrate on providing education, infrastructure and other public goods, not only because of their ostensibly general benefits but also because they are likely to be under-provided by the market.

Historically, and even now, industrial policy has been used by developed countries. For instance, the US and even Britain have historically had much higher degrees of protectionism compared with developing countries in recent decades, even before trade liberalization.

Now, although industrial policy is back on the agenda of developed countries, these countries, by restricting trade policy interventions, preferential finance and technology transfer agreements, are in effect "taking away the ladder" from others, both developing countries and "transition economies", seeking to accelerate economic transformation and growth.

Renewed interest

Industrial policy was dismissed as heretical, "ideological" and passé with the ascendance of neoliberalism promoted by policy conditionalities for emergency credit support from the Bretton Woods institutions (BWIs) – the International Monetary Fund (IMF) and the World Bank.

Their so-called "Washington Consensus" cast industrial policy in a bad light; instead, they insisted on market-oriented policies, ostensibly based on international specialization determined by comparative advantage.

Nevertheless, debates continue over notions of comparative advantage, however unconventional, e.g., "dynamic" comparative advantage.

Recent renewed interest in industrial policy is partly due to growing incontrovertible evidence that both developed and developing economies thus accelerated economic progress. Also, failed industrial development in much of the developing world and deindustrialization in Africa after more than three decades of neoliberal policies have prompted such reconsideration.

There is now grudging recognition, particularly after the spectacular progress of several fast-growing East Asian economies, including China, that industrial policy – both investment and technology measures – has been crucial to their development successes.

Plurilateral organizations of developed economies, such as the Organization for Economic Cooperation and Development (OECD), which previously argued against industrial policy, now concede the role and potential of industrial policy for sustainable development, seeking to influence the debate for their own ends.

Even the World Bank has begun to operationalize "building competitive industries", i.e., industrial policy by another name. However, its emphasis tends to be on "horizontal" or "general" industrial policy, eschewing more pragmatic and feasible selective promotion.

Implementation is key

While some economic activities may help achieve particular policy goals, they may not contribute to others – e.g., investments which can generate mass employment may not offer much scope for technological learning – thus underscoring the importance of sequencing.

Undoubtedly, some developing countries have been more successful than others in using industrial policy, e.g., due to different circumstances, pragmatic sequencing, better discipline or even good luck.

Success has been achieved, often despite unfavourable conditions, usually when policies have been creatively and pragmatically implemented.

But how should industrial policy be implemented?

While industrial policy should be realistic, this does not mean avoiding all risk, as some risk taking is typically associated with entrepreneurship and innovation. Careful comparative evaluation of available options often yields useful lessons.

There is no general industrial policy formula or approach for all times and in all circumstances. Rather, it needs to be elaborated and implemented with full consideration of existing challenges, conditions and constraints, and adapted appropriately to changing circumstances.

Some opponents insist that even if industrial policy may once have been important for development, there is no longer the needed policy space, especially with the "one size fits all" "single commitment" of the World Trade Organization (WTO) since 1995. Many note how other aspects of globalization, including financialization, constrain national governments.

While WTO rules and other free trade agreements (FTAs) limit the role of trade and other related policies in the industrial policy arsenal, they still allow legal use of many industrial policy measures; also, even previously agreed tariffs can be renegotiated.

Although unaffordable to poorer developing countries, subsidies are not prohibited by WTO rules. Bilateral and plurilateral trade agreements as well as bilateral investment treaties (BITs) can also be revoked or renegotiated.

Such agreements and other dimensions of globalization are not irreversible, as Trump, Brexit and other recent developments remind us.

Clearly, recent changes in the global environment have not made industrial policy impossible although policy space, or the scope for alternative intervention options, may have been diminished.

So, what can developing countries do?

Those who try to elaborate industrial policy in relation to globalization argue that developing-country governments should develop their economies by inducing relocation of appropriate segments of "global value chains" (GVCs) in their economies. This typically involves attracting relevant foreign direct investment (FDI) for capital, technology, management, expertise and market access. But FDI is a double-edged sword, also undermining economies and development prospects of developing countries.

Sustainable progress requires appropriate and pragmatic industrial policy, which should not be dogmatic or determined inflexibly by some supposed theory. Instead, options appropriate to circumstances, addressing real constraints and prospects, should be critically considered.

Productive capacity and capability building is critical and needs to be facilitated and coordinated by responsible governments. To be effective, industrial policy design and implementation need to consider both government capabilities and political will.

As no "one size fits all", governments of developing countries should pragmatically and flexibly use appropriate industrial policy to accelerate sustainable development, instead of adopting the conventional wisdom associated with the neoliberal Washington Consensus in recent decades. *(IPS)*

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