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Facing up to the world's critical health crises

The world is facing multiple crises in public health, from how to cope with new and old epidemics and the explosive cost of new medicines, to the threats from antimicrobial resistance. These issues were discussed at the WHO's World Health Assembly held in Geneva. This issue of South Bulletin focuses on the WHA and health issues.

We also highlight, in three articles, the increasingly "hot topic" of taxation, especially international discussion and action on tax evasion, tax avoidance and tax havens. Such increased concerns are a good trend, but developing countries need to have a say in decisions on global cooperation on tax issues.

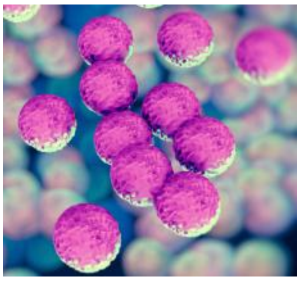
• Pages 2-4

Opening of the 69th session of the World Health Assembly attended by over 3500 delegates

WHO Member States concerned over unaffordable prices of medicines

• Pages 5-6

Countries reaffirm need for high-level commitment on antimicrobial resistance



• Pages 7-11

Human Rights Council adopts historic resolutions on access to medicines

• Pages 12-14

Patents & Public Health: Exploring Options for Future Work in the WIPO

• Pages 14-15

The Panama Papers Demonstrate the Need for Truly Global Tax Co-operation

• Pages 16-18

Designing a Developing Country Agenda on International Tax Co-operation

• Pages 18-20

From Billions to Millions or Zero: It's Mostly Legal

• Pages 20-21

Debt Dynamics in China—Serious problems but an imminent crisis is unlikely

• Pages 22-24

South Centre and G-15 strengthen cooperation

• Page 11

Facing up to the world's critical health crises

The recent World Health Assembly discussed the manifold global health crises that the world is unprepared for, and adopted resolutions to act on many issues.

WHO

Opening of the 69th session of the World Health Assembly attended by over 3500 delegates

By Martin Khor

The global health situation is facing many critical challenges, and multiple actions must be taken urgently to prevent crises from boiling over.

This is the impression one gets from this year's World Health Assembly held in Geneva on 23-28 May.

The WHA is the world's prime public health event. This year 3,500 delegates from 194 countries took part, including Health Ministers of most countries. The one-week session provided a snapshot of the major medical problems and the actions being taken or proposed to deal with them.

In her opening speech, World Health Organization Director-General Dr. Margaret Chan gave an overview of what went right and what is missing on the global health front.

First, the good news – 19 000 fewer children dying every day, 44% drop in maternal mortality, 85% of tuberculosis cases that are successfully cured, and the fastest scale-up of a life-saving treatment in history, with over 15 million people living with HIV now receiving therapy, up from just 690 000 in 2000.

Aid for health became more effective. Health is now seen as an investment for stable and equitable societies, not just a drain on resources.

Then Dr. Chan described how health has evolved from a local to a globalised problem, with air pollution becoming a transboundary health hazard also causing climate change, and drug-resistant pathogens being spread through travel and food trade.

The recent Ebola and Zika outbreaks showed how global health emergencies can quickly develop. There is a dramatic resurgence of emerging and re-emerging infectious diseases, which the world is not prepared to cope with.

Dr. Chan gave three examples of the global health landscape being shaped by slow-motion disasters: climate change, antimicrobial resistance, and the rise of chronic non-communicable diseases as the leading killers worldwide.

These are man-made disasters created by policies that place economic interests above health and environmental concerns. Fossil fuels power economies, medicines for treating chronic conditions are more profitable than a short course of antibiotics, and highly processed foods gain a bigger market than fresh fruits and vegetables.

Unchecked, these slow-motion disasters will eventually reach a tipping point where the harm done is irreversible. For antimicrobial resistance, "we are on the verge of a post-antibiotic era in which common infectious diseases will once again kill."

On moving ahead, Dr. Chan pinpointed universal health coverage as the target that underpins all others in the health aspect of the Sustainable Development Goals. It is the ultimate expression of fairness that leaves no one behind, and can meet people's expectations for comprehensive care.

The Director-General's speech provided a framework for the many discussions and resolutions that followed.

The Assembly agreed that the WHO set up a new **Health Emergencies Programme** to enable it to deal operationally better with disease outbreaks and humanitarian emergencies. It aims to enable WHO to lead in providing rapid, predictable, and comprehensive support to countries and communities as they prepare for, face or recover from emergencies caused by any type of hazard to human health, whether disease outbreaks, natural or man-made disasters or conflicts.

On **antimicrobial resistance,** many countries reported on actions they have taken in light of the Global Action Plan adopted at the World Health Assembly in 2015. Several developing countries requested for funds and technology such as laboratory equipment to diagnose resistant strains of pathogens, to help them meet the deadline of making national action plans by 2017.

The WHO produced a new paper on options to set up a global stewardship framework to support the development, control and appropriate use of new antimicrobial medicines and diagnostic tools, and also gave a report on the past year's actions.

The Secretariat has made quite a lot of progress, but action on the ground

BRICS' Ministers of Health meeting addressed access to medicines and trade agreements to a fully packed audience.

is still slow. For example, in the Asia-Pacific region only six countries have completed their national plans and another five have plans that are being developed.

At the end of the discussion, the WHO's assistant Director-General Keiji Fukuda said the next year would focus on three elements: make progress on the Global Action Plan, further develop the global stewardship framework, and involve political leaders in the issue through a heads of states meeting in the United Nations headquarters in New York in September.

There were two issues on childhood nutrition that highlighted the need to put health concerns above corporate interests. The first was **childhood and adolescent obesity.** In 2014, an estimated 41 million children under 5 years were affected by overweight or obesity, and 48% of them lived in Asia and 25% in Africa.

The marketing of unhealthy foods to children was identified by the WHO Commission on Ending Childhood Obesity as a major factor in the increase in childhood obesity.

The Commission recommended the promotion of intake of healthy foods and to reduce the intake of unhealthy foods and sugar-sweetened beverages by children and adolescents. It proposed effective taxation on sugar-sweetened beverages and curbing the marketing of unhealthy foods.

The World Health Assembly welcomed the Commission's six recommendations and called on the WHO Secretariat to develop an implementation plan to guide further action and also recommended Member States to develop national responses to end childhood and adolescent obesity.

On the second issue, the Assembly welcomed the WHO guidance on ending the **inappropriate promotion of foods for infants and young children**. According to the guidelines, to support breastfeeding, the marketing of "follow-up formula" and "growing-up milks" – targeted for babies aged 6 months to 3 years – should be regulated in the same manner as infant formula for 0 to 6-month-olds.

The WHO guidance also indicates that foods for infants and young children should be promoted only if they meet standards for composition, safety, quality and nutrient levels and are in line with national dietary guidelines. It also recommends that health professionals do not accept gifts or free samples from companies marketing these foods and that companies do not sponsor meetings of health professionals.

On another issue, **access to medicines and vaccines,** the WHA agreed on measures to address the global shortage of medicines and vaccines, including monitoring supply and demand, improving procurement systems and improving affordability through voluntary or compulsory licensing of high-priced medicines.

An interesting and well-attended side event was organised by India on behalf of the BRICS countries (Brazil, Russia, India, China and South Africa) on the effects of free trade agreements on access to medicines.

After remarks from the health ministers of the BRICS countries, the main speaker, American law professor Frederick Abbott, gave reasons why the Trans Pacific Partnership Agreement (TPPA) goes beyond the WTO's intellectual property standards and would make it much more difficult for the TPPA members to have access to affordable medicines.

His warning was complemented by the head of UNAIDS Michel Sidibé who estimated that the US$2 billion annually now spent to treat 15 million AIDS patients could jump to US$150 billion if there were no generic drugs and patients had to use originator drugs at US$10,000 a person a year. South Africa's heath minister agreed that patents pose a barrier to access to medicines.

Air pollution was one of the envi-

The Executive Director of the South Centre Martin Khor (right) with Dr. Marie-Paule Kieny, WHO Assistant Director-General - Health Systems and Innovation, having a discussion during a side event at the WHA.

WHO

Delegates on the last day of the 69th WHA.

ronmental issues highlighted. Every year, 8 million deaths are attributed to air pollution – 4.3 million to indoor and 3.7 million to outdoor air pollution.

