

THIRD WORLD *Economics*

TRENDS & ANALYSIS

Published by the Third World Network KDN: PP 6946/07/2013(032707) ISSN: 0128-4134 Issue No 659 16 – 28 February 2018

Israeli occupation exacts toll on Palestinian economy – UNCTAD

Israeli occupation of the Palestinian territory has imposed economic costs on the Palestinian people by impeding economic activity and by failing to promote development, finds a new study by the United Nations Conference on Trade and Development (UNCTAD). According to the study, many of Israel's practices relating to the Occupied Palestinian Territory constitute violations of international humanitarian and human rights law.

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THIRD WORLD ECONOMICS is published fortnightly by the Third World Network, a grouping of organisations and individuals involved in Third World and development issues.

Publisher: S.M. Mohamed Idris; **Editor:** Chakravarthi Raghavan; **Editorial Assistants:** Lean Ka-Min, T. Rajamoorthy; **Contributing Editors:** Roberto Bissio, Charles Abugre; **Staff:** Linda Ooi (Administration), Susila Vangar (Design), Evelyn Hong & Lim Jee Yuan (Advisors).

● **Annual subscription rates:** Third World countries US\$75 (airmail) or US\$55 (surface mail); India Rs900 (airmail) or Rs500 (surface mail); Malaysia RM110; Others US\$95 (airmail) or US\$75 (surface mail).

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Printed by Jutaprint, No. 2, Solok Sungei Pinang 3, Sungai Pinang, 11600 Penang, Malaysia.

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Palestinians denied the right to development, says UNCTAD

Israeli occupation of the Palestinian territory has wrought economic costs on the Palestinian population by impeding economic activity and failing to promote development, according to a study by a UN development body.

by Kanaga Raja

GENEVA: A number of practices by Israel with regard to the Occupied Palestinian Territory have imposed economic costs on the Palestinian people, either by obstructing their economic activity or by impeding economic advancement and development, a new study by the United Nations Conference on Trade and Development (UNCTAD) says.

According to the study, many of these practices contravene the obligations of Israel under the law of belligerent occupation (humanitarian law) or under the law of human rights.

Israel, the study says, bears a legal obligation to remedy the economic costs of its occupation of the Palestinian territory, while the international community has a responsibility to ensure that Israel satisfies that obligation.

The obligations of Israel are well grounded in international law and precedents.

While Israel also bears an obligation to terminate its occupation, that obligation is without prejudice to its obligation to compensate for harm caused to any party. This includes harm to individuals, to business, trade or agricultural undertakings and to governmental entities.

"The international community should shoulder its responsibility to promote development in the Occupied Palestinian Territory and ensure that the occupation and its enduring harm to the welfare of the Palestinian people is ended," said Mahmoud Elkhafif, Coordinator of the Assistance to the Palestinian People Unit at UNCTAD, in a press release.

Released on 3 April, the study by the UNCTAD secretariat is titled "The Economic Costs of the Israeli Occupation for the Palestinian People and their Human Right to Development: Legal Dimensions." It was prepared in response to four UN General Assembly resolutions (69/20, 70/12, 71/20 and 72/13) on the role of UNCTAD in reporting on the economic costs of the Israeli occupation for the Palestinian people.

According to the study, in normal situations, a state can act to facilitate the development of its population, and the population can participate in setting policy. In a situation of belligerent occupation, neither the state that holds sovereignty nor its population is in a position to undertake this task.

It becomes especially important for the international community as a whole to promote development, and if the belligerent occupant fails in its economic obligations, the international community must ensure that the belligerent occupant provides compensation and remedy.

Such compensation, said the study, can materially assist the population of an occupied territory in overcoming the years of non-development and de-development imposed upon it by the belligerent occupant.

With regard to the Occupied Palestinian Territory, this means an obligation for Israel, in the first instance, to avoid action that impedes development. The significant violations by Israel of property rights and other rights have impeded development.

In the second instance, the right to economic development means that Israel must take affirmative steps to foster development. "Israel has failed to do this," the study said.

The right to development, being a right *erga omnes*, implies that the failure of Israel in both instances brings into focus an obligation for the international community as a whole to ensure that Israel complies with its obligations.

"For the harm already caused by Israel – both harm caused by actions impeding economic development, and harm caused by a failure to take affirmative steps – Israel may owe economic compensation. It is incumbent on the international community to ensure that remedy is in place," said UNCTAD.

According to the study, the economic cost of the Israeli occupation of the Palestinian territory falls on the population of that territory. To the extent that the

population is deprived of resources, deprived of the ability to gain from economic activity and deprived of the ability to promote future economic development, damage is inflicted on them, collectively and individually.

"This cost carries a price tag for which Israel is responsible. The costs for the Palestinian population may result from practices that impede the Palestinian economy and may also result from a failure to promote economic development."

Obligations under international law

Under international law, a regime has been established for a situation in which a foreign power assumes control of a territory by military means against the will of the government of that territory. Such a regime is termed "belligerent occupation", meaning that the foreign power has entered into occupation in a situation of belligerency. There need not be any actual hostilities if the forces of the territory in question are unable to oppose the occupation.

Under international law, a foreign power may not acquire sovereignty over a territory by military means. The presumption is that the foreign power will withdraw, typically upon conclusion of a treaty of peace. While the foreign power is in control of the territory, it is regarded as holding a role comparable to that of a trustee, as referred to in the domestic law of many nations.

The foreign occupant is considered to be holding the territory as a temporary replacement of the legitimate sovereign, under an obligation to carry out policies that promote the well-being of the population. It is responsible for the welfare of the population, in particular for safeguarding the capacity of the population to engage in normal economic activity.

The study noted that a body of law has been developed by the international community to regulate the actions of a belligerent occupant with regard to the population of the territory it occupies. It is part of a larger body of law called *jus in bello*, the law related to actions taken in the context of war.

Given the status of Israel in the Occupied Palestinian Territory as that of belligerent occupant, the UN Security Council, as reflected in Resolution 446, regards the Fourth Geneva Convention as applicable to the territories occupied since 1967. The Fourth Geneva Convention is a treaty to which Israel is a party.

Beyond the law regulating the activity of a belligerent occupant, Israel is also bound by the law of human rights. This body of law, found in customary rules that have developed through the practice of states worldwide, as well as in treaties, binds a belligerent occupant as it binds all states.

In many situations, said UNCTAD, obligations under humanitarian law and under human rights law are identical.

Obligations on economic and social issues fall on Israel as a belligerent occupant under the law of human rights. These obligations are found both in the customary law of human rights and in treaties that prescribe rights, the study said, adding that economic and social issues find significant reflection in the law of human rights.

An occupant is bound to respect rights found in the law of human rights, a body of law that applies in both peace and war.

UNCTAD said that human rights obligations are undertaken by states under specific treaties. The International Covenant on Economic, Social and Cultural Rights is one such treaty.

Illegal transfer

The study noted that a number of practices by Israel with regard to the Occupied Palestinian Territory impose economic costs on the Palestinian people, either by obstructing their economic activity or by impeding economic advancement and development.

It said that many of these practices contravene the obligations of Israel under the law of belligerent occupation (humanitarian law) or under the law of human rights.

The norms of humanitarian law and of human rights law give rise to liability for a range of actions that have been undertaken by the government of Israel during the period of occupation.

A belligerent occupant is prohibited from transferring population into the occupied territory. This prohibition stems from Article 43 of the Hague Regulations, which requires an occupant to maintain the civic life of the population. Bringing new populations into the territory violates that obligation.

According to the study, the prohibition is also stated in specific terms in Article 49 (6) of the Fourth Geneva Convention, which states that "the Occupying Power shall not deport or transfer parts of its own civilian population into

the territory it occupies".

The International Court of Justice has found Israel to be in violation of this provision with regard to its settlements in the West Bank.

The seriousness of the prohibition is accentuated by the fact that "transfer", as defined in the Fourth Geneva Convention, constitutes a war crime for any individual who engages in that activity. As further indication of the seriousness of this act, wilful commission is characterized as a "grave breach" on the part of an individual, meaning that states parties to the Fourth Geneva Convention have an obligation to prosecute.

Israel has not confined itself to permitting civilians to settle in the Occupied Palestinian Territory, but promotes the economic activities of the settlements, said the study.

The transfer of civilians as settlers imposes economic costs on the Palestinian population in a variety of ways.

Land is taken for the area of the settlements, thereby depriving Palestinians from using the land for productive purposes. This economic cost is borne whether the land taken is held in private ownership or as state land that is available for use for productive purposes by the Palestinian population.

Further, substantial tracts of land have been confiscated to build roads to connect the settlements with roads in the territory of Israel. In addition, goods produced in the settlements compete with Palestinian-produced goods.

