

THIRD WORLD *Economics*

TRENDS & ANALYSIS

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Which way for the WTO?

The future direction of the Doha Round trade talks, and of the WTO itself, hinges on which of two courses the WTO member states will take. The first is to continue along the path of financialization of the world economy, which will lead to global corporatism. The second option, entailing fulfilment of the commitments under the WTO's founding Marrakesh Agreement, can help usher in a multilateral trading system that genuinely serves the interests of the real economy.

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If US has its way, Doha Round is dead as a dodo

Prospects for concluding the Doha Round trade talks as a single undertaking are in jeopardy if the US refuses to reform its trade-distorting regime of agricultural subsidies.

by Chakravarthi Raghavan

GENEVA: Judging by reports on a day-long closed-door Swiss-hosted meeting of a select group of trade envoys at a so-called "retreat" in early June to formulate and agree on a post-Bali work programme for concluding negotiations on the Doha Development Round (DDR), it is apparent that the DDR single undertaking may be as dead as a dodo.

It is becoming more and more clear that the only leverage developing countries have to force the United States and the European Union to come to the table, and live up to their Marrakesh and Doha Round commitments on agriculture, will be for developing countries to block further progress on the draft trade facilitation accord.

Very little came out of the closed-door meeting outside of Geneva; a report in the *Washington Trade Daily (WTD)* provides a comprehensive yet concise account.

According to the report, those present were envoys from the US, the EU, China, Japan, Canada, Australia, Brazil, South Africa, India, Mexico, Colombia, Chile, Pakistan, Norway, New Zealand, Jamaica and Switzerland.

The WTO Director-General, Roberto Azevedo, was not at the meeting; his participation apparently was not acceptable to all participants.

(The meeting of envoys of key countries among themselves, without the Director-General, is a practice which began from around the time of the failed Cancun Ministerial Conference of the WTO in 2003, and had become more or less systematized until very recently. The recent "retreat" was thus a return to the practice.)

It is notable that except for South Africa, there was no other African envoy. Currently, Lesotho is African Group coordinator, Uganda is coordinator of the Least Developed Countries (LDCs) group, and Kenya is the coordinator of the African, Caribbean and Pacific (ACP) group, taking over this year from Jamaica (the coordinator till Bali) which was at the meeting.

According to the *WTD* report, the US made clear at the meeting that it would not take the 2008 agriculture modalities text as the basis for further negotiations,

since its domestic constituencies would not accept what was on the table in agriculture at this juncture.

In what would put to shame a famous information minister of a European country before and during World War II, the US ambassador to the WTO, Michael Punke, blandly insisted that new realities must be taken into account, and asserted that the "new realities" were that China and India are the subsidizers distorting agricultural trade.

According to the French civil society activist Jacques Berthelot in a paper posted on 16 April on the Solidarite website (www.solidarite.asso.fr/Papers-2014), the US, from the inception of the WTO, has been consistently under-notifying or not notifying its various agricultural subsidies and support programmes, and has placed (contrary to WTO rulings) some of its illegal subsidies into the new "Green Box".

In his paper, Berthelot shows that the US' actual annual total AMS (Aggregate Measurement of Support) subsidies exceeded the notified AMS by an average of \$2.563 billion from 1995 to 2000, by \$4.313 billion from 1995 to 2004 and by \$12.574 billion from 2005 to 2011. Also, the actual total AMS even exceeded the bound allowed AMS of \$19.103 billion in 2005, 2006, 2009 and 2011. The average margin of the allowed total AMS less the actual AMS shrank from \$6.139 billion in 1995-2000 to \$4.287 billion from 1995 to 2004, and has disappeared, at -\$76 million, from 2005 to 2011.

The US, having got what it wanted out of the Doha Round at Bali in the shape of the Trade Facilitation Agreement, subject only to the pending exercise of adoption of the legal text and a protocol for incorporating it into Annex 1A of the WTO Agreement, is refusing to consider any give on its part in agriculture, the most heavily subsidized and trade-distorting element despite the various box-shifting of the support programmes. The US envoy Punke has been reported as telling others that the US does not even want to talk about it till the US' mid-term elections in 2014.

It is clear that the US and the EU, far from reversing course on agricultural support in return for the onerous price

paid in advance at Marrakesh by developing countries, have just done some box-shifting to provide increased support under various heads to their dwindling minority employed on farms. They now want market access for their heavily supported agricultural products in China and India, whose farmers are still engaged in subsistence farming.

As far as the farmers in the developing countries who are asked to compete, it makes no difference to them from which source of governmental actions the US farmers (or rather the giant agribusiness corporations that benefit the most from these support programmes) get support – money in the final analysis is totally fungible.

According to the *WTD* report, the industrialized-country members at the retreat – especially the US – made it clear that the Doha Round is not doable as long as it is based on the existing draft modalities on agriculture, industrial goods and services.

The *WTD* said that “elaborate” discussions took place at the meeting on the three agriculture pillars – domestic support, market access and export competition – and on a formula versus a request/offer negotiating process on industrial goods trade.

The chair of the Doha agriculture negotiations, John Adank, reportedly offered his assessment on the continuing differences among members over core agriculture issues. He lamented the fact that there has been no change in members’ positions despite several attempts made during 2008 and 2011 and now. The ambassador remarked that some members want “creative” solutions – though what would be involved was not spelled out, the *WTD* said, citing participants familiar with the meeting.

According to the report, the US (supported by the EU and Canada) insisted that its domestic constituencies will not accept what is on the table in agriculture at this juncture. It complained that India and China, in particular, are not willing to provide real market access. Both countries’ insistence on “special products” and various flexibilities in agriculture will undermine market access by others. It also faulted India for increasing its subsidy payments.

The *WTD* said that in a sharp rebuttal, trade envoys from the Group of 20 coalition – including Brazil, South Africa and China – reminded the US that it is baseless to say that developing countries secured benefits for themselves in the

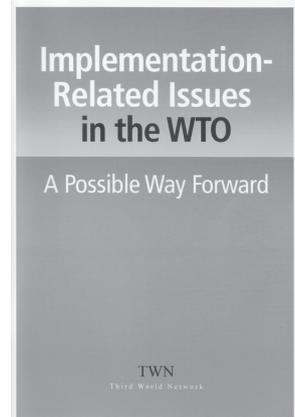
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Implementation-Related Issues in the WTO: A Possible Way Forward

The set of multilateral agreements under the jurisdiction of the World Trade Organization (WTO) governs the conduct of international trade. Implementation of the commitments imposed by these agreements has, however, given rise to a host of problems for the WTO’s developing-country members, ranging from non-realization of anticipated benefits to imbalances in the rules.

These implementation-related issues have been on the WTO agenda for over a decade, yet meaningful resolution is still proving elusive. This paper documents the progress – or, more appropriately, lack thereof – in the treatment of the implementation issues over the years. It looks at the various decisions adopted, to little effect thus far, by the WTO in this area, including the 2001 Doha Declaration which incorporates the implementation issues into the remit of the ongoing Doha round trade talks.

The paper exhorts the developing countries to draw upon the Doha mandate to bring the implementation issues back to the centrestage of negotiations. As a practical measure given the resource constraints developing-country negotiators face in the WTO, it is proposed that the implementation issues be taken up according to a suggested order of priority. Prioritization notwithstanding, the paper stresses that developing countries have every right to seek solutions to each of these longstanding, long-neglected issues.



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Practising what they preach?: The IMF and capital controls

Kevin P. Gallagher and Yuan Tian assess how far the International Monetary Fund's purported new-found openness to the use of capital controls extends.

In the wake of the 2008 financial crisis, the International Monetary Fund (IMF) began to publicly express support for "capital controls" in emerging markets. In addition to public statements, and the endorsement of controls in Iceland, Ukraine and beyond, the IMF underwent a systematic re-evaluation of Fund policy on the matter, and published an official view on the economics of capital flows in 2012. To the surprise of many who witnessed the IMF's scorn for regulating capital flows in the 1990s, in this new "view" the IMF concludes that capital account liberalization is not always the optimal policy and that there are situations where capital controls – rebranded as "capital flow management measures" (CFMs) – are appropriate.

It is well known that the IMF claims that it has changed its tune, but has it really changed its ways?

IMF stance

To shed light on this question, we built a database on CFMs and related policies for 31 emerging markets, covering emerging Asia, Latin America and the Caribbean, Europe and Africa. This database included IMF Article IV Consultation Reports and Public Information Notices since 1998.