The Assembly welcomed a new WHO road map to respond to air pollution's health effects. This outlines actions to be taken in the period 2016 - 2019: expand knowledge on the health impacts of air pollution and effective policies to address it; enhance systems to monitor and report on the SDGs' air pollution-related targets; leverage health sector leadership and coordinated action to raise awareness of air pollution; and enhance capacity to address air pollution's health effects through training, guidelines and national action plans.

Chemicals also need to be soundly managed, since 1.3 million deaths worldwide are caused by exposure to chemicals such as lead and pesticides. The World Health Assembly committed to ensure chemicals are used and produced in ways that minimize adverse health and environmental effects by 2020.

Agreed actions include countries cooperating by the transfer of expertise, technologies and scientific data, and exchanging good practices to manage chemicals and waste. The WHO will develop a road map with actions to meet the 2020 goal and the associated SDG targets.

A controversial issue that has taken two years of negotiations was how the WHO should relate to **non-state actors**. The World Health Assembly finally adopted the WHO Framework of Engagement with Non-State Actors (FENSA), which provides the WHO with policies and procedures on engaging with NGOs, private sector entities, philanthropic foundations and academic institutions.

On one hand, there is the aim to strengthen WHO's engagement with the non-state stakeholders. On the other hand, there is the need for the WHO to avoid conflicts of interest that may arise when corporations and their foundations, associations and lobbies wield large and undue influence if they are allowed to get too close to the WHO. Civil society groups and several developing countries are concerned about how this corporate influence is undermining the WHO's public health responsibilities, and that FENSA will worsen rather than reverse this trend.

The Sustainable Development Goals (SDGs) is a very topical issue and the Assembly agreed on steps to pursue the health-related goals.

There was agreement to prioritize universal health coverage; to work with actors outside the health sector to address the social, economic and environmental causes of health problems, including antimicrobial resistance; to expand efforts to address poor maternal and child health and infectious diseases in developing countries; and to put a greater focus on equity within and between countries, leaving no-one behind.

The WHO is requested to take steps to ensure it has the resources it needs to achieve the SDGs and to work with countries to strengthen their ability to monitor progress towards the goals.

The WHA also adopted many other resolutions, including on International Health Regulations; tobacco control, road traffic deaths and injuries; HIV, viral hepatitis and sexually transmitted infections; Mycetoma; Integrated health services; Health Workforce; Global plan of action on violence; prevention and control of noncommunicable diseases; Global Strategy for Women's, Children's and Adolescents' Health; and healthy ageing.

Martin Khor is the Executive Director of the South Centre. Contact: director@southcentre.int

The South Centre delegation attending the Sixty-ninth session of the World Health Assembly.

WHO Member States concerned over unaffordable prices of medicines

WHO

Access to medicines remains a high issue on the agenda because of unaffordable prices, and particularly for less favoured populations in both developing and developed countries.

By Mirza Alas and K M Gopakumar

World Health Organization Member States once again raised concerns over unaffordable prices of medicines at the recent annual meeting of health ministers and high level officials.

Many countries expressed the view that high prices of medicines will be a barrier for the implementation of key global health strategies during their interventions on the adoption of the three global health sector strategies on HIV, viral hepatitis and sexually transmitted infections (STIs) (Documents A69/31, A69/32 and A69/33) for the period 2016-2021 at the 69th World Health Assembly (WHA) that took place in Geneva from 23 to 28 May.

These three different strategies pave the way for comprehensive actions in prevention of, and treatment for, HIV, viral hepatitis and STIs. Sustainable Development Goal (SDG) 3 sets specific targets on these diseases along with other health conditions as part of the 2030 Agenda for Sustainable Development adopted last year by Heads of States and Governments.

[SDG target 3.3: *By 2030, end the epidemics of AIDS, tuberculosis, malaria and neglected tropical diseases and combat hepatitis, water-borne diseases and other communicable diseases*.

SDG 3.7: *By 2030, ensure universal access to sexual and reproductive health-care services, including for family planning, information and education, and the integration of reproductive health into national strategies and programs*.]

All three strategies aim to enhance access to treatment along with prevention. For instance, the strategy on viral hepatitis states: "where viral hepatitis transmission is halted and everyone living with viral hepatitis has access to safe, affordable and effective care and treatment." However, while the strategy identifies medicines and diagnostics as unaffordable for most, it also identifies the main priority actions by WHO as advocating for strategies to reduce prices and provide technical support to countries for developing strategies to negotiate price reductions with manufacturers.

Access to treatment for hepatitis C is a tremendous challenge in both the developed and developing countries due to the exorbitant high prices of originator medicines. The challenges put forward by developing and developed countries on access to affordable treatments resonate with a **recent study**: *Prices, Costs, and Affordability of New Medicines for Hepatitis C in 30 Countries: An Economic Analysis* published by the medical journal, PLOS Medicine where the authors looked at the prices for hepatitis C and how current prices will represent huge proportions on the health budgets and therefore many countries have had to restrict access to treatment.

The study found that: "The total cost of treating all patients with hepatitis C would be equal to at least a tenth of the current annual cost for all medicines in all of the countries studied. In some countries where prices are high and the burden of disease is large, the total cost of treating all infected patients would be more than the cost of all other medicines put together."

The WHO strategies stress the need for using the flexibilities in the Trade-Related Aspects of Intellectual Property Rights Agreement (TRIPS) to ensure access to affordable treatment. The Viral Hepatitis Strategy states:

"The demand for affordable treatment for viral hepatitis B and C infection requires comprehensive price reduction strategies for medicines, diagnostics and health commodities, including for those medicines and diagnostics in the development pipeline. Strategies include fostering generic competition, including through voluntary licences, and using the Agreement on Trade-Related Aspects of Intellectual Property Rights regarding flexibilities to protect public health. That would include compulsory licences and filing patent oppositions, differential pricing and direct price negotiations with manufacturers, as well as local manufacturing in accordance with the Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property, **which also notes that intellectual property rights are an important incentive for the development of new health care products**". (Emphasis added.)

The last part of the sentence 'intellectual property rights is an important incentive for the development of new health care products', clearly aims to appease developed countries and the pharmaceutical transnational corporations.

While expressing unanimous support for the strategies many Member States pointed out that the high price of medicines is one of the main barriers against the successful achievement of the strategies. They particularly expressed their concern on the cost of hepatitis C treatment and requested capacity building and technical assistance from WHO to overcome price-related barriers. Concerns on high prices were not confined only to medicines. Member States also referred to prices on vaccines for hepatitis B and for HPV (human papillomavirus that causes cervical cancer) during their interventions on the global strategies.

During the discussions on the health sector strategies **Timor Leste, on behalf of the South-East Asian Region (SEARO)**, observed that the cost of medicines for the treatment of hepatitis C such as Sofosbuvir is extremely high and that there is a lack of strategies to promote low cost generics in all countries afflicted with a high level of hepatitis C incidence. Timor Leste also noted that there is a need for scientific information for the introduction of HPV programs as there are large budget implications and that the national immunisation technical advisory groups should be strengthened for evidence-based decision.

China supported the progress made and noted that HIV is not just a public health issue but requires a multi-sectoral approach. It stressed that improvements in technical and financial support were needed. China also noted that there is a need to lower the prices of medicines.

Thailand pointed out that on viral hepatitis, a crucial challenge is the availability of hepatitis vaccines and that there is a need for a comprehensive package for treatment of viral hepatitis.

Saudi Arabia welcomed the strategies and emphasized their concerns regarding access to medicines especially vaccines. It also noted that steps to ensure access to generic medicines were not yet sufficient and called for the production of high quality generics for hepatitis infections as was with the case of AIDS.

Malaysia voiced its support for the strategies but pointed out that coverage cannot be reached if the medicines are very expensive and requested WHO to work on reducing prices with pharmaceutical companies.

Brazil also stressed that the high costs of medicines are threating the fight against STIs and hepatitis, emphasizing the importance of the use of TRIPS flexibilities.

India commended the Secretariat for the strategies and pointed out the importance of affordable HIV medicines and how India has played a key role at the global level. India also remarked on the importance of working on prevention and that the main challenge for the implementation of the strategies will be how to finance them.