Moreover, the character of the civilians transferred as settlers has imposed further economic costs on the Palestinian people. Settlers believe that it is their right to own land and reside in the Occupied Palestinian Territory, and therefore consider that Palestinians are not entitled to reside in the territory and adopt a hostile attitude towards them, to the point of attacking them physically and sabotaging their economic activity.

Considerable economic loss has been caused to the Palestinian people by violence committed by settlers. This violence is attributable to the government of Israel for two reasons, said the study. The first is that the settlers should not be present in the Occupied Palestinian Territory. The second is inaction by Israel in intervening to prevent such violence or to prosecute vigorously those who perpetrate it.

The study said violence by settlers contributes to a climate of uncertainty that is not conducive to entrepreneurial

activity. More directly, violence by settlers is often aimed at Palestinian agriculture, in particular the uprooting of olive and other trees and interference with harvesting. Israel has prevented settlers from being subject to Palestinian courts, thereby preventing prosecution.

The construction by Israel of a separation barrier in the West Bank is related to the transfer of civilians, as it is on a route that protects settlements. The construction has caused major disruptions to economic activity and involved the taking of significant tracts of land. The construction has particularly affected economic activity in the "seam zone", that is, areas on the western side of the wall within the West Bank.

"The takeover of land by Israel for settlements, for the separation barrier and for related purposes violates the law of belligerent occupation and human rights law."

An occupant may make use of land only for limited purposes. It may make use of land for stationing its military forces, but may not make use of land for other purposes. For instance, it may not take land to house civilians in settlements or to build roads for the convenience of settlers. The losses to Palestinian industry and agriculture as a result of the takeover of land constitute a cost of occupation for the inhabitants.

Right to development

The study also pointed out that states are required to ensure a right to development. This obligation falls on Israel by virtue of its status as a belligerent occupant, in particular in the light of the length of its occupation. If Israel fails to ensure this right over a long period of time, the negative economic consequences are serious.

The study noted that the UN General Assembly has called on Israel to withdraw from the Palestinian territory to terminate the occupation. It has said that the right of the Palestinian people to self-determination extends to a right to "their independent State of Palestine".

Belligerent occupation is thus regarded by the General Assembly as restrictive of the right to development. This is particularly true for an occupation that extends over a period of decades. For this length of time, the population is deprived of the capacity to formulate its own policies for development.

Moreover, said the study, a foreign army is far less capable than indigenous

political institutions of identifying goals for economic development and of setting policy that will realize such goals.

UNCTAD said: "In order to comply with its obligation to promote the economic development of the Palestinian territory it occupies, Israel needs to withdraw from the territory and allow the population to devise its own approaches."

Instead, however, it has solidified its entrenchment and progressively subsumed more of the territory under the control of its settlers, whose aim is their own self-betterment, to the exclusion of the economic aspirations of the Palestinian people.

The maintenance of control over territory by a foreign settler population is fundamentally inconsistent with the obligation of Israel as belligerent occupant to promote the economic development of the Palestinian people.

As it continues its occupation, many UN studies and reports indicate that Israel has failed to promote economic development. The totality of its policies has resulted in economic constriction rather than advancement, said UNCTAD.

One specific issue is the use of taxes Israel collects from the population of the Occupied Palestinian Territory. Israel must use such tax revenue for the benefit and economic wellbeing of the population. If Israel does not use the tax revenue it collects for such purposes or uses the money to exert political pressure, this represents yet another case of economic hardship and financial loss for the Palestinian people.

Withholding of revenue that is due to the Palestinian government impairs its ability to carry out development programmes and to pay the basic operating expenses of a government. The withholding and appropriation of Palestinian fiscal revenue by Israel constitute obstacles to economic development.

"Thus, far from promoting economic development, Israel impedes it. The withholding of revenue as a reaction to Palestinian political decisions cannot be justified. If Israel, as the occupying power, maintains control over goods entering from abroad, it must facilitate their entry, including the fiscal aspects of that entry."

According to the study, military action by Israel in the Occupied Palestinian Territory is inconsistent with the obligation of Israel to promote economic development. In a report, UNCTAD had

assessed the economic loss caused by the military operation in Gaza between December 2008 and January 2009 as in the order of \$4 billion.

Several military operations by Israel in Gaza since the disengagement of Israel from Gaza in 2005 have all been assessed for the economic losses they caused. In each instance the operation involved a violation of international law, *jus ad bellum*. As a result, Israel could be found liable for the economic losses inflicted by the military operations.

Practices by Israel affecting numerous sectors of the Palestinian economy arguably violate the legal obligations of Israel under the law of belligerent occupation and/or the law of human rights.

The study said these obligations may be violated by policies of Israel in the Occupied Palestinian Territory that inhibit productive activity in all sectors, including industry, trade and agriculture, both through taking control of the use of land and through restrictions that impede productive activity.

In particular, restrictions by Israel on the flow of goods in and out of Gaza have created economic circumstances that put Israel in a position of violation of these obligations.

The study noted that Israel has taken control of large swaths of land for the construction of settlements, for the construction of roads for settlers and for the construction of the separation barrier. It has also closed off tracts of land, claiming a security need, in particular in Gaza. Since the onset of occupation in 1967, Palestinians have lost access to more than 60% of West Bank land and more than two-thirds of grazing land. In the Gaza Strip, half of the cultivable area is inaccessible to Palestinian producers.

In the waters off Gaza, 85% of fishery resources are inaccessible to Palestinian fishers. Fisheries constitute part of the economic wealth of a country. Under international rules on fisheries, a coastal state has exclusive rights for its nationals to harvest fish and other maritime resources within a territorial sea extending 12 nautical miles seaward from the low-water line along the coast. Additionally, a coastal state may declare a fishery zone extending another 188 nautical miles seaward. In this zone, the coastal state may exclude the nationals of other states if nationals of the coastal state have the capacity to harvest the maximum allowable catch as determined unilaterally by the coastal state. Beyond this fishery

zone, nationals may venture out to the high seas and fish in distant waters.

However, Israel has imposed, through the use of armed forces, strict limits on the distance that fishing boats may sail off the coast of Gaza. These restrictions have varied over time and have severely limited fishers in Gaza from accessing traditional fishing waters.

At times, Israel has enforced these restrictions with the use of force, sometimes resulting in injury or death to members of the Gaza fishing workforce.

The international rules on coastal fishing are contained in the United Nations Convention on the Law of the Sea. The State of Palestine acceded to this Convention on 2 January 2015. As a result, the State of Palestine has a treaty right to use coastal waters. Israel is one of only a handful of states that are not a party to this Convention. As a result, the State of Palestine has no treaty-based rights towards Israel with regard to the use of coastal waters.

However, the rules on coastal waters are part of the customary law of nations. Thus, the restrictions imposed by Israel represent a violation of the rights of the Occupied Palestinian Territory and, thereby, the rights of the population.

The study also found that Palestinian industry has been stunted as a result of restrictions imposed by Israel. Through its control of borders, Israel is able to limit the domestic production and importation of input materials needed in Palestinian manufacturing.

It also said that Israel has restricted Palestinian telephone providers with respect to the bands they can use. As a result, Palestinian providers cannot compete with providers in Israel, leading many Palestinians to use the latter. This restrictive practice limits Palestinian economic development by placing Palestinian firms at a disadvantage.

A recent study by the World Bank of the Palestinian telecommunications sector concluded that the total revenue loss for the Palestinian mobile telephone sector in 2013-15 was in the range of \$436 million to \$1,150 million, including a value added tax fiscal loss for the Palestinian National Authority (PNA) of between \$70 million and \$184 million; a direct cost of about 3.0% of the economy (GDP).

The State of Palestine contains sites important to world history, potentially making tourism a major industry. As part of its general obligations under Article

43 of the Hague Regulations, Israel is required to allow tourism to flourish in a way that benefits the Palestinian economy.

The study said Israel has damaged the Palestinian capacity to take advantage of tourism by occupying areas with valuable tourism assets, such as East Jerusalem, among other areas, and by taking control of the entry of foreign visitors. Israel has discouraged foreign tourists from visiting the Occupied Palestinian Territory by denying entry to Israel if accommodations are booked there in advance.

The study also pointed out that Israel bears special obligations with regard to sites that are important for tourism, as a member of the United Nations Educational, Scientific and Cultural Organization (UNESCO) and under the Convention Concerning the Protection of the World Cultural and Natural Heritage adopted by the General Conference of UNESCO on 16 November 1972. Both Israel and the State of Palestine are parties to the Convention.

UNCTAD also noted that Israel has granted leases for drilling in gas fields off the coast of Gaza, in violation of Palestinian rights to the continental shelf. As a result, Palestinians have not been able to develop the gas field known as Gaza Marine.

Israel confiscates 82% of Palestinian groundwater for use inside its borders or in its settlements, and Palestinians must import over 50% of their water from Israel.