After generating the database, we econometrically tested whether the IMF's view on capital controls changed before and after the financial crisis. According to our analysis, by and large, the IMF has indeed changed how it diagnoses economies in the presence (or retreat) of large capital flows, and the Fund is also more apt to at least partially support CFMs in the presence of large capital flows. These results are published in a working paper titled "Regulating Capital Flows in Emerging Markets: The IMF and the Global Financial Crisis", as part of a broader project on the regulation of capital flows.

After controlling for other factors, we find that the IMF was more apt to see

capital flows as a source of vulnerability – diagnosing capital flows as a source of vulnerability 23% more after the crisis than before it. The IMF's level of support also appears to increase as a result of the crisis and as the vulnerabilities associated with capital flows are accentuated. The IMF supported controls in South Korea, Brazil, Iceland and beyond. The IMF also recommended that nations such as Mexico, Colombia and South Africa deploy controls, though those nations declined.

These findings will come as a surprise. The theories of Post-Keynesian economists in the Minsky tradition have long seen merit in regulating capital flows for development, but such views had long been shunned in all but a few central banks, at the IMF, and among the mainstream of the economics profession.

As the forthcoming book *Ruling Capital: Emerging Markets and the Reregulation of Cross-border Finance* demonstrates, the IMF's change of views was a function of three factors: emerging-market countries demanded policy space

under the IMF to regulate capital flows after the crisis; the IMF's attempt to revitalize itself in the wake of the crisis by showing its willingness to change and sponsor new thinking; and new developments in the economics of capital flows that were embraced by leading IMF staff.

Although the IMF recognizes that CFMs can be appropriate in some circumstances, many analysts see those circumstances as too limited and express concern that there is little policy space to adequately regulate capital flows. In a 2012 report produced by the Pardee Center Task Force on Regulating Global Capital Flows for Long-Run Development, we and others echoed a long-held view that nations should hold the right to have permanent counter-cyclical capital account regulations and that there are some cases when regulating capital flows should occur in both emerging-market and industrialized countries. The IMF has taken a half-step in the right direction, but there is still a ways to go. □

Kevin P. Gallagher is an associate professor of international relations at Boston University and co-director of the Global Economic Governance Initiative (GEGI) and Global Development Policy Program. Yuan Tian is the CFLP Pre-Doctoral Fellow for GEGI's Task Force on Regulating Global Capital Flows. She is currently a third-year PhD student in economics at Boston University. The above article is reproduced from the Triple Crisis blog (triplecrisis.com/practicing-what-they-preach-the-imf-and-capital-controls/, 13 June 2014).

Despite crisis, Europe continues to protect its banksters

by *Julio Godoy*

BARCELONA: More than six years after the global financial crisis broke out, European Union (EU) countries continue to protect banks and investment funds from tougher rules, despite abundant evidence of recurrent criminal or reckless activities in the sector, and new accumulation of enormous financial risks.

The latest in a string of scandals involving banks was the revelation in May that at least seven European banks or banks operating in Europe had colluded to falsely fix the Euro Interbank Offered Rate (Euribor).

Euribor is a daily reference rate, published by the European Banking Federa-

tion, based on the average interest rates at which eurozone banks offer to lend unsecured funds to other banks in the euro wholesale money market.

"The [European] Commission has concerns that ... three banks may have taken part in a collusive scheme which aimed at distorting the normal course of pricing components for euro interest rate derivatives," the body said in a statement issued on 20 May.

The three banks in question are JPMorgan Chase, HSBC and Crédit Agricole. Another four banks (Barclays, Deutsche Bank, Royal Bank of Scotland and Societe Generale), also accused of

misconduct concerning Euribor, reached a settlement with European regulators.

Because of such behaviour, bank managers have since 2009 again earned the nickname of "banksters", a combination of "banker" and "gangster" coined in 1937 at the height of the global economic crisis of the time.

Restraining regulation

Experts and analysts complain that despite such criminal activities, and the new accumulation of financial risks, European governments have during the past six years repeatedly intervened to stop far-reaching rules to regulate operations in the financial sector.

The list of actions taken by European governments to spare banks and investment funds from new rules is long. In December last year, the French government managed to arrange for French banks to pay a lower-than-European-average contribution to the EU-created national deposit insurance.

"To obtain that, France used the friendly support of Michel Barnier, the French European Commissioner for Internal Market and Services," says Burkhard Balz, German Member of the European Parliament. Balz is a member of the conservative Christian Democratic Union.

"Over the last six years we have seen a pattern of behaviour concerning efforts to introduce a Europe-wide financial regulation," Udo Bullmann, a German Social Democratic Member of the European Parliament, told Inter Press Service (IPS).

"First, the European Commission makes a timid regulating proposal. The European Parliament takes the proposal over and toughens its content. But then it is the turn of governments, and they water the proposal down, even under the original commission level."

Independent experts agree. "The European Union is indeed a community of states, but at the end of the day, the member states compete against each other instead of cooperating to put forward a comprehensive set of rules for financial markets," says Joost Mulder of Finance Watch, an independent association set up in 2011 to act as a public interest counterweight to the powerful financial lobby.

"What the individual states want is

to protect their countries' banks and investment funds," Mulder added.

Opposition to far-reaching financial regulation comes from practically every state, but in changing roles. Britain usually opposes rules that would affect operations at the London financial market. It also has consistently opposed establishing limits for bonuses for financial managers, one of the main reasons for risky investments and moral hazard. Germany and France prefer to pass modest laws on financial aspects, to avoid approving a tougher European binding regulation.

In September last year, Finance Watch published a report on the planned European banking union and the bank reform in the European Union, and concluded that "despite its intention, [it] will fail to prevent European citizens from bearing the losses of failed banks in the event of a systemic banking crisis unless there are meaningful structural and capital reforms to Europe's largest banks."

The banking union, which should start operations in November, is supposed to create a safety net to minimize the risk of further EU taxpayer-funded bailouts. It foresees a new European authority, the so-called Single Resolution Mechanism (SRM), with the power to wind up or restructure failing banks.

According to Finance Watch, "The SRM has the right objectives: namely to enable the orderly resolution of banks in participating member states, and to weaken the interdependencies between financial institutions and their sovereigns."

But the watchdog group does not see "how these objectives can be met without reducing the regulatory incentives that favour sovereign debt, and without a structural reform of bank activities to make bail-in and bank resolution credible."

According to International Monetary Fund (IMF) figures, in the aftermath of the global financial meltdown of 2008, industrialized countries bailed out private banks to the tune of \$1.75 trillion, or some €1.3 trillion. This amounts to the one-year salary of more than 42 million people earning net average German wages of around €25,000.

The global bank rescue weakened the European states involved, in particular Greece, Spain, Portugal and Ireland, and triggered, among others, the present

sovereign debt crisis, with its social and human costs.

Another typical example of the lack of will among European governments to improve regulations and reduce risks in financial markets is the long and so far fruitless debate on the introduction of a very low tax on financial transactions, also known as the Tobin tax, after it was suggested by Nobel laureate economist James Tobin in 1972.

In September 2011, the European Commission proposed the introduction of the tax within the 27 member states of the EU by 2014. According to the original proposal, the tax would only impact financial transactions between financial institutions, charging 0.1% against the exchange of shares and bonds and 0.01% across derivative contracts.

According to the initial Commission estimates, the tax could raise up to €57 billion per year. But, as of June 2014, that is, almost three years after the proposal, only 11 EU member countries appear ready to introduce the tax. Furthermore, there is wide disagreement among these 11 countries about which transactions should be taxed and how high the levy should be.

Sven Giegold, German Green Party Member of the European Parliament and expert on international finance, even goes as far as saying that "France, nominally a strong supporter of the Tobin tax, actually did kill it."

In May, during negotiations at the European Council, the French government opposed raising the Tobin tax on most financial derivatives and on government bonds. Giegold said that "France obviously fears that if taxed, banks wouldn't buy government bonds."

After such objections, Giegold complained, "the original tax on financial transactions has been devaluated to a useless levy to be paid only by small savers."

"Race to the bottom"

A new scheme to avoid new rules for financial markets in Europe is to make them part of supra-regional binding projects, such as the Transatlantic Trade and Investment Partnership (TTIP), currently under negotiation between the EU and the US government.

According to Finance Watch, "there

is no proven case for including financial services in the TTIP." "We are concerned that the EU's approach to regulatory co-operation [within the TTIP negotiations related to financial markets] will encourage convergence around the lowest common standards, not the highest," Thierry Philipponnat, Finance Watch's secretary, said during a recent hearing at the Euro-

pean Parliament.