Issues regarding prices of medicines were not only raised by developing countries, where this has been a long struggle, but they were also mentioned by developed countries such as Australia, the United Kingdom and Greece.

Australia welcomed the three strategies and highlighted that progress remains uneven. Further, Australia acknowledged that the challenges require Member States' collaboration and welcomed the hepatitis strategy which recognizes the challenge of affordable access.

The **United Kingdom** emphasized the importance of country investment and called on the WHO to scale up country support to ensure universal coverage. Moreover, it noted that aiming to eliminate hepatitis by 2021 is an ambitious objective for countries to achieve considering the high cost of addressing the problem.

Greece remarked on its national efforts to develop a national hepatitis C plan and its commitment to ending viral hepatitis. However, Greece pointed out the moral dilemma it faced given the country's resource constraints, and how that will be an obstacle for implementation. It noted that it will be important to have negotiations on the price of medicines according to national plans and to encourage tools like joint procurement and exchange of experiences across countries.

However, the **United States** noted that there is a need for more efficient delivery models and about information of how Member States will reach vulnerable groups. The US also noted that providing access to medicines is crucial but expressed concerns about WHO having an advocacy role to increase affordable access to medicines and the focus on prices and intellectual property in the strategies to increase access to hepatitis drugs.

At the adoption of the strategies by Member States the WHO Secretariat said that actions are now required for implementation and that there are major opportunities for comprehensive price reductions. It said further that price is a challenge and the introduction of generics is crucial for low and middle income countries and that now hepatitis C treatment has been produced for less than USD 300.

Discussions on challenges related to prices were also present at the adoption of the report of the Global Vaccines Action Plan (Document **A69/34**)where many Member States again expressed their concerns on the high prices of vaccines. Developing countries emphasized the difficulties in producing their own vaccines and the support needed from WHO to enhance capacity in vaccine manufacturing for countries to be able to keep high vaccination coverage.

Member States stressed that WHO should promote collective purchasing of vaccines and an emphasis was made on the need to use TRIPS flexibilities. Moreover, Member States raised important challenges in maintaining the immunization programs particularly for countries that are graduating or are not eligible for the Vaccine Alliance (GAVI) support. They highlighted the need to discuss a plan to reduce high vaccine prices and ensure the affordability of new vaccines.

Mirza Alas is a Research Associate of the South Centre and K M Gopakumar is a Legal Advisor of the Third World Network. This article also has inputs from the WHO Watch team of the People's Health Movement.

This article was published in TWN Info Service on Health Issues on 11 June 2016.

Countries reaffirm need for high-level commitment on antimicrobial resistance

One year ago the World Health Assembly adopted a landmark Global Action Plan on anti-microbial resistance (AMR), which is now recognised as one of the gravest threats to public health. At the WHA in May 2016, participants took the opportunity to review the progress and challenges of implementing the Global Action Plan and to discuss recent developments and actions relating to AMR. This article reports on the AMR discussion at the 69th session of the World Health Assembly.

By Mirza Alas

Actions and challenges to implement the Global Action Plan on Antimicrobial Resistance gained attention at the 69th session of the World Health Assembly (WHA) that took place on 23-28 May.

Representatives from over 190 countries came to the World Health Organization's headquarters in Geneva once again to participate in the annual meeting of the highest governing body of the World Health Organization (WHO). Over 3500 persons, including observers, participated at the week-long meeting.

There were long days with evening sessions to advance on more than 60 agenda topics. This 69th WHA represents a year since countries adopted the Global Action Plan (GAP) on Antimicrobial Resistance (AMR) and was thus an opportunity to assess progress, challenges and the way forward.

Under agenda item 14.4 on AMR (*documents A69/24 and A69/24 Add 1)* WHO Member States were provided with a short report on the progress of implementation of the GAP by regions, and the plans for a High Level Meeting at the side of the United Nations General Assembly in New York this coming September. There was also a document titled: "Options for establishing a global development and stewardship framework to support the development, control, distribution and appropriate use of new antimicrobial medicines, diagnostic tools, vaccines and other interventions" for discussion.

Countries noted the report of the implementation of the GAP and many of the Member States provided information on their respective national action plans' (NAPs) implementation. Many countries acknowledged that much work still needs to be done and pointed out the importance of creating awareness of resistance at the national level as well as the urgent need for high-level political commitment on the issue that many hope can be addressed at the High Level Meeting in New York.

Countries also emphasized the need for inter-sectoral collaboration and the inclusion of not only ministries of health but also agriculture, environment and finance as well as the need for strong leadership from WHO and the importance of collaboration with the Food and Agriculture Organization (FAO) and the World Organization for Animal Health (OIE).

Developing countries stressed the need for financial and technical assistance as well as for capacity building. Access to vaccines and medicines were highlighted as key elements to ensure the successful implementation of the GAP.

Under the proposed options for a stewardship framework developing countries asserted the need to ensure that issues of access are balanced with appropriate use and scientific knowledge of the pursuit of the "One Health approach."

Brazil in particular emphasized that the One Health approach could not be taken as a one-size fits all approach and that access and affordability must be at the forefront. Brazil also reaffirmed the importance of flexibilities of the Trade-

Antimicrobial resistance campaign by the World Health Organization related Aspects of Intellectual Property Rights Agreement (TRIPS) as a tool for countries to ensure access.

India called for policy coherence and that the principles of the Consultative Expert Working Group on Research and Development: Financing and Coordination (CEWG) are fully applied (affordability, effectiveness, efficiency, equity and de-linkage).

With regard to the High Level Meeting on AMR, India requested the WHO Director-General to recommend that AMR be addressed as a global development issue, that awareness must be created and to ensure that any stewardship framework integrates sustainable and equitable access (to antibiotics and other related medicines and diagnostics).

Iran requested that a consultative meeting be conducted by WHO to clarify expectations around the UN High Level Meeting.

Zimbabwe on behalf of the African region asked the secretariat to prepare a document on how prioritization of antibiotics could work and the repercussions that this could present.

Developed countries reaffirmed AMR as a global health security issue and their commitment to the High Level Meeting.

The United Kingdom noted that the Fleming fund, with £195 million, has been established to build capacity for low and middle-income countries, and called for engagement with other UN bodies such as FAO and also the World Trade Organization.

The United States stressed that AMR threatens health and economic potential at all levels and supported the global development and stewardship framework, noting that the framework should explore innovative arrangements and bring the private sector to the table. It also expressed concerns over the UN High Level Panel on Access to Medicines convened by the UN General-Secretary and asked to delete any reference to it in the text of the possible framework.

[A letter from 6 major industry associations to Senator Orrin Hatch, chair of the US Senate Committee on Finance, dated 18 February 2016 expressed strong criticism over the UN High Level Panel on Access to Medicines. The Panel formed in November 2015 is tasked to analyse and make recommendations to "remedy the policy incoherence between the justifiable rights of inventors, international human rights law, trade rules and public health in the context of health technologies".

[The signatories were the Biotechnology Innovation Organization (BIO), National Association of Manufacturers (NAM), National Foreign Trade Council (NFTC), the Pharmaceutical Research and Manufacturers of America (PhRMA), the US Chamber of Commerce (the Chamber), and the United States Council for International Business (USCIB).

[The letter claimed that, "the UNHLP process will not provide for an informed, balanced, and inclusive dialogue that adequately incorporates the perspectives of innovators." The US lobbies also criticised work done by the WHO on its Framework of Engagement with Non-State Actors (FENSA) as well as in the UN's global Technology Facilitation Mechanism.

[According to a 6 April 2016 report in the South-North Development Monitor (SUNS), "the American business lobbies are on a warpath because the panel includes a range of people with different backgrounds and experiences and it might adopt a genuine inquiry into the policy incoherence that is responsible for denying humanitarian remedies … Casting aspersions on the selection process of the panel, the business lobbies raised vicious charges that the panel will not be able to assess 'the complex issues impacting the development and deployment of health-related technologies.'" For the full article, see ***US business launches campaign against UNHLP***.]

Italy emphasized that the pharmaceutical sector and regulatory agencies should be included in the debate and that the G7 and G20 initiatives on AMR can strengthen WHO's initiatives.

Sweden remarked that the UN High Level Meeting will be a unique opportunity for political level support and that all sectors need to be involved and be part of the 2030 Agenda on Sustainable Development (and its Sustainable Development Goals).