A study by the World Bank has stated that only 35% of irrigable Palestinian land is actually irrigated, costing the economy 110,000 jobs per year and 10% of GDP. UNCTAD said agricultural activities have therefore become less viable and many farmers have been forced to abandon cultivation.

Underground waters constitute part of the natural resources of a territory. An occupying power is therefore precluded from appropriating them for use in its own territory. Such appropriation represents a violation of Article 43 of the Hague Regulations, as a disruption of the civic life of the territory under occupation. It may also be in violation of Article 55, as an appropriation of public assets, said UNCTAD.

Compliance by Israel with its obligation to promote employment is complicated by the fact that many Palestinian workers are forced to resort to em-

ployment in Israel and its settlements, which themselves are violations of the obligations of Israel as an occupying power.

Certain measures imposed by Israel on the Occupied Palestinian Territory suggest that Israel has not complied with its obligation to ensure adequate nutrition. Measures targeting Palestinian agriculture have hampered food production, and policies on labour and employment have limited the income available for the purchase of food.

Restrictions by Israel on economic activity have also negatively impacted the housing situation in the Occupied Palestinian Territory. The housing situation is rendered worse by demolitions of housing, which are carried out as a punitive measure or for failure to obtain permits, which are often withheld for insubstantial reasons.

Furthermore, the practices of Israel in the Occupied Palestinian Territory have negatively impacted the medical sector and the quality of medical care available to the Palestinian public. The prolonged blockade of Gaza has impeded the importation of medical equipment. Checkpoints operated at many points in the Occupied Palestinian Territory have also prevented patients from gaining access to medical facilities, with numerous documented deaths as a result.

Unlawful acts

The refusal of Israel to withdraw, and the insertion of its civilians as settlers and building up of an infrastructure for them, could represent unlawful acts, said UNCTAD.

According to the study, an occupant may not continue its occupation unduly in order to extract more favourable terms in a peace settlement. Israel may not continue its occupation in order to extract a commitment that, as a condition of withdrawal, other rights must be forgone, such as the right of Palestinians displaced from the territory of Israel to be repatriated.

The study said Israel has continued its occupation well beyond any reasonable period of time for concluding a military confrontation. The continuation of the occupation is an unlawful act that imposes costs on the population through all the ways that the occupation disadvantages them, the study added. (SUNS8656) □

Major developing countries face concerted assault on WTO flexibilities

Amid the uncertain trade climate, the larger nations of the South could eventually find themselves denied the special dispensations accorded to developing countries in the WTO rules.

by D. Ravi Kanth

GENEVA: Despite conflicting messages by the United States and China about tamping down the threats of a trade war between them, major developing countries – China, India, Brazil and South Africa among others – face a concerted assault on their WTO special and differential flexibilities by the US and its allies in the North.

On 6 April, US President Donald Trump mocked China's availing itself of special and differential flexibilities despite emerging as an economic power. He said: "China, which is a great economic power, is considered a Developing Nation with the World Trade Organization. They, therefore, got tremendous perks and advantages, especially over the US."

"Does anybody think this is fair," he asked, emphasizing "we are badly represented."

"The WTO is unfair to the US," Trump complained.

Asked to comment on the tweet issued by the leader of the world's largest economy, WTO spokesperson Keith Rockwell said on 9 April: "We have nothing to add to the statements we have already made."

Earlier, the US president had said the WTO "is a catastrophe".

But the WTO's Director-General Roberto Azevedo told the BBC on 28 March that it was important to address the concerns raised by the US. Azevedo said the US was fully engaged in consultations on all issues, particularly electronic commerce.

Following the interview, Sean O'Grady wrote in *The Independent* on 2 April that "the world economy rests, then, on barmy Donald Trump, some autocratic Chinese communists and peevish Eurocrats – but crucially on the flabby, nervous, unsteady hands of the deeply unimpressive Azevedo."

Azevedo is yet to speak out on the issue of "differentiation" and curbing special and differential flexibilities to

China and other major developing countries.

Differentiation divide

At an informal trade ministerial meeting held in New Delhi on 19 March, almost all representatives of major industrialized countries – the US, the European Union, Japan, Norway, Switzerland – and Kenya spoke about the need to bring about differentiation among developing countries for availing of special and differential flexibilities. (See the article "Ministers concerned over unilateral trade measures, AB impasse" in this issue.)

At the meeting, a senior trade official from China said categorically that China is a developing country that needs special and differential flexibilities for its development.

South Africa's trade minister Rob Davies made a strong case for enhanced special and differential flexibilities to enable African countries to make progress in their industrialization and economic development.

"More than 100 of us of the Group of 90 countries supported changes in special and differential treatment flexibilities throughout the WTO rulebook", but "it does not manage to get through the process and does not get attention in Buenos Aires [at the WTO's eleventh Ministerial Conference last December]", he said.

Davies said at the New Delhi meeting that the emerging narrative advanced by developed countries is that "special and differential flexibilities will be decided on a case-by-case basis for major developing countries."

Norway, New Zealand and Kenya among others welcomed differentiation, Davies pointed out. But "for a number of countries, including India and South Africa, this is a no-go and a red line", because there is no easy self-reclassifica-

tion process for many countries, he said.

Moreover, such a controversial system would "involve all of us going into an application of the onerous process of certification subject to approval from other members", he added.

In short, the US president's remarks on China availing itself of special and differential flexibilities are very much in line with the sustained campaign that the developed countries have launched over the past five years.

Clearly, the developing countries remain divided and fractured in offering a united position against this assault on the special and differential flexibilities. They, particularly China, must now rally round in safeguarding the flexibilities.

Meanwhile, Chinese President Xi Jinping on 10 April issued a caution on the rising "cold war and zero-sum mentality."

Speaking at the Boao Forum for Asia held in China's southern Hainan province, Xi, without naming the US, said: "Arrogance or only focusing [on] one's own interests will get nowhere. Only peaceful development and cooperation can truly bring win-win or all-win results."

According to a 10 April news report in the *Financial Times*, the Chinese president "offered no major concessions" to the US after Trump created the trade war clouds over the last one month.

"Mr Xi said the Chinese government would 'broaden market access' for financial services companies, reduce limits on foreign investment in the automotive, shipbuilding and aviation sectors, improve the operating environment for foreign investors and lower import tariffs."

On 9 April, Trump had said a deal with China on the so-called theft of US intellectual property and technology was a possibility, according to a report in *Washington Trade Daily*.

Trump also discounted fears about the adverse effect on American farmers if China presses ahead with additional tariffs on soya and other agricultural products. The farmers are "great patriots" and "we will make it up to them", he was reported by *WTD* as saying.

In crux, the developing countries, particularly China, will be subjected to multiple trade retaliatory measures, including the whittling down of special and differential flexibilities. Unless they rally around their core developmental concerns, they might soon discover that the rug under their feet has disappeared. (SUNS8659) □

China responds robustly to threats of additional \$100 billion tariffs

The trade feud between the US and China continues to rage on, with both sides threatening more actions and counteractions against each other's exports.

by D. Ravi Kanth

GENEVA (6 APRIL): In a robust response to US President Donald Trump's latest threat that he would consider slapping tariffs on an additional \$100 billion of Chinese imports, Beijing said it would impose "comprehensive countermeasures" on US goods if Trump acts on the threat.

"The Chinese side will follow suit to the end and at any cost, and will firmly attack, using new comprehensive countermeasures, to firmly defend the interest of the nation and its people," China's ministry of commerce said on 6 April in a statement on its website.

"China doesn't want a trade war, but we're not afraid to fight a trade war," a ministry spokesperson said.

"We will accompany [the US] until the end, we will not hesitate in paying any price," said Lu Kang, China's foreign ministry spokesperson, also on 6 April.

On 4 April, China signalled that it would impose an additional duty of 25% on about \$50 billion of American goods, specifying politically sensitive (involving areas of the US where Trump draws much support) agricultural items such as soybeans and other items like aircraft, automobiles and chemicals.

This was in response to the US decision to impose additional duties on Chinese goods worth \$50 billion, purporting to act on Beijing's alleged continued intellectual property violations as unilaterally determined by the US under Section 301 of its trade laws.

Subsequently, senior officials from the US and China held meetings to contain the worsening tit-for-tat trade war.

Trump's new chief economic advisor Larry Kudlow played down the prospect of a trade war, saying that "we are going to come to agreements." He suggested that "the Chinese will back down and will play ball."

But on 5 April, Trump intensified the war of words, threatening that he would slap additional duties to the tune of \$100 billion, trebling the total to \$150 billion. "In the light of China's unfair retaliation, I have instructed USTR [US Trade Representative] to consider whether \$100

billion of additional tariffs would be appropriate," he said.

According to a report in *Washington Trade Daily* on 6 April, the USTR's office "which earlier this week had released a list of Chinese products that could be subject to \$50 billion in additional tariffs originally proposed by the President – now will propose a new list of additional products to target."