For Philipponnat, "it is difficult to see how the inclusion of financial services in the European Union-US free trade agreement negotiations, and especially the parts on regulatory cooperation, will not lead to a 'race to the bottom' in financial services regulation." (IPS) □

Of banks, financial institutions and citizens – a strange morality tale

Roberto Savio argues, contra Gordon Gekko, that greed is not good.

ROME: It is a great pity that, besides opening the doors to ethics, social justice and peace, Pope Francis does not also give indications of updating traditional theology. The most urgent task is to update the Seven Deadly Sins.

The update should be done on their social impact and viciousness. How it is possible to equate, for example, sloth and gluttony with greed?

In the 1987 film *Wall Street*, Gordon Gekko, a wealthy, unscrupulous corporate raider played by Michael Douglas, says that greed, not gluttony, moves man. And it is very doubtful that all the people who are now moved by greed are also victims of gluttony, when they usually are on a diet!

According to the United Nations, throughout the world there are over 1.5 billion people who are obese or overweight compared with 842 million who suffer from undernourishment.

The problem is that the obese or overweight are not usually the result of overfeeding but of junk food marketing by large corporations (McDonald's and the like) – and the poor are the most overweight because junk food is cheap.

And sloth is certainly not a social threat, even if urban legend has it that people are poor because they do not want to work.

So, let us concentrate on greed, and see why it is time for an update.

"Upholding standards"

We have reached a point where the preachers of ethics are central bankers. Speaking in London at the Conference on Inclusive Capitalism in the week of 2 June, Christine Lagarde, Managing Director of the International Monetary

Fund (IMF), said that "some prominent firms have even been mired in scandals that violate the most basic ethical norms".

And Bank of England Governor Mark Carney warned that "unbridled faith in financial markets" before the crisis, rising inequality and recent "demonstrations of corruption" have damaged "social capital". This must have gone down well in the country of understatement.

According to Lagarde, the big banks are still being subsidized to the tune of \$70 billion in the United States and \$300 billion in the eurozone.

And in spite of this, regulators around the world have imposed \$5.8 billion in penalties for attempting to manipulate market benchmark rates.

Carney solemnly told the London conference: "Ultimately ... integrity can neither be bought nor regulated. Even with the best possible framework of codes, principles, compensation schemes and market discipline, financiers must constantly challenge themselves to the standards they uphold."

And this is exactly the problem. James Dimon, the head of JP Morgan, the world's largest bank, who pocketed a 74% raise in salary for 2013, considers regulations "un-American". In 2013, the bank paid \$18.6 billion in fines.

The US Attorney-General Eric Holder has just slapped a \$2.6 billion fine on Credit Suisse for helping US citizens to evade taxes.

In December 2013, the European Commission levied fines totalling €1.04 billion (\$1.42 billion) on Barclays, Deutsche Bank, RBS and Societe Generale for having manipulated the Euribor benchmark interest rate.

Are we therefore to think that this is "un-European"?

It is worth noting that, in this orgy of fines, none of those bankers responsible ever went to jail. They just received salary increases, as the case of Dimon shows. Banks are inanimate objects, they cannot go to jail.

The US Justice Department has gone to great lengths to guarantee that banks will not be treated like criminals because banks cannot be put out of business. These are "the standards they uphold".

A new contribution to theology has been revealed in *Stress Test: Reflections on Financial Crises*, a recently published book by Timothy Geithner, President of the Federal Reserve Bank of New York, and US Treasury Secretary during the 2007-09 crisis.

Writing in the *Financial Times* of 28 May, Martin Wolf says: "Mr. Geithner argues not only that crises are sure to recur but that governments must react with overwhelming force ... the government must borrow more, spend more and expose taxpayers to more short-term risk – 'even if it seems to reward incompetence and venality, even if it fuels perceptions of an out-of-control, money-spewing, bailout-crazed big government'."

But Geithner "also offers a law of unintended consequences. The safer the visible financial system is made, he argues, the greater the danger that the fragility will emerge somewhere less visible, but possibly even more dangerous."

So the new theology of the financial system is that because it is impossible to make it safe, let us not introduce regulations which, Geithner says, can "often be self-defeating."

Yet, until 1999, when then US President Bill Clinton (culminating a process started by Ronald Reagan) repealed the Glass-Steagall Act which had separated commercial and investment banking for seven decades, we had nothing of what we see today.

Deposit banks were obliged to use citizens' funds under tight regulations, and the money they raised through deposits was used to finance commercial and capital growth. Now, all the money goes into speculation, and as everybody knows, banks have little patience with small investors and citizens because returns are much smaller than from the various instruments of financial speculation. If anything goes wrong, states are

obliged to bail the banks out.

Where does this logic lead? Obviously into taking many risks (the higher the risk, the better the return), taking home the highest possible salaries, and knowing that the collectivity is there to bail you out when needed. Clearly, this logic could not exist if it was not as a shining daughter of greed.

Absurd inequalities

It is a sign of the times that in her speech in London, Lagarde used the same language that Oxfam used at this year's World Economic Forum in Davos. She reminded the audience that "the 85 richest people in the world, who could fit into a single London double-decker, control as much wealth as the poorest half of the global population – that is 3.5 billion people".

Now, we know from French economist Thomas Piketty, author of the best-selling book *Capital in the Twenty-First Century*, that the growth of this concentration of capital is faster than that of general growth, which is a way to say that these 85 people will continue to suck money from the general market, and therefore the rich will become richer and the poor will become poorer.

In other words, what we are witnessing is a progressive reduction of the middle class, while we are rushing forward to the past, to the times of Queen Victoria, when an obscure German philosopher and economist by the name of Karl Marx was working in the British Library in London on his denunciation of exploitation and preparing his *Communist Manifesto*.

This trend is happening everywhere, and at every level. The increase in sales of giant US retailer Walmart fell from 5% in 2012 to just 1.6% last year. Under Walmart's pay plan, pay increases would only take effect after growth of 2%. So what did its brilliant accountants come up with? They took into consideration only certain items, making sure to come up with a figure of 2.02% growth, permitting William S. Simon, president and chief executive officer of Walmart US, to receive a salary increase of \$1 million, taking his total salary to \$13 million. Meanwhile, the average full-time Walmart employee makes \$27,000 a year.

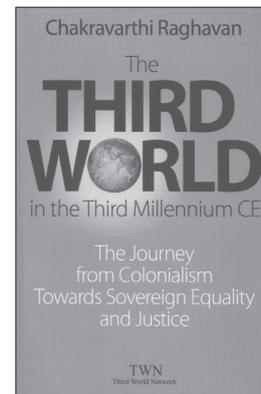
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The Third World in the Third Millennium CE
The Journey from Colonialism Towards Sovereign Equality and Justice

By *Chakravarthi Raghavan*

The development path traversed by the countries of the Third World since emerging from the colonial era has been anything but smooth. Their efforts to attain effective economic sovereignty alongside political independence, even till the present day, face myriad obstacles thrown up on the global economic scene. This drive to improve the conditions of the developing world's population has seen the countries of the South seek to forge cooperative links among themselves and engage with the North to restructure international relations on a more equitable basis – not always with success.

In this collection of contemporaneous articles written over a span of more than three decades, *Chakravarthi Raghavan* traces the course of dialogue, cooperation and confrontation on the global development front through the years. The respected journalist and longtime observer of international affairs brings his inimitable blend of reportage, critique and analysis to bear on such issues as South-South cooperation, corporate-led globalization, the international financial system, trade and the environment-development nexus. Together, these writings present a vivid picture of the Third World's struggle, in the face of a less-than-conducive external environment, for a development rooted in equity and justice.



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Social protection on the rise?

The principle of providing social protection for the poor and vulnerable is on the rise, but some countries have cut welfare benefits due to recession.

by Martin Khor

“Social security” and “social protection” feature increasingly in the global policy discourse these days. These two terms encapsulate the idea that people should be able to have a basic income and access to healthcare and education, and that includes those who are poor or jobless.

In May, the World Health Assembly of health ministers agreed to the principle of universal health coverage. This is taken to mean that everyone should be able to enjoy basic health services.

On 3 June, the *World Social Protection Report 2014-15* that examines recent social security trends in the world was launched by the International Labour Organization (ILO).

It looks at how persons are covered by social security at all stages of life, from birth, as children and mothers, as workers (how they are covered by schemes involving work injury, maternity leave, disability, etc.), as unemployed (whether there are benefits), and as older persons (for example, whether they are covered by pensions).