After Member State interventions, Mr. Keiji Fukuda, WHO Assistant Director-General and Special Representative for Antimicrobial Resistance, emphasized that the challenge is clear and that AMR will have a direct impact on agriculture and food production, noting the concerns on development, access and the relationship with Sustainable Development Goals.

Fukuda said that the challenge is to keep the impact on health central in this response. It is clear we also have to engage with other stakeholders, ministries of health, trade, industry and pharma and create a multisectoral response.

On the One Health approach, he said that this is done for good reason as the connections between the sectors are close. WHO works closely with FAO and OIE and Member States have repeatedly mentioned working with those two organizations. Fukuda recognized that there is a need to be coordinating with other initiatives such as Codex Alimentarius.

On how to move forward he stressed three essential elements:

- GAP is the technical blueprint, and covers many of the issues talked about at the WHA discussion, including preservation, access, prevention, etc. We have the key action and countries to develop and implement NAPs.

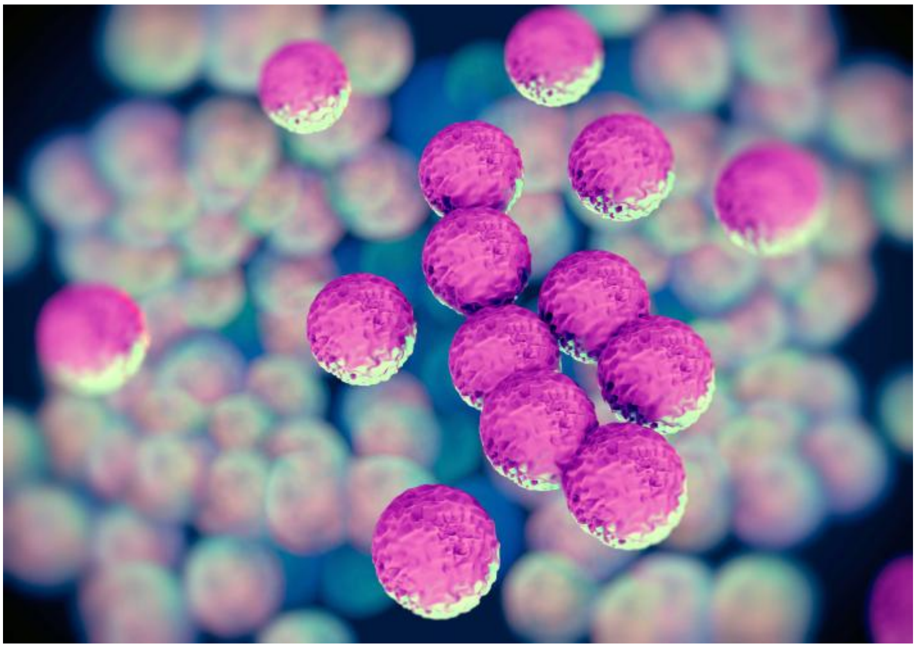
- Moving ahead with the options for the global development and stewardship framework – many inputs from countries are needed now. At this point several countries believe a process is needed to take this forward and to take it to the WHO Executive Board and report back.

- Need for high-level political engagement – the New York meeting is critical for high level engagement needed so we can move ahead and the meeting should be the start.

On the UN High Level Panel on Access to Medicines, Fukuda acknowledged the point made by the US that the outcome of the panel was not yet known.

Fukuda told Third World Network (TWN) separately that the New York meeting will be an opportunity to get political commitment to reaffirm the importance of the GAP adopted by the WHA last year.

(TWN also learnt from a source that,



phgfoundation.org

The World Health Assembly took an important decision on anti-microbial resistance a year ago with the adoption of a global action plan but a high-level of commitment is still needed.

discussions on the framework of stewardship will likely start in the coming months or probably after the UN High Level Meeting in New York.)

Meanwhile negotiations began in New York this June on an outcome document and it is important that missions in Geneva are able to coordinate with their counterparts in New York for an outcome that provides strength and traction for the full implementation of the GAP and to ensure that developing countries can get the financial and technical resources they will need to truly tackle this global problem. As can be seen from the WHA discussion, most developing countries are keen that access remains at the forefront of any political declaration.

Below a summary of selected interventions by Member States and their groupings:

Thailand on behalf of the South East Asian Region (SEARO) expressed its support to the High Level Meeting at the at UN and said that a global political commitment will lead to sustainable multi-sectorial commitment but resources are needed to tackle the challenge.

Antibiotic prioritization and the capacity of different countries have to be taken into account. There is a real need for an effective global mechanism and tools to make sure that every Member State can walk the talk of addressing AMR. The role of pharma in the stewardship framework, especially in rational use, needs to be revisited, Thailand said, adding that promotional activities by pharma influence prescriber behavior.

Zimbabwe on behalf of the African Region (AFRO) said the threat of AMR should be viewed as a development issue. WHO should support implementation especially to the development of national actions plans, including training of health workers, surveillance, building regulatory capacities that are currently weak, and also capacity in laboratories that is now inadequate. The agricultural sector remains an important sector, stressed AFRO. It supported convening the High Level Meeting in New York to increase awareness and political commitment.

Zimbabwe also said that further discussions are needed on the three elements of the Global Stewardship Framework. The principle of access to new and existing antibiotics and diagnostics needs to be reflected, and burden of disease should be taken on board so as not to exacerbate the problem of shortage of medicines.

It requested the Secretariat to prepare a document on how prioritization of antibiotics could work and the repercussions.

Iraq said that WHO has a role in supporting countries, capacity building and joint monitoring and should be involved in formulating action plans.

Kenya aligned with the statement of AFRO and acknowledged the burden that AMR imposes. It also reiterated the need for political, financial and technical support from WHO and other partners. The fight against AMR calls for an inter-sectoral approach, thus Kenya is addressing it together with its ministries of agriculture and health. In addition, a technical working group in Kenya is drafting a national action plan.

Kenya took note of the stewardship framework, stressing that it is important to ensure the involvement of Member States and relevant stakeholders in such a framework. It also called for development and implementation of surveillance systems and fostering of collaboration and information sharing.

South Africa aligned with AFRO and noted that the global development and stewardship framework was recommended with the aim of stewardship and access to antibiotics and therefore it is important to balance the issues of access, appropriate use, scientific knowledge and the elements of the One Health approach, agriculture and environment.

It called for focus on unnecessary use, and the need to review the WHO essential medicines list. It cited restricted use of second line antimicrobials and limited use in cases where failure of the first line of antibiotics has been confirmed.

Brazil said AMR deserves serious consideration. In Brazil mandatory prescriptions of antibiotics have been put in place but this is not the case in all countries. It said that action is needed to not duplicate the gaps in AMR, adding that the One Health approach is not a one-size fits all approach and there is need to work within the framework and mandate. Brazil also stressed the need for access and affordability where antibiotics are required, together with innovation, saying further that TRIPs flexibilities should be affirmed as a tool to allow early access to antibiotics in the market.

Egypt reaffirmed its commitment and inquired about the fair access to antibiotics and essential medicines for developing countries in the light of resistance. It also stressed the need for the WHO Essential Medicines List to be regularly updated. There is need to support capacity building in microbiology laboratories and WHO to support developing countries for technology capacity and financial support.

India noted the report of the Secretariat on the options for establishing a global development and stewardship framework on AMR. Promoting affordable access has been discussed in paragraphs 28-31. While appreciating the options delineated to promote affordable access, India said concrete action is expected through the AMR framework in consonance with the mandate given by WHA resolution 68.7. In this context it is important that the principles of the CEWG are fully applied and that policy coherence is reflected in WHO's action.

India looks forward to the high-level meeting on AMR in New York in September 2016. This meeting will certainly heighten attention of all countries for prevention and containment of AMR, it said, adding that the success of the GAP hinges on its effective implementation by all countries. However, for many countries AMR is also a formidable development challenge, said India, and it requested the Director-General to make the following recommendations to the High Level Meeting:

- Recognize and address AMR as a global development issue;
- Focus on awareness on AMR including through the launch of an AMR logo;
- Integrate sustainable and equitable access in the global development and stewardship framework.