Notwithstanding his continued threats, Trump also said cautiously that he is prepared to have discussions with the Chinese on "free, fair and reciprocal trade and to protect the technology and intellectual property of American companies and American people."

"You have to go after the people who aren't treating you right," he said on 5 April. "We're going to have a fantastic relationship long term with China, but we have to get straightened out. We have to have some balance."

In short, Trump, who is being attacked by his own party heavyweights from Iowa and other states, is unable to contain his bellicose threats.

"Hopefully, the President is just blowing off steam again but, if he's even half serious, this is nuts," said Republican Senator Ben Sasse, according to a report in *The Hill* on 5 April. "China is guilty of many things, but the President has no actual plan to win right now."

"He's threatening to light American agriculture on fire. Let's absolutely take on Chinese bad behaviour, but with a plan that punishes them instead of us. This is the dumbest possible way to do this," said Sasse.

China's measured response to the growing unilateral threats from Trump is an opportunity for all countries to rally around China to face the new dynamic in global trade, said a senior United Nations official who asked not to be quoted.

"It is unforgivable that the dominant Western countries – the European Union, Japan, Canada and others – who preached about free trade are remaining silent at a time when they are required to resist the threats posed to the multilateral trading system," the official said.

Dispute settlement action

Meanwhile, China launched dispute settlement proceedings against the US at the WTO on 4 April, challenging Washington's Section 301 investigations against China and the proposed additional duties of 25% on a list of Chinese products.

China has called on the US to enter into consultations, as per the WTO's Dispute Settlement Understanding (DSU), to address its specific complaints, particularly the proposed duties that would be applied only to China's products and in excess of the bound rates inscribed in the US' schedule of WTO commitments.

China also challenged the specific legal provisions set out in Sections 301-310 of the US Trade Act of 1974. It questioned the legal basis for "findings of the investigation into China's acts, policies and practices related to technology transfer, intellectual property and innovation under Section 301 of the Trade Act of 1974, dated 22 March 2018."

China said the US actions related to the Section 301 investigation appear to violate core WTO provisions:

1. Article I.1 of the General Agreement on Tariffs and Trade (GATT) 1994, because the measures at issue fail to extend immediately and unconditionally to China an "advantage, favour, privilege or immunity" granted by the US "[w]ith respect to customs duties and charges of any kind imposed on or in connection with" the importation of products originating in the territory of other WTO member states.

2. Article II.1(a) and (b) of the GATT 1994, because the measures at issue fail to accord to the relevant products originating in China treatment no less favourable than that provided for in the US' Schedule of Concessions and Commitments annexed to the GATT 1994.

3. Article 23 of the DSU, because the measures at issue fail to have recourse to, and abide by, the rules and procedures of the DSU, when the US seeks the redress of a violation of obligation or other nullification or impairment of benefits under the covered agreements or an impediment to the attainment of any objective of the covered agreements.

China said "as a consequence of the foregoing, the measures at issue appear to nullify or impair benefits accruing to China directly or indirectly under the cited agreements."

In short, China's ability to respond to the spate of unilateral threats followed

by measures by the dominant trade hegemon is a defining moment in the emerging global trade architecture.

Several trade observers felt that the countries of the South ought to rally around Beijing to ensure that unilateral

threats have no place in the WTO system.

In some ways, the current face-off between China and the US appears like the situation that prevailed prior to the Second World War. (SUNS8657) □

US continues to block appointment of new AB members

The US has continued to block attempts to fill vacancies in the Appellate Body of the WTO, putting at risk the proper functioning of the WTO's system for resolving trade disputes among member states.

by Kanaga Raja

GENEVA: The impasse at the WTO over the appointment of new Appellate Body (AB) members continues, with the United States once again blocking a joint proposal sponsored by over 60 WTO members that called for the launch of the selection processes to fill three current vacancies on the seven-member body as soon as possible.

Two AB members whose second and final four-year terms have expired are Ricardo Ramirez-Hernandez and Peter Van den Bossche. Ramirez-Hernandez's second term expired on 30 June 2017, while that of Van den Bossche expired on 11 December 2017.

Another vacancy pertains to Hyun Chong Kim from South Korea, who had tendered his resignation with immediate effect on 1 August 2017, prior to taking up his appointment as a minister in the Korean government.

Joint proposal

The joint proposal on filling the three vacancies was tabled at a meeting of the WTO's Dispute Settlement Body (DSB) on 27 March by Argentina; Australia; Bolivia; Brazil; Canada; Chile; China; Colombia; Costa Rica; the Dominican Republic; Ecuador; El Salvador; the European Union (28 member states); Guatemala; Honduras; Hong Kong-China; India; Israel; Kazakhstan; Korea; Mexico; New Zealand; Nicaragua; Norway; Pakistan; Panama; Paraguay; Peru; the Russian Federation; Singapore; Switzerland; Chinese Taipei; Turkey; Ukraine; Uruguay; and Vietnam. At the meeting, Indonesia expressed its intention to co-sponsor the proposal.

The delegations proposed that, given the urgency and importance of filling the vacancies in the AB, in compliance with the Dispute Settlement Understanding (DSU) and so that it can carry

on its functions properly, the DSB take a decision with regard to the following:

(1) to launch three selection processes to replace Ramirez-Hernandez, Kim and Van den Bossche;

(2) to establish a Selection Committee, composed of the WTO Director-General and the chairpersons of the General Council, the Goods Council, the Services Council, the TRIPS Council and the DSB, to be chaired by the DSB Chair;

(3) to set a deadline of 30 days for member states to submit nominations of candidates; and

(4) to request the Selection Committee to carry out its work in order to make recommendations to the DSB within 60 days after the deadline for submitting nominations of candidates, so that the DSB can take a decision to appoint three new AB members as soon as possible.

Mexico introduced the joint proposal and said that the considerable number of members submitting the proposal reflected a common concern with the current situation in the AB that was seriously affecting its workings and the overall dispute settlement system. WTO members had a responsibility to safeguard and preserve the AB and the dispute settlement and multilateral trading systems, it added.

Mexico said the proponents were flexible in the determination of the deadlines for the selection processes but the urgency of the situation should be taken into account.

The EU then took the floor and said that with each passing month, the gravity of the situation worsened. It called on WTO members to fill the vacancies on the AB as soon as possible.

US concerns

In its statement, the US thanked the DSB Chair for his continued work on

these issues. However, it said, "We are not in a position to support the proposed decision."

"We have listened carefully to the interventions of other members at recent meetings and appreciate the willingness expressed by some members to engage on the important issues and concerns we have raised," it said.

However, the US maintained, the DSB had not yet addressed the problem of persons continuing to serve on appeals well after their terms had expired.

Under the Dispute Settlement Understanding, it was the DSB that had the authority to appoint AB members and to decide when their term in office expires, and so it was up to the DSB to decide whether a person who was no longer an AB member could continue to serve on an appeal, it said.

The US recalled that at the 28 February meeting of the DSB, it drew members' attention to questions raised by the AB's "unsolicited" background note on Rule 15.

(Rule 15 of the Working Procedures for Appellate Review states: "A person who ceases to be a Member of the Appellate Body may, with the authorization of the Appellate Body and upon notification to the DSB, complete the disposition of any appeal to which that person was assigned while a Member, and that person shall, for that purpose only, be deemed to continue to be a Member of the Appellate Body.")

The US maintained that in several respects, the background note failed to provide a correct or complete presentation of the issue, and therefore failed to contribute to members' consideration of this issue.

"In light of the troubling omissions we identified, we would request additional information to understand the reasons for these omissions," it said.

For example, the US said, it called members' attention to the statements in the background note that "[m]any international adjudicative bodies follow transitional rules or practices similar to Rule 15" and "the statutes of some international tribunals contemplate that the term of office of an adjudicator is automatically extended until a successor is appointed."

The background note only acknowledged that no rule providing for the extension of a member's term until a successor is appointed existed in the DSU, said the US. However, in analogizing to the rules of "some international tribunals" that remained unnamed, the document failed to acknowledge a key fact apparent from even a cursory review of

such rules – that the rules for those other tribunals were based on their constitutive texts. The US said it had, at the February DSB meeting, pointed to the example of the Statute of the International Court of Justice, which was annexed to and an integral part of the United Nations Charter.

“For the benefit of other members, we would like to share what we have learnt reviewing the rules applying to other international tribunals,” the US said. This review confirmed that the issue of who may continue to serve and decide a dispute was not a mere “working procedure” to be decided by the tribunal.

For example, like in the case of the International Court of Justice, the Statute of the International Tribunal for the Law of the Sea set out for that Tribunal in Article 5(3) a transition rule for departing members. Similarly, for the European Court of Human Rights, Article 23(3) of the European Convention on Human Rights set out a rule for judges who had been replaced.