It is a great aspiration for a society to guarantee or at least pledge that everyone, however poor, has access to the basic elements needed for a decent life. But is it feasible to implement such a high goal? It is often argued that countries that spend a lot to provide welfare and benefits for the lower-income groups may face unsustainable budget deficits.

The counter-argument is that governments can raise revenues in various ways, including different types of taxes, and that social security should be on a high priority for public spending. It will boost the level of demand in the economy and improve social stability.

It was a kind of received wisdom that rich countries can afford social protection but poor countries just don't have the funds.

The recent experience of Brazil showed that a middle-income country could channel government funds to the poor, so that there would be “zero hunger”, a pledge that the former President Lula da Silva had made to his people.

Brazil has also argued that the funds provided to the poor have boosted effective demand and contributed to eco-

nomie growth. Thus social redistribution not only alleviates poverty and hunger but also reduces inequality and boosts growth.

An increasing number of developing countries have recently developed their own forms of income support for poor families. This has usually proven popular, and especially welcomed by the beneficiaries.

Lessons are still being sought on making the financing of these and other welfare schemes sustainable.

Austerity measures

Another major issue is how the current recessionary situation affects social security. The ILO report devotes a section to this, raising concerns that austerity measures are affecting social security and creating new poverty, in Europe but also in developing countries.

The report finds that “most people are without adequate social protection at a time when it is most needed”. Only 27% of the world population enjoy access to comprehensive social security.

Social security and healthcare for children, working-age people who face unemployment or injury and older persons is a universal human right, but the promise of universal social protection remains unfulfilled for the large majority, says the ILO.

In the first phase of the global financial crisis (2008-09), at least 48 high- and middle-income countries put in place stimulus packages totalling \$2.4 trillion that devoted roughly a quarter to social protection measures. This helped the economies to regain balance and protected the unemployed and vulnerable from economic disaster in these countries.

But in the second phase of the crisis, from 2010 onwards, many governments reversed course and embarked prematurely on fiscal consolidation.

“As many as 122 governments are contracting public expenditures in 2014, of which 82 are developing countries,” according to Isabel Ortiz of the ILO.

The austerity measures include reforms to the pension, health and welfare systems that often reduce coverage or

funding of these systems, eliminate subsidies and cut the number of health and social workers.

“In effect, the cost of fiscal consolidation and adjustment is passed on to populations at a time of low employment and when support is most needed,” Ortiz added.

High-income countries are contracting their social protection. In Europe this has contributed to increases in poverty now affecting 123 million people or 24% of the population.

In contrast, many middle-income countries are expanding their social protection systems, supporting household incomes. China has sharply increased minimum wages and is close to achieving universal pension coverage, and Brazil has further increased the rate of social protection coverage and minimum wages since 2009.

Due to their low income, the poorer countries have lower social security levels. However, some countries, such as Mozambique, have also extended social protection, yet often through temporary safety nets with very low benefit levels.

At the global level, governments allocate only 0.4% of GDP to child and family benefits. This should be scaled up, since many of the 18,000 child deaths a day could be averted through social protection.

Expenditures for social protection for working-age people (in the event of unemployment, maternity, disability or work injury) vary widely across regions. Worldwide, only 12% of unemployed workers receive unemployment benefits, ranging from 64% in Western Europe to less than 3% in the Middle East and Africa.

On pensions, 49% of all people over pensionable age worldwide do not receive a pension, while the pension levels are too low for many recipients to avoid poverty.

The good news is that social protection has been endorsed by the ILO and some other parts of the UN. It is expected to be included in various ways in the Sustainable Development Goals which are now being negotiated by the UN in New York.

If the principle of social protection is increasingly adopted, the discussion, globally and nationally, will focus more on how to implement this, with all the problems and options to be considered. □

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Multilateralism or global corporatism?

As they consider the way forward in international trade talks, WTO member states are confronted with two options: pursue further financialization and global corporatism, or bring about a multilateral trading system that genuinely serves the real economy.

by Chakravarthi Raghavan

Just over 20 years ago, on 15 April 1994, the Uruguay Round of multilateral trade negotiations of the GATT 1947 was concluded in Marrakesh with the signing of a Final Act, annexed to which were the Marrakesh Agreement and Ministerial Declarations and Decisions that, on acceptance by participating governments, ushered in the World Trade Organization (WTO) on 1 January 1995.

The Marrakesh Agreement (also referred to as the Marrakesh Treaty) establishing the WTO, and the Declarations and Decisions adopted in Marrakesh (commonly known as the Legal Texts) remain to date the only legally binding commitment of member states enforceable at the WTO.

All subsequent Ministerial Declarations and Decisions, including the latest at the ninth WTO Ministerial Conference in Bali, Indonesia, in December 2013, do not have the same legally binding character, and remain only political declarations and commitments, albeit with Ministerial imprimatur.

When the WTO was ushered in on 1 January 1995, there wasn't much of a fanfare or ceremony. Peter Sutherland, the first Director-General of the WTO, with some staff around, hung up the new WTO signboard replacing the old GATT one, and that was that.

On the evening (Geneva time) of 15 April this year, the WTO, on its website, took note of the Marrakesh Treaty signing thus: "15 APRIL MARKS THE 20TH ANNIVERSARY OF THE WTO'S FOUNDING AGREEMENTS: Twenty years ago today, 15 April 1994, the WTO agreements were signed in Marrakesh, Morocco. They were the result of the 1986-94 Uruguay Round negotiations, and are the basis for the multilateral trading system in its present form. They also created the WTO."

Now, as the WTO and members, having put "the world back into the WTO", as Director-General Roberto Azevedo proclaimed at Bali, consider and decide on a "post-Bali agenda", they are at a fork in the road.

One path – via the Financial Services Agreement of the General Agreement on Trade in Services (GATS), or the proposed plurilateral Trade in Services Agreement (TISA), for the further financialization of the global economy – leads to global corporatism: a combination of predatory, neo-mercantilist financial capitalism and a corporatist state, one with disconnects between ownership and control – with business associations nominally continuing to be privately owned but having little say in management, while control is exercised by managers (CEOs) and state officials beholden to (and captured by) each other.

That the US today, under President Barack Obama, is well on its way to the above style of corporatism is outlined in a post by Yves Smith on the Naked Capitalism blog (www.nakedcapitalism.com/2013/12/yes-obama-democrats-mussolini-style-corporatists-just-like-republicans.html).

The other path – based on the legal commitments of members and the long-forgotten and/or swept-under-the-carpet

mandates of the Marrakesh Treaty – can help restore a genuine rules-based multilateral trading system (MTS) and put the WTO back into the world of the real economy, to subserve the interests of all the people around the world.

Hurdles

Before deciding and moving along either path, WTO members face two hurdles, one unforeseen at Bali.

The international backdrop for any intergovernmental negotiations has now been muddied by the "Ukraine crisis", a symptom of something more basic than that term suggests – whether this basic, but growing, divide in international polity is called a Cold War 2.0, a return of the old Cold War, or a Cold War that never went away but merely went underground despite the George H.W. Bush-Mikhail Gorbachev declaration at their Malta summit of 1991.

Some of the explanations advanced now about NATO – such as that assurances to Gorbachev at that time (by US Secretary of State James Baker III and German Foreign Minister Hans-Dietrich Genscher) that NATO frontiers would stop at unified Germany's borders and not move eastwards, were only oral in nature and not written (and thus not binding) – have even more serious implications vis-a-vis public international law, reminding one of the ancient Indian saying, "The words of a king are like words writ on water, they disappear with the next wave."

A solution to the "Ukraine crisis" is beyond anything that the WTO and its members can contribute; nevertheless, the crisis, however it is resolved, will impact on the WTO.

Unlike during the post-1945 Cold War when the post-Stalinist-era Soviet Union had rocky relations with Maoist China, this time around, both Russia and China appear to be moving closer together in resisting the US-NATO-led Western alliance and the efforts to extend the alliance's borders and influence.

Both China and Russia are members of the WTO too, with implications for agreements there in view of the WTO's consensus decision-making practice.

The second hurdle confronting the WTO is that any trade agreement which includes the US now faces obstacles in the US Congress.

Any agreement involving concessions from the US and requiring legislative or budgetary changes will need Congressional approval: Congress, in either house (the House of Representatives and the Senate), can change or amend the legislation, requiring other trading partners to the agreement to re-negotiate (or accept the Congressional changes).

No one will accept that risk and engage in negotiations with the US, absent the traditional prior Congressional authority for the US President to negotiate trade agreements subject only to a Congressional "yes" or "no" vote.