Iran remarked on the importance to ensure that patients have access to high quality antibiotics. It requested the secretariat to hold a consultative meeting to clarify expectations around the UN High Level Meeting. It also highlighted the need to consider incentives such as research grants and data sharing between countries. Iran said that a key strategy is international monitoring of antibiotics to ensure access to quality antibiotics, adding also international awards for doctors who properly prescribe antibiotics.

The Netherlands speaking on behalf of **the European Union (EU)** said that the GAP references well the One Health approach. It noted more concrete progress towards a global framework (including making a list of priorities in antibiotics) and remarkably good collaboration with FAO and OIE, adding that there is need for active preparation and coordination of Member States.

The United Kingdom supported the Netherlands' statement on behalf of the EU, and indicated that it was happy with the report, and that more should be done and more can be done at the UN General assembly High Level Meeting. Development of NAPs was welcomed and it said countries should start to develop them and publish them by September if possible. The UK called for building on commitments including in the G20.

It further said that it has plans to address current market failures and mentioned the commitment of £195 million in the Fleming fund to build laboratory capacity for low and middle -income countries. The global development and stewardship framework will support the work of other governing bodies; however there is a need to define its scope. The UK also stressed engagement with other UN bodies such as FAO, WTO as the framework moves forward.

Germany welcomed the support provided by WHO for countries to develop NAPs. It will contribute euros 1.3 million for implementation of the GAP, but each Member State has to contribute by developing their own NAP. Germany strongly supported the leadership of the WHO and encouraged discussions to be taken up to a higher political level at the UN High Level Meeting in New York. It is supporting the initiative of WHO-DNDi with euros 500,000 this year, and encouraged other countries to also contribute.

The United States said the tripartite collaboration (of WHO, FAO and OIE) is critical for the One Health approach and that AMR threatens health and economic potential at all levels. It supported the global development and stewardship framework; highlighted innovative arrangements and bringing the private sector to the table as their actions are critical. Human, animal, environment, food and industry sectors should be involved, said the US.

It also said that like the WHO Essential Medicines List, the OIE could have a list of antibiotics for animal use for the framework. Proper manufacturing and proper use in human and animals was noted by the US.

It asked for deletion of any reference to the UN High Level Panel on Access to Medicines due to its concerns with this panel.

Sweden noted that the WHA discussion was a good start and that the UN High Level Meeting (in New York) will be a unique opportunity for political level. All sectors need to be involved and be part of the 2030 Agenda for Sustainable Development. It requested the Director-General to continue engaging with the UN for a strong outcome of the High Level Meeting and to report to the 140th session of the WHO Executive Board on the progress made and proposals of how to take the process forward. Sweden has itself adopted a strategy to combat AMR.

Italy said the One Health approach is the pillar of Italy's national health service. Veterinary and food chain sectors are fairly advanced. There are critical problems of over prescription by doctors, self-prescription by patients and trade in fake medicines. The pharmaceutical sector and regulatory agencies should be included in the debate, it said, adding that G7 and G20 initiatives on AMR can strengthen WHO's initiatives.

Japan said AMR is a threat to global health security and that WHO should continue to engage with the UN Secretary-General regarding the High Level Meeting. WHO should also continue working on the Global Development and Stewardship Framework, and the modalities of the framework should be based on each country's context.

Medicus Mundi International – International Organisation for Cooperation in Health Care (MMI) made a statement on its own behalf and that of 20 other civil society organisations (CSOs) including many members of the Antibiotic Resistance Coalition.

MMI said that the extensive misuse of antimicrobials in humans and animals have raised levels of resistance posing a global health threat that jeopardizes treatment of infections across the world. Public leadership is needed to enact new needs-driven research and development models, with open research and transparent data which support rational use and equitable access to antibiotics.

It stressed the importance to ensure coherence across parallel processes addressing innovation and access — the CEWG on R&D, the R&D Blueprint for Emergencies and the UN

High Level Panel on Access to Medicines.

The CSO statement urged WHO to apply the CEWG principles of affordability, effectiveness, efficiency, equity and de-linkage to any initiative based on publicly-funded R&D. It pointed out that the pharmaceutical companies distort de-linkage to mean an assured return for industry irrespective of the value of the innovation in promoting public health goals.

Proposals should also address innovation of vaccines and diagnostics, said MMI, adding that securing access for everyone in need is as vital as conserving therapies. Price should not be used as an instrument to ration use for humans, it said.

The CSO statement also stressed that strengthening of public health and agricultural systems across all countries is a key requirement. Resource-limited settings need support to strengthen infection prevention and control. Sustained investments to address AMR across sectors must become a collective commitment.

With resistance now evident to last line antimicrobials it is urgent that Member States and WHO act decisively, said MMI. "We urge WHO to take a leadership role both here as well as in New York as preparations for upcoming UN High-Level Meeting on AMR continue. We ask that WHO, Member States, and other intergovernmental agencies ensure that AMR becomes a remarkable example of intersectoral coordination that puts the public interest at the center of its discussion."

Mirza Alas is a Research Associate of the South Centre. This article also has inputs from, and was edited by Chee Yoke Ling, Director of the Third World Network.

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South Centre and G-15 strengthen cooperation

A Memorandum of Understanding (MOU) was signed between the South Centre and the Group of 15 Secretariats in Geneva on 16 June 2016.

The signing of the MoU between the South Centre and the G-15 took place in Geneva on 16 June 2016.

The signing of the MoU of cooperation between the South Centre and the G-15 Secretariats is intended to promote the work of both institutions in the strengthening of the capacity of developing countries to better articulate their interests and perspectives in multilateral, regional and national forums.

The cooperation agreement includes key areas and actions such as mutual assistance in capacity building activities, organization of joint workshops, symposia training sessions on thematic issues, joint publications and summing efforts to enhance opportunities for South-South cooperation.

Speaking after the ceremony of signature of the MoU, H.E. Ambassador **Ravinatha Aryasinha**, Chairman of the Personal Representatives of the Heads of State and Government of the Group of Fifteen and the Permanent Representative of Sri Lanka to the United Nations in Geneva, said that the MoU formalizes the cooperation already achieved by the two institutions, recalling that there has been successful outcomes of the briefings on SDGs, Post-2015 and Agenda 2030 jointly organized most recently and with high attendance by the Geneva based delegations and experts of international organizations. With the MoU, "there are now expectations of greater activities which will benefit both, member states of the two organizations and the entire Global South," he said.

Executive Director of the South Centre, Mr. **Martin Khor**, recalled that both organizations have similar history and that they have been moving along in parallel tracks since their birth until now. The Executive Director of the South Centre said that the MoU is a step forward for both Secretariats in further promoting South-South cooperation. Developing countries' delegates "need research, they need to get together to identify what their positions are in international relations, and share their experiences at international level with regard to their development policies," said Mr. Khor.

Human Rights Council adopts historic resolutions on access to medicines

The Human Rights Council adopted by consensus two important resolutions reaffirming that access to medicines and enhancing capacity building in public health are fundamental elements for achieving the full realization of the right to health. Members agreed to hold panel discussions during the next sessions. A panel discussion on access to medicines will be held at the 34th session of the Human Rights Council in March 2017. A panel discussion on enhancing capacity-building in public health will be held at the 35th session of the Human Rights Council in June 2017.


UN

The Human Rights Council in session at the Palais des Nations in Geneva.

By Adriano José Timossi and Viviana Muñoz-Tellez

The 32nd session of the Human Rights Council was held in June/July in Geneva. In what constitutes a historic event for the health and public rights agenda, two resolutions were adopted by consensus.

The draft resolution 32/L.23 entitled "Access to medicines in the context of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health" was tabled by Brazil, China, Egypt, India, Indonesia, Senegal, South Africa and Thailand. The resolution was also supported by 72 cosponsors.

As one of main outcomes, the resolution decided to convene at its thirty-fourth session, a panel discussion to exchange views on good practices and key challenges relevant to access to medicines as one of the fundamental elements of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, taking into account all relevant reports, and that the discussion shall be fully accessible to persons with disabilities.

This panel will be an opportunity also to debate the outcomes of the work of the High Level Panel established by the UN Secretary General which outcomes are to be presented in the coming months. In adopting this resolution by consensus, Member States of the Human Rights Council have agreed to advance access to medicines as a key priority in the context of progressive realization of the right to health.