Unlike those other tribunals, Rule 15 was not set out in the constitutive text of the WTO dispute settlement system – the DSU – the US said, and had therefore not been agreed to by WTO members.

“We would appreciate understanding from the Appellate Body why this basic difference between the DSU and ‘some international tribunals’ was not reflected in what was purported to be a background document,” the US said.

The US said that it had also previously called members’ attention to the AB’s assertion in the background note that “[u]ntil recently, the application of Rule 15 has never been called into question by any participant or third participant in any appeal, nor has it been criticized by any Member in the DSB when an Appellate Body report signed by an AB Member completing an appeal pursuant to Rule 15 was adopted by the DSB.”

“This statement is misleading at best,” the US claimed. It said the language appeared to have been very carefully crafted to avoid mentioning that Rule 15 was in fact “criticized by [a WTO] Member in the DSB” and was “called into question” at the time of its adoption.

In particular, said the US, India had stated explicitly that Rule 15 – and, specifically, the continuation of an AB member after the expiry of his or her term without the approval of the DSB – raised a “systemic concern” and “was contrary to Article 17.1 of the DSU.” In this regard,

a footnote in the US statement cited the DSB meeting minutes for 21 February 1996.

(Interestingly, the US did not cite any objections that it may have raised, suggesting the US itself had not raised any objections, until now. – *SUNS*)

The US maintained that the criticism of Rule 15 in the DSB by a WTO member at the time of its adoption was the type of basic information one would expect to be included in a document with the intention to make an objective presentation of the issue. “Its omission raises serious concerns.”

The US said it would appreciate receiving information from the AB explaining why India’s intervention had not been drawn to the attention of WTO members in the document. “We would further appreciate understanding why the Appellate Body’s statement was drafted in the manner it was.”

The US also noted that only one member had attempted to offer a substantive explanation of the legality of Rule 15. China asserted that the “rotation” required by the DSU provided the legal basis for Rule 15. “As we explained, that argument exhibits a fundamental misunderstanding of the DSU,” the US claimed.

Article 17.1 of the DSU provides, in relevant part, that the AB “shall be composed of seven persons, three of whom shall serve on any one case. Persons serving on the Appellate Body shall serve in rotation. Such rotation shall be determined in the working procedures of the Appellate Body.”

Rotation, as used in this provision, was concerned with ensuring variation among the individuals serving in different appeals, the US said. But the very provision spoke of “[p]ersons serving on the Appellate Body” – not persons who had ceased to be a member of the Appellate Body. The provision on rotation thus had no relevance to the question raised by Rule 15 – continued service on an appeal by an individual who had ceased to be an AB member, the US maintained.

As it noted previously, the US said, some WTO members may be comfortable with the situation of former AB members continuing to act as though they were still members, but it was not legal under the multilaterally agreed rules.

The US said it remained resolute in its view that WTO members needed to resolve that issue first before moving on to the issue of replacing such a person.

“We therefore will continue our efforts and our discussions with members and with the Chair to seek a solution on this important issue,” it said.

Call for flexibility

The following delegations then took the floor: Canada, Brazil, India, Pakistan, Korea, Australia, Colombia, Indonesia, China, Panama, Thailand, Norway, Hong Kong-China, New Zealand, Switzerland, Peru, Venezuela, Chinese Taipei, Turkey, Singapore, Japan and Mexico.

According to trade officials, they reiterated their concerns over the continued impasse on the appointment of new AB members. They urged all members to show flexibility in order to resolve the deadlock as soon as possible.

Several members highlighted the dangers the continued impasse posed not only to the dispute settlement system but also to the WTO as a whole.

Other members underlined that the US concerns and the issue of the appointment of AB members should be treated separately.

Japan emphasized that it was the responsibility of the entire membership, acting as the DSB, to ensure the proper functioning of the dispute settlement system in a manner consistent with the DSU.

Brazil welcomed Indonesia as co-sponsor of the proposal on AB appointments. It noted that the number of co-sponsors now reached 65 members from diverse regions, and showed that the current impasse was a matter of concern to all WTO members. It invited those members that had not yet joined to support the proposal so that all could benefit from an operational dispute settlement system as soon as possible.

According to Brazil, the importance of a functioning dispute settlement system had never been more evident than now. With trade frictions on the rise, it was essential that all members be assured that their disputes could be resolved by recourse to a rules-based, fast, efficient and neutral dispute settlement system, it said.

Brazil said that it read with attention recent documents containing concerns regarding the multilateral trading system. There were certainly issues that could be improved in the WTO in general and in its dispute settlement system in particular. Brazil said it was willing to engage in conversations with interested members in order to find solutions acceptable to the membership. “Having

said that, we also repeat that we consider it unfortunate that a link has been made between any such concerns and the duty to fill the vacancies in the Appellate Body as they arise," it said.

Australia thanked the Chair of the DSB for his continued efforts in making progress on this issue. It also thanked the members, now numbering over 60, that co-sponsored the proposal for the DSB to commence immediately a process to make appointments to the AB.

According to Australia, this proposal would give effect to the DSB's responsibility under Article 17.2 of the DSU requiring vacancies on the AB to be filled as they arise. It invited other members to show their support for the proposal and join the long list of co-sponsors. It said that like many others in the room, it was disappointed that progress on making appointments to the AB had been elusive.

Australia highlighted the following concerns: the DSB was continuing a discussion which was now over a year old; during this time, the AB's caseload had grown; and a system which it supported and had helped build with other members was no longer functioning as it should and this situation was only set to worsen. This stalemate within the DSB posed a systemic threat to the WTO's ability to settle disputes in accordance with the DSU.

In light of such risks, Australia said that, like other members, it was now grappling with many questions about the immediate and long-term impact on the dispute settlement system, including:

- How do we assure our ability as members to enforce other members' obligations under the WTO agreements and provide security and predictability to the multilateral trading system in the absence of a properly functioning dispute settlement system?

- Do we need to review elements of our dispute settlement system?

Australia said the good news was that there was a body of members with the will and commitment to find a way forward.

Australia said that it had heard the concerns raised by one member regarding the operation of the transitional provisions for outgoing AB members. However, WTO members must move beyond discussing the "problem" and turn their energy to discussing solutions, it said.

To this end, it had also heard other members in clear terms indicate their willingness to explore options for ad-

ressing the concerns that had been identified. Indeed, many had been engaged in working with others to find positive solutions.

Australia said it remained committed to such efforts and it invited all members, including the US, to join "so that together we can move forward and find ways to ensure the ongoing integrity and functioning of our valued dispute settlement system."

Regret

Canada deeply regretted that the DSB had been unable to fulfil its legal obligation under DSU Article 17.2 to appoint AB members as vacancies arise.

Like other members, Canada said, it was disappointed that the US had linked the start of the AB selection processes to the resolution of certain procedural concerns it had shared with members. Canada invited the US to engage in discussions with interested members with a view to expeditiously developing a solution to the concerns that it had raised.

Canada said it remained committed to working with other interested members, including the US, with a view to finding a way to address those concerns so as to allow the selection processes to start and be completed as soon as possible.

Thailand said it shared the view that the current impasse gave rise to a serious systemic concern over the proper functioning of the WTO dispute settlement mechanism, as well as the credibility and sustainability of the rule-based multilateral trading system as a whole. It said that the DSB was entrusted with a duty to establish a standing Appellate Body. Therefore, all WTO members shared a responsibility to discharge this important function.

Thailand said it supported the launching of the AB selection processes as soon as possible. Regrettably, it said, it appeared that the presence of divergent views continued to keep the DSB away from arriving at a consensus decision.

Despite the fact that the impasse remained, Thailand said, it was encouraged by the willingness of members to engage in a constructive manner. In particular, it appreciated the points made by the US which explained in more detail the latter's concerns over the consistency with the DSU of the AB's authority and longstanding practice allowing a former

AB member to continue to serve on an appeal.

Thailand welcomed this engagement. It believed that it was important to clearly understand what the problem was, before the DSB could properly and collectively address the question of how to fix it. It encouraged continued engagement of the membership and looked forward to the US suggestions on a possible way forward that may help address its concerns and unlock the impasse.

Indonesia said it believed that the DSB had been trusted to resolve trade disputes between members since its establishment. The dispute settlement system had also been widely believed to be the essential element to sustain the centrality of the WTO, Indonesia said, viewing the system as the heart of the organization. "If your heart is not functioning well, then it will make the entire system of your body not functional."

Indonesia said the current impasse on the selection of AB members should raise concern as the credibility of the rules-based multilateral trading system was at stake. "We should seek to resolve this issue as quickly as possible. We must find ways to keep the system effective and functional," it said.

With regard to the selection process, Indonesia was of the view that any systemic concern raised by a certain member should not be linked to the decision on how to fill the vacancies in the AB, which, according to Article 17 of the DSU, shall be filled as they arise.