The Obama administration has no chance of securing any

such “fast-track” authority; and even more, the state of Obama’s relations with Republicans in Congress appears to be such that the Republicans will not allow anything he can claim as a legacy.

This not only affects any WTO negotiations, but also makes hollow the US Trade Representative (USTR)’s threats about ignoring the WTO and instead concluding the ongoing talks on trans-Pacific and trans-Atlantic trade and investment agreements.

There is a growing volume of US domestic opposition of substance against both.

As Yves Smith points out on the Naked Capitalism blog (posts in January and February 2014): “In the US, Congress is in revolt [against trade agreements]. Congress had over time abdicated much of its responsibility for these treaties by giving successive Administrations [beginning with the Nixon administration in the 1970s] ‘fast track’ authority, authority to negotiate tariff and non-tariff agreements, and submit them to both Houses, for a yea or nay vote. But the Trans-Pacific Partnership, and its evil sister, the Trans-Atlantic Trade and Investment Partnership, have been shrouded in so much secrecy as to raise Congress’ hackles. House Speaker Boehner has said he doesn’t have the votes to pass fast track authority, and Senate Majority Leader Harry Reid has stated he won’t table the bill.”

Thus, the only deal the US can strike will be one that would need no US concession and legislative change.

It is also important to bear in mind, in particular over the current efforts of the USTR to accelerate liberalization of developing-country financial sectors and open them up to US Wall Street firms (through the GATS “trade in finance” agenda of the Doha Round or via the more recent proposed plurilateral TISA), that there always has been a measure of disconnect between financial regulators and trade negotiators on international trade in banking services.

It is now apparent that after the 2008 financial crisis this disconnect or gap seems to be widening.

In a major recent speech, Daniel Tarullo, the member of the US Federal Reserve Board principally responsible for bank regulation, has come out expressing his scepticism about the desirability of a single global bank regulator, venturing the view that such regulatory activities would need to vary across countries and jurisdictions, depending on the nature of a country and its overall economy and financial sector.

He notes that “host countries” may need the ability to exercise more regulatory controls and supervision in respect of firms (local or foreign) that may have a bigger impact on the host country, even if that particular institution is not too big for the “home country” regulator to worry about.

Tarullo has also stated that “Proposals to include prudential requirements or, more precisely, to include limitations on prudential requirements in trade agreements would lead us farther away from the ... goal of emphasizing shared financial stability interests, in favour of an approach to prudential matters informed principally by considerations of commercial advantage.” (www.federalreserve.gov/newsevents/speech/tarullo20140327a.htm)

And the EU (the other demandeur at the WTO on trade in financial services) is also now beginning an examination of Basel III (the guidelines for minimum standards evolved by the Basel Committee on Banking Supervision) concerning the compatibility of the EU’s own rules for systemic risks with

Basel III guidelines.

Both the US and the EU, which brought their already liberalized financial sectors into the WTO/GATS framework and its Financial Services Agreement (FSA), adopting with some exceptions the “additional modality” of the Understanding on Commitments in Financial Services by scheduling such concessions in their GATS schedules, have nevertheless been changing their regulatory approaches and instituting new regulations and supervisory arrangements, without challenges so far – both viewing them as domestic regulatory measures for “prudential” or “macro-prudential” reasons, permissible in terms of paragraph 2 of the GATS Annex on Financial Services.

Commitments unfulfilled

The above hurdles aside, as noted earlier, basic to the consideration of any path ahead for WTO members is the Marrakesh Treaty and its annexed agreements, as well as the third preambular paragraph of the Vienna Convention on the Law of Treaties (VCLT).

The VCLT, which codifies “public international law”, the yardstick stipulated by the Marrakesh Agreement to be used by the Dispute Settlement Understanding (dispute panels and Appellate Body) in clarifying the rights and obligations of WTO members, proclaims in its third preambular paragraph in some majestic tones: “Noting that its principles of free consent and good faith and the *pacta sunt servanda* rule are universally recognized.”

By using the conjunctive “and” to connect the three principles, the VCLT, drawn up after years of discussion by the International Law Commission and adopted by the UN General Assembly, makes clear that all three principles stipulated in that preamble are of equal weight.

Non-observance of any one of them in effect makes any international agreement void (or voidable). If one party to an agreement fails to carry out or implement promises and commitments made by it (*pacta sunt servanda*), the other party or parties to the agreement can resile from their own promises and obligations.

There is little doubt on this in terms of international law.

At Marrakesh, developing countries undertook upfront various obligations and agreed to new disciplines on trade in goods and to new obligations in new areas which were only tenuously connected to “trade” by the use of the term “trade-related” or “trade”, such as “Trade-Related Aspects of Intellectual Property Rights” (TRIPS) or the “General Agreement on Trade in Services” (GATS), where services produced and delivered for consumption within a country were still classified as “international trade” and thus subject to international disciplines.

In return for the developing countries’ undertaking these advance commitments, the developed countries agreed to carry out over time several obligations, including a firm commitment to phased programmes for reform of their agriculture sectors (which had until then long been kept out of the purview of the trading rules) entailing elimination of various subsidies and supports, and committed themselves to future work at the WTO in pursuance of such obligations.

Everyone at Marrakesh, though widely differing in their assessments of the benefits of the WTO agreements, was agreed that for the first time, the trading system would be rules-based

and member-driven.

In retrospect though, it is clear that even at Marrakesh, the European Union (at that time the European Communities), and its trade commissioner, Sir Leon Brittan, had mental reservations, and laid the groundwork for delaying, if not repudiating, the agriculture commitments by mooted new agendas and new rules in new areas (www.wto.org/gatt_docs/English/SULPDF/92150213.pdf).

Brittan's successor at the European Commission, Pascal Lamy, with some help from the then WTO Director-General Mike Moore and the then USTR Robert Zoellick, took advantage of the 9/11 terrorist attacks on New York and Washington to get the Doha Work Programme (DWP), or what has come to be known since then as the Doha Development Round's single undertaking, launched at Doha, Qatar, in 2001.

Subsequently, Lamy went before the EU Parliament in formal session to explain the Doha outcome; at an informal session thereafter, he told the EU Parliamentarians that he had bought them, through the Doha Round, at least 10 years to undertake changes to the EU's Common Agricultural Policy, since in his view, the Doha single undertaking would take at least 10 years to complete.

EU Parliament officials had forgotten to clear civil society organization (CSO) members present from the informal meeting, and a report on Lamy's remarks became available unattributively from the CSOs.

Subsequently, when he became WTO Director-General, Lamy gradually changed the focus from the Doha Development Agenda (DDA) to a market access agenda, but found himself unable still to conclude the Round.

The EU, like the US, has effectively used the interregnum to do some "box shifting" of agricultural support, but both in fact effectively raising their total support to their agriculture sectors.

Thus, according to OECD data, the EU's total support has increased from \$96,815.24 million in 1986 (when the Uruguay Round negotiations were launched) to \$117,979.31 million in 1994 (when the WTO treaty was concluded) to \$119,990.43 million in 2011.

The US figures for the same periods were: \$61,527.72 million in 1986, \$73,628.17 million in 1994 and \$105,498.82 million in 2011.

(These figures, based on country reports to the OECD, are less than actual total support, as Jacques Berthelot, a French civil society activist and agricultural expert, has pointed out in several posts before and after Bali on the following website: www.solidarite.asso.fr. – *SUNS*)

Now, under the new leadership at the WTO, members are effectively being asked to give up on the Doha Round single undertaking and to just cherry-pick and deliver on those parts of the agenda that the US and the EU want.

Cherry-picking some issues on the agenda for a balanced package for an "early harvest", in order to achieve some progress on the long-deadlocked DWP and keep that momentum going to achieve further progress on other issues, is perhaps understandable, and so would be cherry-picking on a balanced package of issues to complete the DWP.

This is however subject to the caveat that the process of cherry-picking is not driven only by the agenda of the US and the EU, as has happened so far in the run-up to and at Bali, or as is being attempted now in terms of the so-called post-Bali workplan to conclude the DWP.

If this requires cherry-picking, it must be a process involving all groups of countries to ensure a balanced package benefiting the entire membership.

On both these counts, there has been a failure – at the level of the WTO leadership, as also that of the developing countries themselves.

It cannot be overemphasized that at Marrakesh the developing countries had already paid a heavy advance price in the form of undertaking new disciplines and commitments on trade in goods and on new subjects, GATS and TRIPS, in return for the commitment of developed countries to bring their agriculture sector under WTO/GATT rules and disciplines applicable to other sectors of trade in goods.