During the past 10 years the Human Rights Council has considered the issue of access to medicines through different initiatives in resolutions and reports. The last resolution 23/14 in 2013 was adopted by a vote of 31 in favour to 0 against, with 16 abstentions. The current approval by consensus brings back a good spirit of work of the Human Rights Council on this issue which contributes to advance the agenda on access to medicines.

It is also a timely moment to bring back the issue to the Council, taking into account recent developments in other fora and the need for continued debate and discussion on best practices to uphold the primacy of human rights, including the right to health, over trade, intellectual property rights and other economic agreements and interests. Importantly, the resolution reaffirms the ability of countries to use the flexibilities available under the WTO agreement on trade related aspects of intellectual property rights to promote access to medicines, in recognition that patents can be used to set high prices for medicines.

A new momentum to promote access to medicines has been created with the adoption of the 2030 Agenda and the Sustainable Development Goal 3 on Health and the 2015 edition of the Social Forum on "Access to medicines in the context of the right to health". It also builds upon these recent developments and previous resolutions adopted at the Council and the ongoing work of the Special Rapporteur on the Right to Health and recently established UN Secretary General's High Level Panel on Access to Medicines.

The resolution reaffirms the need for access to affordable, safe, efficacious and quality medicines for all as a primary human right and underscores that improving such access could save millions of lives every year. The resolution also calls upon Member States and other stakeholders to create favourable conditions at the national, regional and international levels to ensure the full and effective enjoyment of the right of everyone to the highest attainable standard of physical and mental health.

The resolution also recalled that the Doha Ministerial Declaration on the Agreement on Trade-Related Aspects of Intellectual Property Rights and Public Health confirms that the Agreement does not and should not prevent members of the World Trade Organization from taking measures to protect public health. It also called upon States to promote access to medicines for all, including through the use, to the full, of the provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights which provide flexibility for that purpose, recognizing that the protection of intellectual property is important for the development of new medicines, as well as the concerns about its effects on prices.

Ambassador Regina Maria Cordeiro Dunlop of the Permanent Mission of Brazil to the United Nations in Geneva introduced the draft resolution on behalf of the core group. Amb. Dunlop recalled that for millions of people throughout the world the full enjoyment of the human right to health still remains an elusive goal. According to the WHO, at least one third of the world's population has no regular access to medicines. No effort should be spared to realize this right for all. Health is a fundamental human right, indispensable to the enjoyment of many other human rights and necessary for living a life in dignity.

Amb. Dunlop also explained that the resolution aimed at reaffirming access to medicines as a fundamental element in the realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and noted the support and engagement of all delegations during the informal consultations and constructive contributions that helped to pave the way toward a common understanding on access to medicines as a fundamental element of the right to health.

Ambassador Ajit Kumar, Permanent Representative of India to the UN in Geneva, also made a statement as a member of the core group of the resolution on access to medicines. Amb. Kumar noted that challenges of access to medicines are no longer limited to developing countries or to the so-called neglected diseases. It is effecting people in the global North as well, stretching the health budgets of all governments and impacting treatment to common diseases like hepatitis and cancer.

Amb. Kumar also noted that the existing global framework does not allow the fruits of medical innovation to be equitably shared, in particular to those who are in most need of them, and the innovation models that thrive on the current system have failed to address the health R&D needs of developing countries. This is evident from the lack of any new medicines and vaccines for long known infectious diseases like TB and Malaria, which continue to take a huge public health toll.

Amb. Kumar further noted that the Human Rights Council has made some seminal contributions in recognizing access to medicines as a fundamental component of the right to health. A number of Council resolutions have reaffirmed the right of Member States to give primacy to public health over trade and intellectual property considerations as enshrined in the Doha Declaration on Public Health and TRIPS Agreement. Despite this, the barriers to the full use of TRIPS flexibilities have only increased. The trend to impose TRIPS plus standards further threatens the full realization of the right to health of millions of people by placing further obstacles to access to medicines.

Amb. Kumar stated that there is a need to once again place the human rights dimensions of access to medicines at the centre of efforts to create favorable conditions at the national, regional and international levels to ensure the full realization of the right to health and the health related goals of Agenda 2030. The current draft resolution builds on the previous Council resolutions on the topic.

Amb. Kumar noted that the resolution appreciates the establishment of the High Level Panel on Access to Medicines by the UN Secretary General with the mandate to address policy incoherence in public health, trade, the justifiable rights of inventors and human rights in the context of access to medicines and innovation, and noted that the Office of the High Commissioner has participated actively in the expert advisory group supporting the High Level Panel. Accordingly, Amb. Kumar stated that it would be a timely opportunity for the Council to take into account recent developments and have a constructive discussion on how Member States and other stakeholders can overcome some of the persistent barriers to access to medicines, and achieve the much needed policy coherence in the area of human rights, intellectual property, trade and investment policies by reaffirming the importance of human rights when considering access to medicines.

A second draft resolution 32/L.24 entitled "Promoting the right of everyone to the enjoyment of the highest attainable standard of physical and mental health through enhancing capacity-building in public health" was also adopted by consensus. It recognizes the need for strengthening capacity building for public health and was introduced by China with numerous co-sponsors.

The resolution reaffirms that strengthening public health is critical to the development of all Member States, and that economic and social development are enhanced through measures that strengthen capacity-building in public health, including training, recruitment and retention of sufficient public health personnel, and systems of prevention of and immunization against infectious diseases.

The resolution also recognizes the importance of substantially increasing health financing and the recruitment, development, training and retention of the health workforce in developing countries, especially in least developed countries, small island developing States and landlocked developing countries.

The resolution provides that a panel discussion will be held with the participation of States, relevant United Nations agencies, funds and programmes, academics and experts and non-governmental organizations, with the objective of exchanging experiences and practices on realizing the right of everyone to the enjoyment of the highest attainable standard of physical and mental health by enhancing capacity-building in public health. The High Commissioner is tasked to prepare a summary report on the panel discussion and to submit it to the Human Rights Council at its thirty-sixth session.

Both resolutions also welcomed the 2030 Agenda for Sustainable Development, including its Goal 3, which highlights the importance of ensuring healthy lives and promoting well-being for all at all ages, and recalled in that regard the adoption on 28 May 2016 by the World Health Assembly of its resolution WHA69.15 entitled "Health in the 2030 Agenda for Sustainable Development". Member States also welcomed efforts of the World Health Organization, in cooperation with Member States, in enhancing capacity-building in global public health and in meeting the targets specified in Sustainable Development Goal 3.

The two resolutions adopted by consensus comes at a good time when the celebrations of the 30th Anniversary of the Declaration on the Right to Development are taking place, a declaration in which the right to health is recognized as well as access to medicines and public health as key elements for realizing the Right to Development.

Adriano José Timossi is Senior Programme Officer of the Global Governance for Development Programme (GGDP) and Viviana Muñoz-Tellez is the Programme Coordinator of the Development, Innovation and Intellectual Property Programme (DIIP) of the South Centre.

Patents and Public Health: Exploring Options for Future Work in the WIPO

The South Centre organized a side event to the 24th session of the WIPO Standing Committee on the Law of Patents. The panel discussed options for future work in WIPO on patents and public health. Below is a report of the event.

The panel during the South Centre side event to the 24th session of the WIPO SCP.

By Viviana Muñoz-Tellez

The South Centre organized a side event to the Twenty-Fourth Session of the World Intellectual Property Organization Standing Committee on the Law of Patents (SCP) on 29 June 2016 at the WIPO headquarters in Geneva. The panel discussed options for future work in WIPO on patents and public health. The SCP is a relevant forum for the discussion in the context of the international patents system and its relation to meeting the public policy objective of ensuring access to medicines for all. The panel discussed how this policy objective can be achieved, in compliance with the World Trade Organization Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) and the Doha Declaration on TRIPS and Public Health.

The Chair of the panel, **Dr. Viviana Muñoz Tellez**, Coordinator of the Development, Innovation and Intellectual Property Programme (DIIP) of the South Centre, began the discussion by saying that the WIPO SCP is in the process of defining its future work plan. A balanced work plan should include the issue of public health and patents. WIPO as a specialized agency of the United Nations is mandated to contribute to the achievement of the Sustainable Development Goals, including SDG 3 on health. The complex interlinkages around issues of public health, intellectual property, innovation and building local industrial capacity, trade and human rights are being discussed in a number of multilateral fora. The SDGs are the framework to seek greater policy coherence. The WIPO Secretariat has undertaken initiatives on intellectual property and public health, including cooperation with WHO and WTO, publications and seminars. Yet more guidance from Member States is necessary. Member States need to direct WIPO initiatives in the area of public health. They also need a space to discuss and forge common understandings, particularly around access to medicines. The SCP is an ideal forum on the interrelation between the patent system and public health.