If a member considered Rule 15 to be the real problem, Indonesia said it would like to invite that member to submit a concrete proposal in order to facilitate the discussion.

Mexico, on behalf of the co-sponsors of the proposal, regretted that for the tenth occasion, they had still not achieved consensus to start the selection processes to fill the AB vacancies and had failed to fulfil their duty as WTO members. By failing to act, "we will maintain the current situation which is seriously affecting the workings of the Appellate Body against the best interest of its members", Mexico said.

According to trade officials, the outgoing chair of the DSB, Ambassador Junichi Ihara of Japan, said he regretted that members were not able to reach agreement on launching the selection process. He said that the "sense of crisis shared by many members today needs to be translated into concrete actions." (SUNS8653) □

Ministers concerned over unilateral trade measures, AB impasse

Concerns surrounding unilateral trade measures and a hamstrung Appellate Body were aired at a recent informal meeting of trade ministers in New Delhi, which also discussed other pressing matters facing the WTO.

by D. Ravi Kanth

NEW DELHI: Many trade ministers expressed grave concern at an informal trade ministerial meeting on 20 March over escalating unilateral trade measures that could push the multilateral trading system into a downward spiral, several ministers told the *South-North Development Monitor (SUNS)*.

Around 50 countries called for a “collective” to face the systemic challenges in the multilateral trading system, particularly at the WTO.

Trade ministers also demanded an urgent resolution of the logjam at the WTO’s Appellate Body (AB) so as to restore the credibility of the dispute settlement mechanism.

While major industrialized countries along with several developing countries pushed hard for considering plurilateral initiatives on electronic commerce, investment facilitation, and disciplines for micro, small and medium-sized enterprises (MSMEs), a large number of developing countries pressed for resolving the Doha issues.

In his concluding statement at the end of the New Delhi meeting, India’s commerce minister Suresh Prabhu said many participants underscored the need for preserving and enhancing the functioning and credibility of the multilateral trading system in which the WTO remains at the centre.

Prabhu said that participants sought an expeditious resolution to the impasse in filling the three vacancies at the Appellate Body so as to ensure the credibility of the independent and impartial Dispute Settlement Body.

Without naming the United States, Prabhu said “the cycle of recent unilateral trade measures and proposed countermeasures” will severely undermine the principle of non-discrimination. He told reporters that only “dialogue” will avert further crises in the global trading system.

Commenting on the renewed push for “differentiation” among developing countries for the provision of special and differential treatment (SDT) flexibilities, the Indian minister said that several ministers emphasized the “need” for all de-

veloping countries, including least developed countries, to avail themselves of these flexibilities without any interruption.

Japan, Norway, New Zealand, the European Union and Kenya among others had spoken in support of differentiation.

The EU said countries must justify why they need SDT flexibilities on a case-by-case basis, while other developed countries called for new classification of developing countries.

But South Africa’s trade minister Rob Davies said any tinkering with SDT flexibilities case by case is a red line that developing countries will never accept.

WTO Director-General Roberto Azevedo said the discussion on development which involves differentiation and reclassification of countries must be intensified, suggesting that it cannot be deferred to 2019, said a participant familiar with the meeting.

On another matter, many participants in the meeting, particularly developing countries, according to Prabhu, emphasized that paragraph 31 of the Nairobi Ministerial Declaration must remain at the centre of negotiations at the WTO for resolving the unaddressed issues in the Doha Development Agenda.

Prabhu said that participants said they are ready to adopt “pragmatic and flexible options” for advancing the negotiations on the Doha issues.

Indonesia, which is the coordinator of the G33 developing-country coalition, along with several other countries called for “locking domestic reforms in domestic farm subsidies, a permanent solution on public stockholding programmes for food security purposes, cotton, and an agricultural special safeguard mechanism.”

Prabhu said participants highlighted the need to intensify work in areas such as domestic regulation of services and fisheries subsidies. He said fisheries subsidies remain an integral part of the Doha mandate, suggesting that it would also help in achieving Sustainable Development Goal 14.6.

Many trade ministers, according to

Prabhu, insisted that “open, transparent and inclusive discussions within the joint initiatives of the proponents of the various issues, which are presently not within the scope of the negotiating mandate of the WTO, would deepen the understanding of issues and benefit all members.”

He admitted that several questioned the underlying assumptions for pursuing plurilateral initiatives, saying that “all negotiations at the WTO must follow the fundamental principle of multilateralism and any other approach represents a threat to the multilateral trading system.”

China took the floor first during the meeting to warn about the threat posed by unilateral trade measures to the multilateral trading system. Commenting on the steel and aluminium safeguard measures, vice commerce minister Wang Shouwen said trade remedy measures must be in conformity with the WTO rules. He also said the crisis at the AB must be resolved expeditiously and immediately without further delay. He voiced China’s opposition to graduation and reclassification of developing countries for availing of special and differential flexibilities.

The new US deputy trade representative and envoy to the WTO, Ambassador Dennis Shea, raised several problems with the way the AB functioned, suggesting that many procedures were not properly followed by AB members. He said the AB members failed to issue reports within the 90-day limit, the AB continued to issue rulings in which two members had already retired, and that some AB reports went beyond their mandate for resolving trade disputes.

The US, Shea said, welcomes the plurilateral initiatives in electronic commerce and other areas, suggesting that it is an opportune time for addressing the fundamental reforms in the negotiating and dispute settlement functions at the WTO, according to participants familiar with the meeting.

The EU said unambiguously that countries which need special and differential flexibilities must justify why they would need them with evidence, a stand that was echoed by several other industrialized countries.

In short, the New Delhi meeting offered room for a frank political discussion on development and the work programme to be adopted at the WTO but there is going to be little change either at the Appellate Body or in the multilateral trading system, several ministers said. (SUNS8646) □

Major developed countries “sleepwalking” towards war, unsustainability

Two former senior officials of the Bank for International Settlements have denounced the “reckless” fiscal and monetary policies adopted by the leading industrial countries, warning of the “ticking time bombs” produced by this “unsustainable” economic model.

by D. Ravi Kanth

GENEVA: Major developed countries led by the United States are “sleepwalking towards war” by implementing unsustainable fiscal and monetary policies since the 2008 financial crisis, with the destructive consequences to be borne by the developing countries, two former senior officials of the Bank for International Settlements (BIS) have warned.

Herve Hannoun, a former deputy general manager of the BIS, and Peter Dittus, former BIS secretary-general, sound this warning in a report titled “Revolution Required: The Ticking Time Bombs of the G7 Model.”

Speaking at a meeting convened by the South Centre in Geneva on 13 April, Hannoun and Dittus argued that “the current economic model built on unsustainable growth of debt, asset prices inflation, arms race, and unsustainable use of carbon will come to an end.”

They called for “revolution” to usher in a “sustainable model” that “uses little carbon,” “stops the military build-up,” “puts the common interest before the interests of the few,” and “distributes the fruits of the economy more equitably.”

In such a revolution, the authors argued, the state and public policy must play a crucially “larger role” than becoming, as over the last few decades, “a servant to economic and financial interests.”

Calling for transformational change, the two authors said this is an imperative if the world were to avoid the worst crises on several fronts simultaneously.

Unsustainable policies

Following the 2008 financial crisis, which was an offshoot of the unsustainable fiscal and monetary policies followed by the US Federal Reserve and other central banks in the G7 major industrialized countries, these countries, with the exception of Germany, have continued to implement “lax fiscal policies” on a sustained basis.

Consequently, the gross liabilities (government debt to GDP) last year hovered around 221% in Japan, 157% in Italy, 124% in France, 121% in the United King-

dom, 105% in the US, 97% in Canada and 72% in Germany.

Since 1971, when President Richard Nixon unilaterally ended the direct international convertibility of the American dollar to gold, the US, which continues to enjoy the “exorbitant privilege” (of printing its currency and paying other nations for goods and services bought from them), has become the epicentre for unsustainable monetary policies without any concern for its ballooning twin deficits (fiscal and current account deficits).

The US, in turn, exported all its failures to curb the twin deficits to other G7 countries, which, except for Germany, religiously followed the US model.

The US administration has multiplied new expenditure and tax cuts – including a \$1.5 trillion tax bonanza for the big corporates, a \$1.5 trillion infrastructure plan and a colossal increase in the Pentagon budget by more than \$700 billion – “with no funding other than more debt”, Hannoun and Dittus argued.

Unfortunately, the other G7 countries chose to remain silent without any murmur about this dangerous “opening of the flood gates.”

Meanwhile, the party goes on despite the “reckless behaviour” of the US.

The overall US fiscal deficit is projected at around \$1 trillion in 2019, and this would not be possible without the permissive monetary policy conducted by the US Federal Reserve since 2009, Hannoun and Dittus maintained.