This commitment of developed countries involved commitments under the Marrakesh Treaty to an initial modest set of reforms (in domestic support, market access and export subsidies) to be implemented over a six-year term, and to continuance of this reform process over the longer term.

To ask the developing countries (Director-General Roberto Azevedo's remarks at the WTO General Council, 12 May 2014, www.wto.org/english/news_e/news14_e/gc_rpt_12may14_e.htm) to pay anew now – by making more concessions on services trade, on non-agricultural market access (NAMA) and on other demands of the US, the EU and other developed countries – in order for these developed countries to deliver on their Marrakesh commitment to continue the process of agriculture reform is unfair and unjust.

There is no reason whatsoever for developing countries to pay a price in the Doha Round, for example, to get an agreement to prevent subsidization/dumping in agricultural trade similar to the OECD Understanding on Export Credits.

The WTO members, in preparing a post-Bali work programme, thus face a choice: prepare a work programme to ensure that the US, the EU and other developed countries fulfil all their commitments under the Marrakesh Treaty and complete the Doha Round single undertaking; or allow the US and the EU to cherry-pick only those parts of the Doha Round agenda that will benefit their corporations and abandon all others.

Partisan role

The leadership of the WTO, as of its predecessor the GATT, and the secretariat have always more or less identified their moorings with the interests of the two majors (i.e., the US and the EU), though presenting outwardly a non-partisan image.

For a brief while at inception, the WTO secretariat (under Director-General Peter Sutherland) had functioned as the secretariat of a servicing organization to serve the interests of all members.

Soon after the WTO came into force, the secretariat, at the request of several members, produced a comprehensive report setting out in detail all the mandated (legally binding), and some time-bound, further work to be carried out.

This 11-page report is an official document (WTO document WT/L/88), downloadable from the WTO website (www.wto.org), and even those currently staffing and leading the secretariat might benefit from reading or re-reading it. Even a cursory glance through this document shows that most of the Marrakesh commitments of substance remain to be carried out.

Four years down the line after Marrakesh, the idea that

the rules-based WTO multilateral trading system, as set out in the preamble to the Treaty, would benefit all and there would be positive efforts favouring developing countries, was still prevalent among the members (though by then the secretariat had begun moving towards an “advocacy role”).

These views were voiced at the 1998 second WTO Ministerial Conference in Geneva and the celebratory 50th anniversary events (of the multilateral trading system), with three different personalities from different points on the ideological spectrum – US President Bill Clinton, Cuban President Fidel Castro and South Africa’s Nelson Mandela – all agreeing that the Marrakesh Treaty was a good thing and provided a framework that would benefit all. True, each of them, with their different ideological moorings, projected a different vision for the future.

Interestingly, though meeting within the UN’s Geneva complex (18-20 May 1998) – behind huge barricades around the perimeter of the complex manned by the Swiss military to keep out raucous anti-WTO demonstrations – to commemorate the 50th anniversary of the UN-convened Havana Conference (which concluded in February 1948 with a treaty that never came into force), the WTO and many of its members tried to ignore its UN origins or its presence (for the event) inside the UN’s own Geneva complex.

It was left to an “observer”, a distinguished Brazilian speaking for the UN, the Secretary-General of the UN Conference on Trade and Development (UNCTAD), Rubens Ricupero, to remind the WTO delegates, including heads of government/state, of the origins of the postwar multilateral trading system and the source of their legitimacy. Warning against attempts to extend the frontiers of the trading system into new areas, Ricupero said “the use of trade rules as a mechanism for imposing disciplines in non-trade areas would create heavy strains on the system”.

And in a reference to the demonstrations outside the celebratory event, Ricupero added: “Outside there is anguish and fear, insecurity about jobs and what Thoreau described as a ‘life of quiet desperation’. That is also part of the reality as much as the impressive achievements of global liberalization. It is the sacred duty of the United Nations system, the WTO and the Bretton Woods institutions to create reasons to believe in the future and to give people back sound reasons to hope.”

In so far as the WTO leadership and the secretariat are concerned, after the initial stance of a secretariat servicing the membership, by the time of the celebratory event, the secretariat was openly taking an advocacy role, and rewriting the history of the trading system itself. Since then, there has been more and more of an advocacy role and partisanship.

The effort to pursue the path promoted by the US, and pick and choose items from the Doha single undertaking, and push and pressure others to deliver what the US wants, became more visible both in the run-up to and at Bali itself. At the end of the Bali meeting, WTO Director-General Azevedo told the conference: “For the first time in our history, the WTO has truly delivered. I challenged you all, here in Bali, to show the political will we needed to take us across the finish line. You did that. And I thank you for it.”

And to those not at Bali, the WTO website announced, “NINTH WTO MINISTERIAL CONFERENCE: Days 3, 4 and 5: Round-the-clock consultations produce ‘Bali Package’.”

Those who were at Bali (media persons, civil society groups etc), and working round-the-clock too, stationed outside meeting rooms and corridors and following the comings and goings at the conference centre, have reported on how some individual ministers were summoned at odd times (e.g., 3 am local time) by the Director-General for “consultations” – involving the minister summoned, the Indonesian chair of the conference and the USTR – aimed at wearing down the individual delegation concerned and trying to pressure it to yield to the US demands.

Having announced at the WTO General Council meeting on 26 November 2013 that there would be no more negotiations at Geneva and that 100 ministers gathering for three days at Bali could not be expected to negotiate and resolve differences, Azevedo reverted to discredited old GATT practices, holding negotiations (misnamed “consultations”) with selected delegations and the US, both in Geneva and at Bali, and produced a “Bali package”.

The only substantive agreement in that package was on what the US had demanded, trade facilitation (TF), to benefit such US enterprises as FedEx and UPS. Further procedures have been mandated for legal scrutiny at Geneva of the text of the TF agreement and the drawing up of a protocol for adoption to make the agreement part of the WTO Annex 1A agreements. Such a dubious procedure is being adopted to amend (bypassing specified amendment procedures set out in Article X of the Marrakesh Treaty) the rights and obligations of members, among others, under provisions of the GATT 1994 and the Agreement on Pre-shipment Inspection.

The other parts of the package at Bali, very minor ones picked from the Doha agenda, were put on a “best endeavour” basis with further work to be done in relevant committees and negotiating bodies (with no time limit set for their conclusion).

Incidentally, the Bali meeting took place even as further disclosures about the “spying” and “surveillance” activities of the US National Security Agency (NSA) and its “partners” in Australia, Canada, Britain and New Zealand were tumbling out of newspaper headlines, stories based on the leaked Edward Snowden files, including on how the US, the UK and Australia (along with Canada and New Zealand in the Five Eyes alliance) have been spying and exchanging information on leaders of other governments at the highest levels, making special efforts at the time of summit-level meetings and trade or other negotiations – in complete disregard of diplomatic conventions and treaties on persons and premises of envoys, and of heads of state or government.

From published information, it is clear that even at Bali, the Australians were listening in on the conversations of trade ministers with their capitals, the Indonesian president and his wife, etc.

Glenn Greenwald, in his just-published book, *No Place to Hide* (Metropolitan Books, Henry Holt and Company, New York, pp. 134-137), has cited NSA documents pinpointing the economic motivations in its spying activities, viz., getting contemporaneous information on the planning strategies of other countries during trade and economic talks, and providing it to the NSA’s “customers”. Among the “customers” listed are the USTR and the Departments of Agriculture, Commerce and Treasury.

Judging by all these, the Bali outcome is violative of all

three of the VCLT preambular paragraph principles, raising questions over how far any of the other partners are to feel bound by it.

The US-EU agenda

In the light of all the above, and in terms of selecting a path ahead at the fork, WTO members can choose to base themselves firmly on their only binding legal commitments so far, namely the Marrakesh Treaty and its mandated work programmes, some of which in relation to agriculture and services have been laid out in the Doha Work Programme.

Or, as sought by the US and Europe, WTO members can do some cherry-picking and take up those parts of the Doha agenda that will benefit US and EU corporations, with developing countries making more concessions without getting anything in return and forgetting the unfulfilled obligations of the developed countries in terms of the Marrakesh Treaty and the Doha Work Programme on the ground that they are out of date. And the developing countries are further advised to adopt the new paradigm, find their niches in the "global value chains" and enter a new Valhalla of world trade.

Participation in global value chains – or at any rate benefiting from them – seems to depend on possession of certain physical and transactional infrastructure such as container ports. Poor countries sometimes lack even good correspondent banking arrangements. Such participation, in any event, will condemn the developing countries to conformance to the plans and business models of the transnational corporations motivated by their profit maximization and capital accumulation processes, without any self-sustaining forward and backward linkages in the host countries.