WIPO can produce more factual, evidence-based research and analysis and tools to inform national policy making, international discussion and technical assistance activities. This should include empirical work on the effect of patents and other forms of IP on R&D investment and affordable medical product innovations. It should also extend to their effects on incremental innovation and the production and availability of low-cost generic medical products, and the role of flexibilities within the patent system in promoting affordable access to medical products. The African Group proposal in the SCP is a good way forward.

Ms. Chichi Umesi, First Secretary of the Permanent Mission of Nigeria to the UN in Geneva, said that Nigeria is currently the African Group coordinator at the WIPO. At the 16th session of the SCP in 2011, the African Group and Development Agenda Group submitted a proposal aimed at enhancing the capacity of developing and least developed countries (LDCs) to adapt their patent regimes and make full use of flexibilities in the international patent system to address public policy priorities related to public health. The African Group submitted an update to the proposal, as document SCP/24/4 to the 24th session of the SCP in June 2016. This takes into consideration the continued challenge of access to medicines. Developed countries as well as developing countries and LDCs are affected by lack of access and high prices.

The revised proposal also considers developments since 2011. These include the extension by the WTO TRIPS Council of the transition period for LDCs, meaning that LDCs are not required to grant patents for pharmaceutical products at least until 2033. This is an important recognition that the implementation of patent protection for pharmaceutical products in LDCs will be detrimental to their public health challenges of securing access to affordable medicines.

The proposed work program seeks to enhance the capacities of Member States, and particularly developing countries and LDCs, to adapt their patent regimes to make full use of the flexibilities available in the international patent system and to promote public policy priorities related to access to health care. The African Group requests support to the inclusion of patents and health in the future work plan of the SCP and the specific activities proposed in document SCP/24/4.

Ms. Hu Yuan Qiong, Legal and Policy Advisor of the Access to Medicines Campaign of Médicins Sans Frontières (MSF), explained that the MSF views access to medicines from two angles: access to existing medicines, and the development of and access to new medicines. The core dimensions of access and innovation are affordability, availability and suitability. There are several challenges to access and innovation. These include patent barriers in the new WHO essential medicines list (EML), patent evergreening and TRIPS-plus provisions that are harmful for public health, limitations on voluntary licensing measures, political pressures on national laws and policies, and a broken model of incentivizing research and development for new medicines.

MSF research shows that increased competition is associated with a drop in prices, demonstrated in the case of first-line combination drugs for HIV/AIDS. The price of the newer third-line regimen is more than 14 times higher than the recommended first-line, associated to delayed generic competition entry due to patents. MSF recommends that WIPO studies be evidence-based and factual. MSF has given detailed comments on a recent WIPO report on patent-based analysis of the WHO EML of 2013. The MSF report finds that the WIPO study disregarded the trend of disease burden and development of new EML, used a contestable methodology, presented wrong and limited usefulness of the data for public health decision making, and presents misleading conclusions.

Mr. Thiru Balasubramaniam, Geneva Representative of Knowledge Ecology International, said that the function of the patent system is to serve the public interest. Developed countries have a number of mechanisms in their national patent laws to limit the exercise of patent rights, while in compliance with their international obligations. These mechanisms are regularly implemented. This reflects concerns on high pricing in relation to patented medicines, as well as anti-competitive effects of patent monopolies. There are a number of examples that can be provided of how such mechanisms are used in developed countries. These include the use of compulsory licensing as a remedy to anti-competitive practices in the United States and in Europe, potential use of compulsory licensing to import cheaper generic drugs, and limitations to issuance of injunctions for public interest purposes. The SCP should take into consideration these experiences.

Mr. K. M. Gopakumar, Legal Advisor and Senior Researcher of the Third World Network, discussed that developing countries and LDCs face a number of challenges in access to medicines. These include the regulatory constraints that patent systems pose to their ability to implement policy and measures aimed at ensuring access to medicines. Even though LDCs are not required to implement the TRIPS Agreement, and developing countries can make use of TRIPS flexibilities for policy space in patent law, there are real political and practical constraints. These constraints include the continued pressure from developed countries, e.g. free trade agreements, bilateral mechanisms such as the US Section 301 list, not to make use of flexibilities. The WIPO has not been able to produce an effective work program on use of flexibilities and tools to assist countries for this purpose. This is due to the reluctance of developed countries. The SCP should set a concrete work program on patents and public health that promotes use of flexibilities in the patent system, and also expands tools available for policy makers to use these flexibilities.

Viviana Muñoz-Tellez is the Programme Coordinator of the Development, Innovation and Intellectual Property Programme (DIIP) of the South Centre.

The Panama Papers Demonstrate the Need for Truly Global Tax Cooperation

The publishing of the Panama Papers exposing the hidden wealth of elites has increased the recent public concerns of tax issues, including tax evasion and avoidance by companies and rich individuals. There is an urgent need for global cooperation to act on tax issues, but discussions and decisions on these should be based in the United Nations involving all governments, and not in exclusive groups like the OECD.

Arnulfo Franco / AP

Headquarters of Panama based law firm Mossack Fonseca.

By Manuel F. Montes

We live in a time of heightened mindfulness over defective governance at the international level, in general, and deeply defective governance over international tax cooperation, in particular.

The aftermath of the information explosion on hidden wealth from the "Panama Papers" is the latest scandal, based on the information leaked from the files of one law firm called Mossack Fonseca headquartered in Panama.

The exposure of some high ranking politicians triggered intense interest, even though the defects of the system go much beyond the participations of public servants. The Prime Minister of Iceland, Sigmundur Davíð Gunnlaugsson, relinquished his post after it was revealed that he co-owned a company called Wintris Inc, set up in 2007 on the Caribbean island of Tortola in the British Virgin Islands, with his wealthy girlfriend and future wife.

An offshore fund in the Bahamas ran by Prime Minister David Cameron's father, in which he had earlier made investments, managed to avoid paying British taxes.

Mossack Fonseca was in business of creating corporate vehicles in different tax jurisdictions by which owners could hide their wealth and identity from tax authorities. While the revelations of politicians' involvement elicited the greatest interest, it is important to train the spotlight on the fact that the corporation form, whether used by politicians or multinational companies, is now the weapon of choice for avoiding and evading taxes.

The ease with which corporations are created to enable their owners to place their wealth incomes beyond the tax authorities must be seen as a key pitfall of the system of international taxation.

Mossack Fonseca acted on behalf of 300,000 companies. Multinational companies who are significant sources of tax revenues have created thousands of these companies scattered in different countries for their tax strategies.

When they found themselves desperately seeking taxpayer resources to bail out their financial sectors in the wake of the 2007-08 financial crisis, North Atlantic authorities , all responsible for the world's leading economies, woke up to the reality that their own corporate sectors were undermining their own tax bases.

They asked the G20 and OECD to launch the Base Erosion and Profit Shifting Project (BEPS). The outcomes of BEPS, launched in September 2015, demonstrated the existence of a need, or a set of needs, for a thoroughgoing reform of international tax cooperation.

It also demonstrated that fundamental flaws of an OECD-led process in this field. As a secretariat accountable to its developed country membership, it has to respond to the basic interests of these set of countries in which the world's largest and most prominent multinationals are headquartered.

For the tax planning, multinational companies have found the "separate entity" principle to be very advantageous. Otherwise the tax advantages of setting up different corporate entities in a variety of locations could be disabled. If the separate entity principle were abandoned, companies created by multinationals would be treated as being related to its owner and can be treated together with the owner as one company.

The BEPS outcome did not respond to the most critical needs of developing countries in tax cooperation, even though the cooperation of developing countries would be required to make the BEPS proposals be effective even in meeting the needs of developed countries.

BEPS explicitly avoided dealing with the split between residence and source taxation, despite the fact that the global community has reached agreement earlier that "all companies, including multinationals, pay taxes to the Governments of countries where economic activity occurs and value is created, in accordance with national and international laws and policies" (Addis Ababa Action Agenda, Paragraph 23).