“The silence or complacency of the Big Three US-based rating agencies (Standard & Poor’s, Moody’s, and Fitch group), with the blessing of the International Monetary Fund, exposes the hypocrisy of the watchdogs,” the two said.

If anything, it vindicates the financial impunity with which the US could adopt such dangerous monetary and fiscal policies because of the “exorbitant privilege” arising from the dollar being the anchor of the international monetary system.

Moreover, the “bipartisan complacency” shown by the Republicans, who are supposed to be financial conserva-

tive hawks, and Democrats, who believe in higher taxes and spending, is equally disturbing, Hannoun and Dittus argued. “First, a dramatization of the shutdown, followed by negotiations among politicians, and then an increase or suspension of debt ceiling.”

Little wonder that the “G7 central banks have become the facilitators of unfettered debt accumulation.” And “the sorcerers’ apprentices”, according to Hannoun and Dittus, include incentives for such accumulation in the form of “near zero or negative nominal interest rates.”

Such low interest rates are the price of leverage in an economy, they maintained. The main beneficiaries of negative nominal interest rates are “non-bank corporations” which buy back their own shares, thereby increasing “leverage and deteriorating deliberately their gearing ratios to please their shareholders.”

In effect, the total debt of the seven major developed countries was estimated at around \$100 trillion in the third quarter of last year. Of the total world debt, the US, Britain, Canada, Japan and the eurozone account for 64%.

Asset price bubbles

The extreme fundamentalist monetary policies followed by the seven developed countries since 2012 have undermined “the foundations of the market economy”, said Hannoun and Dittus.

Further, “the distortion of all asset prices,” because of the intervention of the G7 central banks during the past six years, has “introduced a significant element of a command economy in G7 countries, which have moved towards a regime of centrally planned financial markets”.

Consequently, “the G7 model is no longer complying with a textbook market economy model,” as the long-term interest rates are manipulated and fail to reflect the fundamentals of an economy.

The “everything bubble” engineered by the G7 central banks is ready to burst, following the unprecedented asset price bubble stemming from seven years of near zero or negative interest rates, Hannoun and Dittus warned.

Thus, the G7 monetary policies “are a common factor to most of the speculative excesses observed in bonds, stocks, and real estate.”

The “US Federal Reserve has dealt with the bursting of every asset bubble of the last 20 years by creating another, larger bubble.”

Since 2012, the G7 central banks are no longer seen as able to “take away the punch bowl when the party gets going,” Hannoun and Dittus argued.

In short, the “asset price inflation engineered by central banks is a key driver of the rise in inequality,” the former BIS officials maintained.

The scariest asset price bubble is the bond bubble, with Japan, Germany and France having nominal 10-year bond yields of 0-1%. Around 43% of G7 government bonds in major reserve currencies are now held by central banks and other public entities.

“By transforming quantitative easing into a permanent monetary policy tool, the G7 central banks are at risk of heading towards the slippery slope which ultimately leads to government debt monetization,” Hannoun and Dittus maintained.

Because of the sustained reckless policies, the G7 central banks are facing a dilemma of choosing between “two stylized scenarios – policy normalization or government debt monetization”, they said.

Arguably, the monetary and fiscal policies followed by the seven developed countries have resulted in the “capture” of monetary policy by financial markets and “regulatory capture” by large banks and the financial industry.

Effectively, there is pushback against financial sector reform in the US and elsewhere. “The lack of integrity of the global financial system”, Hannoun and Dittus pointed out, can be seen in two major regulatory failures: “zero risk weight for sovereigns in bank regulation of credit risk,” and “no pillar 1 capital charge for the interest rate risk in the banking book”.

The flawed monetary and fiscal policies being implemented by the G7 countries are contributing to the twin dangers of “the global warming time bomb” and “war,” Hannoun and Dittus cautioned.

Rebalancing

During the discussion on Hannoun and Dittus’s report, Yaga Venugopal Reddy, former governor of the Indian central bank (Reserve Bank of India, RBI), agreed with their finding and called for thorough “rebalancing” on several fronts.

“Rebalancing has to be between national and global economy, state and market, finance and real,” Reddy said, maintaining that “policymakers cannot base their policies on hope or assumptions, but they should be based on the assessments of the rebalancing that occurs from time to time.”

The former RBI governor cautioned against adopting a single model for all countries or for the global economy as a whole, given the emerging complexities

(continued on page 14)

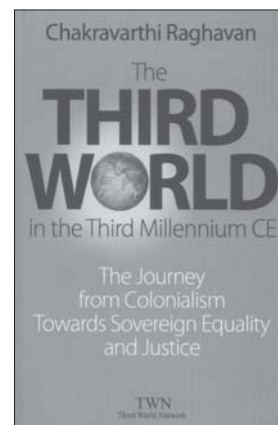
The Third World in the Third Millennium CE

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.



SBN:978-967-5412-83-7 368pp
14 cm x 21.5 cm Year: 2014

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Conflicts force up global hunger levels

More people across the world are going hungry, as heightened conflicts fuel food insecurity.

by Tharanga Yakupitiyage

NEW YORK: Largely driven by conflict, the number of hungry people has dramatically increased around the world, reversing decades of progress, according to a new report.

Launched by the Food and Agriculture Organization of the United Nations (FAO) and the World Food Programme (WFP), the *Global Report on Food Crises 2018* has exposed the worrisome scale and magnitude of today's crises.

"It's been a very difficult year," FAO's Senior Strategic Adviser and lead author of the report Luca Russo told Inter Press Service (IPS) in response to the staggering figures.

The UN agencies found that some 124 million people across 51 countries face severe food insecurity, an 11% rise from the previous year.

Russo pointed out that conflict and insecurity has increasingly become the main driver of food insecurity, accounting for 60%, or 74 million, of the global total. If this population made up a country, it would be larger than the United Kingdom and France combined.

The report attributes the increase to new and intensified conflict in countries such as Myanmar, Nigeria and Yemen.

African crises

Russo expressed particular concern for the Democratic Republic of Congo (DRC) and South Sudan, both of which have become the site of Africa's largest humanitarian crises.

In the DRC, an escalation of violence and political clashes has left over 13 million Congolese in need of humanitarian aid, including 7.7 million who are severely food-insecure. In 2017, the UN declared the DRC a level three humanitarian emergency – the highest possible classification, on par with Iraq, Syria and Yemen.

The UN Security Council echoed Russo's concern and highlighted the need to "address the presence of armed groups in the country" and called for "transparent, credible, and inclusive elections."

While an international conference has been organized for April to mobilize funding for the DRC's \$1.7 billion hu-

manitarian appeal, South Sudan also continues to struggle with low humanitarian funding and a population on the brink of famine.

Both FAO and WFP warned that without sustained humanitarian assistance and access, more than 7 million – almost two-thirds of the population – could become severely food-insecure in the coming months while over 150,000 may be pushed over the line to famine.

"Unless these humanitarian gaps are addressed, we may have to declare again a famine in South Sudan," Russo said.

So far, just 8% of the country's \$1.7 billion appeal has been funded.

However, while humanitarian aid can help save lives, Russo noted that such assistance won't provide long-term solutions.

"Because of the fact that the conflicts continue, you have more and more people on the brink of famine ... with humanitarian assistance, we are able to

keep them alive but we are not able to provide sustainable solutions," he said.

While the outlook for 2018 remains bleak, not all hope is lost.

Russo highlighted the importance of working along the humanitarian-development nexus in order to move beyond focusing on short-term assistance to addressing long-term issues which can help secure peace.

Most recently, the UN Mission in South Sudan (UNMISS) brought together South Sudanese pastoralists and farmers who have long clashed with each other over land and resources. The meeting allowed the two parties to discuss methods of conflict resolution and establish a mutually beneficial agreement in order to prevent future conflict.

Though it may be a small step in a small part of the country, such efforts can help to reduce tensions and create a more substantial chance for peace.

Russo urged the international community to act on global crises, pointing to the case of Somalia's 2011 famine which saw assistance and action only after over 250,000 died and the UN's declaration of a famine in July 2011.

"Even if some of these situations are not in the media, they are there and they exist and they are likely to expand. We should not wait for a famine to be declared to act," he said. (IPS) □

(continued from page 13)

in the global economy.

The global financial crisis, Reddy said, became the global economic crisis, which was "transformed into a social crisis, and of late it is manifesting itself in political developments which we are unable to understand fully".

"The attack on multilateralism," according to Reddy, "is really an offshoot of the global financial crisis and its consequences."

Reddy also said Hannoun and Dittus are correct about the G7 monetary policy and regulatory capture.

As a central bank governor, he said, he knew the difficulties involved in global financial reform. He gave the example of how he had been dissuaded by the highest authorities in New Delhi and Washington from mentioning "consideration of the Tobin tax" on cross-country financial transactions in a speech.

Wall Street, according to several accounts, including that of the former International Monetary Fund chief economist Simon Johnson, has become the "Wall Street-Treasury corridor," said Reddy.