Though the US and the EU push their demands differently – the US more bluntly and the EU obliquely – both want developing countries to forget the 2008 agriculture modalities texts from the Doha Round negotiations and abandon demands for further agriculture reforms in the developed world, accept subsidized agriculture in developed countries as a given, and provide more market access to such agricultural exports in developing-country markets, as well as agree to the further liberalization of the financial sectors of developing countries and thus the financialization of the global economy.

This is the US-EU narrative and agenda that appears to have been bought into by WTO Director-General Azevedo and the secretariat in an advocacy role.

In his remarks at the WTO Trade Negotiations Committee (TNC) on 7 April, Azevedo advocated moving away from the December 2008 draft modalities texts, taking up the "doables" and "achievable" of the Doha Work Programme, preparing within the next 12 months a clearly defined work programme on the remaining DDA issues, and enabling the WTO to take up new "21st-century issues".

However, the large majority of the developing countries appeared to reject this idea at the TNC, insisting on taking up the DDA negotiations based on the 2008 texts in terms of a post-Bali agenda.

The Director-General's narrative

Nevertheless, the WTO Director-General has been visiting capitals to sell his narrative. It was set out by him in some

detail most recently on 30 April, at a meeting in Kampala, Uganda [currently the coordinator of the grouping of least developed countries (LDCs) at the WTO], with prominent people from the private sector and civil society organizations working on trade issues in the country. The purpose of this meeting, according to SEATINI, a prominent Uganda-based CSO dealing with trade in the Southern Africa region, was to discuss the major multilateral trade negotiation issues.

During the meeting, according to Africa Kiiza of SEATINI, Azevedo said that while it is the responsibility of the WTO to pass rules that are fair enough to help LDCs and developing countries connect to a higher end of the global value chain, it remains a cardinal responsibility of governments of these countries to ensure that national policies have a clearly mapped out strategy to promote local and regional value chains. This should be done by prioritizing sectoral budgetary allocation and through an enhanced role of the state in regulating markets to control illicit trade, among others.

Azevedo said that an agreement reached at the Bali Ministerial Conference had opened up an agenda and started things moving. Therefore, WTO members should ensure that the post-Bali workplan does not turn off, but instead keep things moving. This, he said, will necessitate a process and workplan that will enable movements of the WTO and the multilateral trading system in the right direction.

This right direction, in his view, is to move away from negotiations based on the 2008 text (presumably the agriculture modalities text, which the US and the EU do not want), as insisting on using the text as the basis will not only restore the impasse as witnessed 12 years back before the Bali Ministerial Conference, but will also threaten the future of the MTS and WTO. This, he claimed, is because the 2008 text contains demands from LDCs and developing countries which they well knew would never be delivered upon by developed countries.

Azevedo was cited by Africa Kiiza as saying that before Bali, things were bad, while post-Bali, things are worse as LDCs continue insisting on the 2008 text. LDCs, he said, should not expect a perfect deal in the WTO negotiations, because there has never been such a thing. They should rather consider the achievable, he stressed, adding, "There is nothing like S&D [Special and Differential] Treatment of LDCs issues in the 2008 text ... it is only a request by some players to the core players for things they know the core players won't do."

The 2008 text, the Director-General said, is not doable. There is a need to come up with a doable post-Bali workplan, which definitely necessitates moving away from the 2008 text. This, however, doesn't indicate that the 2008 text will be discarded, but rather that doable elements in the 2008 text will be cherry-picked. A post-Bali workplan based on the 2008 text, as is being demanded by developing countries and LDCs, will not only create an impasse but might bring about "removing of tables for negotiations", as this threatens the future of the WTO, Azevedo added.

B.K. Zutshi, former Indian ambassador to the GATT (1989-94) who negotiated for India the Marrakesh Treaty, in an emailed comment to this writer on Azevedo's remarks to CSOs in Kampala (posted on civil society listservs), expressed surprise and "a sense of outrage" at Azevedo's position on the post-Bali workplan and what he expects from the developing countries in that regard.

Added Zutshi, "Having worked with two previous DGs

[Directors-General], Mr. Arthur Dunkel and Mr. Peter Sutherland, during the second half and the closing phase of the Uruguay Round, the most complex multilateral trade negotiations ever (which resulted in the setting up of the WTO itself with a vastly enhanced mandate), I can't recall their ever having interfered in the negotiating process in such a fashion, even when their help was specifically sought for resolving some basic differences and disagreements among the participants; I can't even imagine their doing so.

"This time around though it seems that with members seeking the DG's intervention to resolve differences among them, Mr. Azevedo has ceased to see his role in the process as one of a facilitator (at best); he appears to see himself as the saviour of the MTS in grave danger, leading him to take such a partisan position, a messianic stand, not even being subtle or somewhat circumspect about it.

"Under the Marrakesh Agreement, the DG has no substantive authority in the matter of negotiations and the administration of the existing agreements; he heads the secretariat with its functions, role and responsibility clearly spelt out, which excludes a participatory role for the DG/secretariat in the negotiating process."

Contrasting priorities

Since the Bali meeting, the work in Geneva at the WTO has focused on further work on the trade facilitation accord reached at Bali. With the help of its Philippine chair, and functioning with all speed in pursuing the Bali ministerial declaration and accord, the Preparatory Committee on Trade Facilitation (at the moment of writing) is now getting ready a final legal text of the TF agreement and preparing a protocol for adoption by the General Council, whose acceptance by two-thirds of the membership will incorporate the TF agreement in Annex 1A of the Marrakesh Agreement.

The efforts to cherry-pick the TF Agreement, separating it from the Doha Round single undertaking, for inclusion in WTO Annex 1A, by means of a protocol to enter into force when two-thirds of the membership accept it, appear however to have hit a snag, with African nations and LDCs asking for the protocol to be so worded as to make the TF Agreement enter into force only at the conclusion of the single undertaking and incorporation of all its agreements into the WTO.

The issue is yet to be resolved for the protocol to be cleared by the Preparatory Committee and its adoption by the General Council. If the protocol is still pushed through without such a change, the only way the Africans, LDCs and others of the same thinking can achieve their objective would be to hold up the acceptance of the protocol until the other parts of the single undertaking are completed and a protocol to incorporate them is also approved, and accept the two protocols together.

The speed and progress on at best a political commitment on TF at the Bali Ministerial Conference is in contrast to the progress on the time-bound Marrakesh work programme for harmonization of MFN rules of origin, mandated by the Marrakesh Treaty, for work to be taken up and completed within three years of the WTO's entry into force (that is, by end-1997).

This is still to be completed, and is pending before the General Council. It was referred in 2007 to the General Coun-

cil for decisions on "core policy issues" and "political guidance", and remains pending without any consideration and decision by the General Council or Ministerial Conference.

The issues referred to the General Council [according to the report of the Committee on Rules of Origin (CRO), G/L/1047, a report which was before the Bali Ministerial Conference, as part of the annual reports by the General Council] include:

"i. 'Implications'. What became known as the 'implications issue' refers to divergences regarding the scope of application of the newly harmonized rules of origin. In fact, several trade instruments require the determination of origin, as is recalled in article 1 of the Agreement on Rules of Origin, including: most-favoured nation treatment in the determination of import duties; safeguard measures; anti-dumping measures; countervailing duties; origin marking and labelling; discriminatory quantitative restrictions or tariff quotas, government procurement; and trade statistics. Members have polarized views regarding whether the harmonized rules should also apply to such other instruments or not.

"ii. 'Dual rule for machinery': Members also held divergent views on the identification of rules for the machinery sector (about 600 tariff lines in HS Chapters 84-90), largely because of uncertainties regarding the utilization of harmonized rules of origin for trade policy measures..."

The Committee report further added:

"As a result of negotiating deadlocks and the absence of political guidance from the General Council, work in the CRO lost momentum. In [the Chairman's] bilateral consultations with Members ... two views emerged clearly:

"i. Some Members believed that fully harmonized, non-preferential rules of origin remains an important objective to facilitate world trade...

"ii. Other Members mentioned that concluding the negotiations is no longer a political priority ... world trade had changed dramatically since the late 1990s ... products were now 'made in the world', so the concept of national origin had lost its importance..."

(It is perhaps in pursuance of advocacy of this last concept that in 2011 the WTO economists "discovered" and began promoting the "global value chain" theory, an "issue" they said they had not dealt with before.)