As regards the current face-off be-

tween the US and China, Reddy said that while real economic activity is shifting rapidly to Asia, in particular China, the financial sector continues to be dominated by the West. Also, the public sector dominates in China by making public policy more effective, while the private sector dominates in the US economy.

"While China has significant strength on the current account, the US has significant strength in terms of the return on external assets", which has implications for external sector vulnerabilities, Reddy said.

Andrew Cornford, a former senior economist with the United Nations Conference on Trade and Development (UNCTAD), concurred with the findings of the report by Hannoun and Dittus.

Martin Khor, Executive Director of the South Centre, said the report is a timely reminder of the dangerous period the world is going through at this juncture.

Former UNCTAD chief economist and director Yilmaz Akyuz, in some concluding remarks at the discussion, spoke about the need to factor in the report's findings in addressing serious reforms in the global financial system. (SUNS8663) □

What's different about Trump's tariffs?

The US' aggressive trade protectionism threatens to hurt the global economy and undermine the multilateral trade order, writes *Jomo Kwame Sundaram*.

At Davos in January, US President Donald Trump warned that the US "will no longer turn a blind eye to unfair economic practices" of others, interpreted by many as declaring world trade war.

Before the US mid-term elections in November, Washington is expected to focus on others' alleged "massive intellectual property theft, industrial subsidies and pervasive state-led economic planning", pointing to China without always naming names.

With the Republican Party already united behind his tax bill, Trump senses an opportunity to finally unite the party behind him and to continue his campaign for re-election in 2020.

Since January, Trump has taken steps threatened in his mid-2016 election campaign economic policy document, drafted by current US National Trade Council head Peter Navarro and Commerce Secretary Wilbur Ross. In particular, he has imposed tariffs and other restrictions on imports to revive US manufacturing.

Import tariffs of 25% and 10% on steel and aluminium respectively have been imposed by invoking Section 232 of the US 1962 Trade Expansion Act, allowing unilateral measures to protect domestic industries for "national defence" and "national security".

Trump's action was supported by a US Department of Commerce Bureau of Industry and Security report released earlier. It made the case for imposing import tariffs on both metals for national security reasons as "national security can be interpreted more broadly to include the general security and welfare of certain industries, beyond those necessary to satisfy national defence requirements..."

Trade war memories

After his announcement, several major trading countries and blocs retaliated or threatened to retaliate against US imports, raising the prospect of a trade war.

The resurgence of US trade protectionism poses two threats.

The US has a long history of using "anti-dumping measures", especially on

steel.

Earlier, imports of washing machines and solar panels were restricted by Trump after the US International Trade Commission declared that they unfairly hurt domestic manufacturers.

The US President has also threatened to impose "reciprocal taxes" against countries imposing tariffs on US exports. This threat has invoked references to the 1930 Smoot-Hawley Tariff Act. Its Republican sponsors, Senator Reed Smoot and Congressman Walter Hawley, argued then that it would protect US jobs by shielding American industries from import competition by imposing tariffs on over 20,000 imported goods.

This aggressive protectionism then precipitated the collapse of global trade, as its trade partners then restricted US export access into their own markets. The ensuing trade war undoubtedly exacerbated the Great Depression. Recent developments have understandably revived fears of a new trade war, with similar consequences.

The US' unilateral actions have also seriously challenged the multilateral framework of World Trade Organization (WTO) trade rules.

The Trump administration has been challenging post-Bretton Woods rules-based trade multilateralism, which sought to develop international trade regulation.

Besides many rhetorical attacks on the multilateral trading system, the Trump administration has largely avoided engaging with the WTO while also avoiding violating the letter of existing trade agreements.

Undermining the WTO and its rules is hardly new for the Trump administration, but what is rarely acknowledged is that it also represents continuity with previous presidents, including his arch-nemesis Barack Obama.

Both administrations have blocked appointing WTO Appellate Body (AB) members, effectively undermining the WTO's dispute settlement process. The AB should have seven members, but will soon only have three members left, undermining its functioning. Aggrieved WTO members wishing to challenge alleged violations of its rules have no re-

dress without a functioning AB.

Advocates of international trade liberalization have long claimed that it boosts growth and makes everyone better off in the long run, although many acknowledge shorter-term casualties in "uncompetitive" economic activities. With successful political mobilization around growing doubts over such claims, these claims have lost credibility, feeding the tide of ethno-populist nationalism in the West.

Freer trade has widely distributed benefits in terms of lower consumer prices while seemingly concentrating costs on displaced producers. Conversely, tariffs meant to protect particular industries have concentrated benefits while widely distributing costs.

Thus, even without considering the consequences of retaliatory trade measures by others, some (e.g., US steel) jobs may be saved while consumers pay more for "downstream" products, threatening related jobs downstream.

Consumers, however, are unlikely to act politically because they have to pay a little more for some goods, whereas workers are more likely to be mobilized if their livelihoods are threatened by foreign import competition.

Is Trump all that different?

Trump has long complained about US and foreign trade policies. He seems to believe that trade is a zero-sum game in which the goal is to export more and to eliminate the US trade deficit. Importing from another country implies that country has "won" and the United States has "lost".

Thus, his version of US "sovereignism" links trade to national pride. Thus, he accuses others, especially China, of "laughing at us". As trade issues are about US jobs, pride and dignity, costs or losses become "a small price to pay". Thus, imposing tariffs will show foreigners that the US is strong and cannot be taken advantage of.

With this logic, "winning" may involve losing although the tariffs will benefit relatively few workers in protected industries at the expense of the vast majority of other workers in downstream industries and consumers.

But longstanding economic imbalances and inequities are unlikely to be well addressed by protecting a few politically influential industries.

For half a century, the US has gone back and forth with trade liberalization, often coming dangerously close to trade warfare.

President Ronald Reagan's 1980s protectionism is rarely acknowledged as he is now the paragon of US economic neoliberalism. (Current US Trade Representative Robert Lighthizer earned his reputation in Reagan's administration.) His trade restrictions used loopholes in trade agreements to raise tariffs and limit many imports besides forcing political allies to accept "voluntary restraints".

Economist Dani Rodrik has argued that Reagan's protectionism "let off political steam", enabling the US economy to recover and globalization to accelerate.

International economic liberalization or globalization since Reagan has also transformed the international context and the consequences of Trump's recent measures.

Unlike Reagan, who arm-twisted political allies to accept his demands as necessary concessions during the Cold War, Trump's "US sovereignty" is based on "victimhood", invoking the image of an ex-hegemon, and makes no pretensions of being mutually advantageous or reciprocal.

Yet, prematurely "crying wolf" about trade war may also accelerate trade war momentum as it remains unclear how international policy is made and changed in Trump's White House.

While possibly ominous of much more to come, premature, exaggerated criticism of his unilateral trade measures may become "self-fulfilling", given the political need for continued ethno-populist and nationalist mobilization against enemies, real or imagined. (IPS) □

Jomo Kwame Sundaram, a former economics professor, was United Nations Assistant Secretary-General for Economic Development, and received the Wassily Leontief Prize for Advancing the Frontiers of Economic Thought in 2007.

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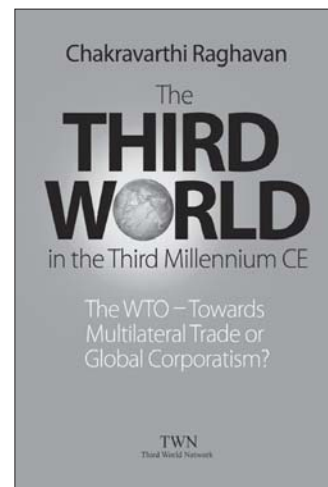
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The Third World in the Third Millennium CE The WTO – Towards Multilateral Trade or Global Corporatism?

By Chakravarthi Raghavan

THE second volume of *The Third World in the Third Millennium CE* looks at how the countries of the South have fared amidst the evolution of the multilateral trading system over the years. Even at the General Agreement on Tariffs and Trade (GATT) gave way to the World Trade Organization (WTO) as the institution governing international trade, this book reveals, the Third World nations have continued to see their developmental concerns sidelined in favour of the commercial interests of the industrial countries.

From the landmark Uruguay Round of talks which resulted in the WTO's establishment to the ongoing Doha Round and its tortuous progress, the scenario facing the developing countries on the multilateral trade front has been one of broken promises, onerous obligations and manipulative manoeuvrings. In such a context, the need is for the countries of the Third World to push back by working together to bring about a more equitable trade order. All this is painstakingly documented by *Chakravarthi Raghavan* in the articles collected in this volume, which capture the complex and contentious dynamics of the trading system as seen through the eyes of a leading international affairs commentator.



ISBN: 978-967-0747-00-2 448 pages
14 cm x 21.5 cm Year: 2014

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