The report continued: "As it is, the implementation and operation of the Agreement [on Rules of Origin] is not satisfactory as the adoption of harmonized non-preferential rules of origin constitutes its central objective ... In the absence of any guidance from the General Council, it would be difficult for the Chairman of the CRO to put forward any concrete agenda of work on the HWP [Harmonization Work Programme] other than the transposition exercise for the Committee's forthcoming meeting in April 2014."

Neither at the General Council in November 2013, when it forwarded this report to the Bali Ministerial Conference, nor at that conference itself was there even perfunctory consideration on the issue, beyond the Ministerial Conference taking note of the report (as of others before it).

Thus, the work mandated to be completed by end-1997 remains suspended. And perhaps in line with the thinking outlined in Kampala, at some future point members will be advised to cherry-pick implementation of this or other WTO agreements and mandates for further work, abandoning all

those that are not “doable” and “deliverable” by the US and the EU.

Dispute settlement system

And in terms of the *pacta sunt servanda* rule (apart from the issue of implementing the promises and commitments made at Marrakesh and at Doha), the US has quite an appalling record on implementing the WTO Dispute Settlement Body (DSB)'s rulings and recommendations against it. A reading of the report from the DSB to the Bali Ministerial Conference (WT/DSB/61) brings out that the US has not implemented any ruling and DSB recommendation where changes to US statutes are required.

When the Marrakesh Treaty was concluded in 1994 and the WTO came into being in 1995, amidst all the differing views on “winners” and “losers” of the Marrakesh agreements, the Dispute Settlement Understanding (DSU) was seen as “the flagship” of the WTO and as the most important pillar of the “rules-based” WTO system. This was a fairly consensual view at that time, inside and outside the WTO, for settling disputes among members arising from the implementation of the WTO and/or any of its annexed agreements.

In a departure from the past, the DSU provided that reports of the dispute settlement panels and, in cases of appeals on issues of law covered in panel reports, the panel reports as modified by that of the Appellate Body (AB), be adopted by “negative consensus”, so that no one party could withhold consensus and block adoption. Also, it was made an obligation of membership to implement the panel/AB ruling (or, in rare cases, negotiate with the other party to the dispute and agree upon equivalent compensation), and the DSB was mandated to undertake a surveillance role in this regard.

The dispute settlement system, often referred to in the media and in some academic writings as the “top court for trade disputes”, is not without problems (and in some respects its procedures are contrary to some accepted principles of natural justice and even public international law). It was envisaged at Marrakesh itself that the DSU and its procedures, in their actual working, may give rise to problems. Hence, the WTO Ministerial Conference was mandated at Marrakesh to “complete a full review” of the DSU and its procedures “within four years” of the WTO's entry into force, that is by end-1998.

This mandated, legally binding work programme is still to be completed. The fourth WTO Ministerial Conference (Doha, 2001) provided for these negotiations to be taken up and completed by May 2003, and the outcome implemented as soon as possible thereafter. It was stipulated that this was not a part of the Doha Round single undertaking. The negotiations though are yet to be pursued and completed.

If the WTO is to endure as a multilateral trade system, its role as “a court for trade disputes” will become more important. For this to become credible and gain public legitimacy, the DSU review process must be pursued in a focused way, and not confined or limited as so far to mere technical details, but extend to substantive issues (such as ensuring that the secretariat's role is limited to mere “functioning” as a servicing body, and not directly or indirectly functioning behind the backs of disputants and having a role in guiding panels to reach conclusions and drawing up reports).

The WTO membership will need to exercise a more inclusive control over the dispute settlement process and panels, and find a method by which weaker and smaller parties can effectively get implemented rulings in their favour against stronger parties. In some extreme cases the concept of collective sanctions needs to be explored.

Conclusion

In sum, WTO members face a choice between two options.

The first is to cherry-pick the “doable” and “achievable” parts of the Doha agenda, and continue efforts at total financialization of the world economy, leading inevitably to global corporatism and a WTO on an orbit of its own with no links to the real economy of the real world.

The other is to choose a path firmly rooted in the Marrakesh Treaty and Legal Texts, and ensuring a multilateral trading system and a WTO that serves the interests of the real economy, with rules fair to all and ensuring policy space for members, in particular the development of developing countries, ensuring policy space for countries to pursue policies and programmes suited to their own needs and particularities.

Such a WTO linked to and serving the real economy should serve as an institution facilitating smooth interfacing in trade between countries with different models of economic policy, rather than the neoliberal concept of all countries trying to converge on one policy model. Such a WTO should facilitate, rather than hinder, full employment and living wages, and reduce the inequalities within and across countries.

If the former path is chosen, the future of the WTO and its MTS will be in jeopardy.

The latter path, and its concepts and goals of full employment, should not remain a mere remnant of the Havana Charter, enshrined only in the preamble of the WTO treaty. It should and could become a reality. (SUNS7815/7816) □

The above is excerpted from Chakravarthi Raghavan's forthcoming book The Third World in the Third Millennium CE (Vol. 2): The WTO – Towards Multilateral Trade or Global Corporatism?, published by Third World Network. All footnotes and references have been omitted.

(continued from page 7)

Worse still is the case of restaurant chains, which are setting up a strong line of attack to US President Barack Obama's idea of raising minimum wages (just like they did in Germany).

Ever heard of a chain called Chipotle Mexican Grill? Even if you have, the odds are that you did not know that last year, Steve Ellis, its co-chief executive officer, made \$25.1 million while the

other co-chief executive officer, Montgomery Moran, made another \$24.4 million. They make even more than James Dimon.

The average salary at one of Chipotle Mexican Grill's 1,600 restaurants is \$21,000. Therefore, one employee with this salary would have to work for more than a thousand years to equal one year of the co-chief executive officers' salaries.

By the way, Mr. Ellis has received

more than \$145 million in Chipotle stocks since 2011, and Mr. Moran at least \$104.5 million.

Now, is it possible that it is the glutony of Mr. Ellis and Mr. Moran that creates such a world of absurd inequalities? No, but greed certainly does.

Time to update the Seven Deadly Sins, Pope Francis ... (IPS) □

Roberto Savio is founder and president emeritus of the Inter Press Service (IPS) news agency and publisher of Other News.

(continued from page 3)

2008 draft modalities text while the industrialized countries bore the brunt of reduction commitments in domestic support.

Developing-country trade envoys at the meeting said upwards of 70% of the Doha agriculture negotiations was spent on arriving at specific flexibilities for the US in domestic support, particularly the carve-out of new "Blue Box" payments. A lot of negotiating time also was spent on market access issues pushed by the US, the EU, Japan, Norway, Switzerland and Canada. And Switzerland, Norway and Japan managed to secure flexibilities to shield some 12% of their tariffs on sensitive products, the developing-country envoys said.

Market access flexibilities for developing countries were only proportional to what the industrialized countries got, one developing-country envoy said.

The WTD said that during the discussion on domestic support, there were sharp exchanges on increases in "Amber Box" measures in both India and China and trade-distorting effects of expanding "Green Box" measures. Canada insisted that the negotiations should not open up the "Green Box" programme.

However, another Cairns Group member reminded Canada that literature prepared by the group established that continued shifting of payments to the "Green Box" causes distortions in global farm trade.

Industrial goods and services

During the discussion on industrial goods, chair of the non-agricultural market access negotiations Remigi Winzap admitted to no convergence by members on how to bridge the gaps between bound and applied tariffs, and that several industrialized and some developing countries made it clear that there will be no real market access in major developing countries such as India, Brazil, South Africa and China if the current formula-flexibility approach is followed.

The EU, Japan, Australia, Mexico and Canada, among others, supported the US in calling for new approaches to remove the gap between bound and applied tariffs.

In sharp response, Brazil, South Africa, China and India said the level of ambition in agriculture was set by industrialized countries, followed by a "proportional" market access approach for industrial goods.

Developing countries at the retreat said they agreed in 2008 to make reforms in market access for industrial goods in a calibrated manner based on the revised draft modalities. The developing countries also maintained that they have suffered heavily due to the global financial crisis which caused massive unemployment in their countries.

On services, industrialized countries pressed for new market access. Developing countries, including Brazil and South Africa, said they have no problems with the current negotiating modalities that allow for a request/offer approach, and that there has been adequate progress in the negotiations. Some developing countries signalled their willingness to do more in services, but only in line with parallel progress in agriculture.

There was also reported criticism at the meeting from some members on why the plurilateral Trade in Services Agreement (TISA) negotiations were being pursued even though the overall level of progress in the Doha services talks was acceptable to most members. The industrialized countries reportedly gave the assurance that the outcome of the TISA negotiations would not be imposed on WTO members. (SUNS7821) □

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