There is no place, for example, in the BEPS project structure for two of the most important tax issues confronting developing country officials in generating revenue from activities of foreign companies in their jurisdiction: (1) taxation of technical services and (2) the treatment of enterprises in extractive industries.

Where the OECD has proven to be bogged down or severely crippled is in making effective progress in regulating transfer pricing abuses. The OECD is unable to abandon the basic separate entity principle in structuring the tax treatment of related companies operating transnationally.

Would a World Tax Authority or an Intergovernmental UN Committee Help Developing Countries?

From my own point of view, there are two distinct governance mechanisms posed in this question: (1) a World Tax Authority (WTA) and (2) an Intergovernmental UN Committee. The exact nature of each of these two mechanisms is subject to more detailed conceptualization.

World Tax Authority

First, on the World Tax Authority. It is easy to imagine, as had been imagined by the Zedillo report before the first international conference on financing for development in 2001, that WTA would have many of the functions in tax cooperation that the World Trade Organization (WTO) has in the area of trade. (Of course, the WTO has strayed far and wide beyond trade issues, such as the international enforcement of intellectual property rights.)

For a WTA to work, it would be necessary to set out and agree upon its overall purpose, in the same way that the WTO is supposed to provide "the common institutional framework for the conduct of trade relations among its Members." The purpose of this framework has to be set out and it could depend on the mood of the moment. Could it be to protect the tax bases of its members and to minimize the negative spillovers of unilateral tax policies on other member states? This would be not in conformity with a still-dominant view in support of diminishing the role of the public sector and unleashing that of the private sector in economic activity.

A WTA could have a dispute settlement facility. It would have to be decided whether only disputes between states will be entertained or whether disputes between taxpayers and states will be accepted. (It is understandable that developing countries are extremely suspicious of the latter and find themselves at variance with BEPS discussions on strengthening the "mutual agreement procedures" (MAPs) in taxation treaties.)

Intergovernmental UN Tax Committee

Imagining what an intergovernmental UN committee could do is easier than imagining what a WTA could do, mainly because a UN Committee of Experts on International Cooperation in Tax Matters already exists.

The UN tax committee of experts has been engaged in updating the double tax model of the United Nations which privileges taxation of incomes at the source, instead of in the residence of the taxpayer, which is the preferred OECD approach. In more general terms, it has been involved in the business of experts coming to an agreement on effective tax practices when individual country policies have potentially an impact on the tax performance of others.

Upgrading this body to an intergovernmental body would elevate its recommendations to a higher level than as a matter of expert suggestion. As an intergovernmental body, its recommendations would carry the weight of a standard or norm agreed by representatives of governments. These kinds of international norms, not just in tax policy but also in tax cooperation, are already being decided among OECD countries. Because OECD member country representatives participate in norm-setting, member countries are morally bound to meet these norms (or have to explain transgressions or seek an exemption). An intergovernmental UN tax body would have the 'power' corresponding to the norm-setting power of the UN Statistical Commission which decides on the appropriate technical procedures to estimate key economic variables such as GDP or investment in a manner that allows these estimates to be comparable with the same variables produced by other countries.

An intergovernmental UN tax body would thus do what the OECD already does, but have the moral power to demand compliance from all UN member states – both OECD and non-OECD.

(It can be assigned other responsibilities in the same way, for example, that the UN Committee for Development Policy declares which countries qualify for LDC status. For example, it might or its appointees could arbitrate or sit in judgement of tax disputes.)

Why an Intergovernmental UN Tax Committee

My view is that when developed countries blocked the upgrading of the UN tax committee at the Addis Conference it was an exercise in refusing to cede the overwhelming power of developed countries in norm setting in international cooperation in tax matters (just as they are unwilling to cede this power in resolving sovereign external debt, in appointing heads of the WB and the IMF, in deciding on the global levels of monetary liquidity and rules governing the payments system, and so on).

It was not a question of whether or not the UN activities would cooperate with the OECD tax work. UN tax work is already cooperating because its deliberations are open to OECD participation. By design, in order to make developed countries feel safe in the expert tax committee, half are appointed by the UN Secretary-General from OECD countries.

It is not a question of whether a UN process would be too slow to reach an agreement. OECD processes have not proven clearly faster. As I understand it, it took OECD negotiators – coming from countries that have much in common - 15 years to come to some basic approach to transfer pricing methods.

It is not a question of whether the UN has expertise in cooperation in tax matters. At present half of the UN tax committee members are tax experts from OECD countries. Nothing can prevent member states from sending their best tax experts to work in the committee, just as they send their best statisticians to the UN Statistical Commission. The difference is that, in a UN committee, experts from non-OECD countries cannot be shut out or ignored as they are in the OECD.

The OECD tax work would likely continue, even with a UN intergovernmental committee if developed countries were to deign to let it happen, with the difference that in the UN tax committee all the voices will have secure access to the agenda, the deliberations and the decision-making.

There is a very simple explanation as to why an OECD-led process will be unable address the imperative of international tax cooperation, except in a rather distorted manner and most likely disadvantageous to developing countries. OECD is a member organization, in which members negotiate with each other agreements on standards of tax cooperation.

It is understandable that OECD member states will insist that any idea, agenda item, or proposal – no matter how pertinent or compelling – can be taken up for negotiation in the OECD only when proposed by a member state. OECD members need to negotiate with each other about their common position, **before** the OECD, as OECD, can react to the proposals by non-OECD members. Silence or neglect on the part of the OECD to non-OECD proposals or issues means in the first place that the OECD members have not arrived at a position on the issue.

Like other observers, I view the insistence that the OECD function as the sole standard setting body in international tax cooperation, which is the direct implication of the blocking of the upgrading of the intergovernmental tax committee in the financing for development conference, as an exercise in developed countries' not walking the talk of "democracy, good governance, and the rule of law" which they like to do for the smallest of excuses.

The OECD is now inviting developing countries to participate in the implementation of BEPS "on equal footing" to the standards agreed to only among OECD member states. It is also developing a multilateral instrument to modify bilateral tax treaties. These and other OECD activities have increased the sensitivity of developing tax authorities to intolerable governance imbalances in this arena and motivating efforts at self-organization to counter the situation.

Manuel F. Montes is the Senior Advisor on Finance and Development at the South Centre.

Designing a Developing Country Agenda on International Tax Cooperation

The developing countries should have a say in global discussions and decisions on taxation issues. They have until now been mainly excluded. The South Centre organised a workshop for tax policy makers and experts from developing countries to discuss what are the taxation issues of interest to the developing countries that should form the basis of a global agenda. The following is a report of the workshop.

By Manuel F. Montes

On 4 and 5 February 2016, fifteen senior tax policy makers and experts explored, in a two-day meeting convened by the South Centre in Geneva, the elements of a developing country agenda on international tax cooperation.

Recent events created the need to create a space to advance a developing country agenda on international tax cooperation. The meeting conclusion was that it is timely to create such a space.

At the Third International Conference on Financing for Development in Addis Ababa in mid-July 2015, developed countries blocked a proposal to create an intergovernmental tax body in the United Nations (UN) to replace a purely advisory committee of experts now operating in the UN. This leaves the OECD as the sole body for setting norms and standards on tax cooperation at the international level. As non-members in the OECD, developing countries do not participate in agenda setting and do not have the same standing as members in decision-making.

In October, the outcomes of the G20 and OECD project called Base Erosion and Profit Shifting (BEPS) did not respond to the most critical needs of developing countries in tax cooperation, such as profit-split methods between residence and source taxation, taxation of technical services (administrative, management, technical support) and the treatment of enterprises in extractive industries, which are very important for developing countries.

The two-day meeting at the South Centre considered these topics and other critical topics of interest to developing countries.

A developing country agenda in international tax cooperation can potentially contribute in three ways: (1) to assist country authorities in undertaking better research, upgrading local capacity and in designing effective tax policies for their own countries; (2) to strengthen and better coordinate developing country engagement in negotiations in international tax cooperation activities such as in the OECD-G20 processes, the UN tax cooperation work, and regional cooperation activities where there are operating fora in Latin America and Africa, but not in Asia; (3) establish international tax cooperation mechanisms among developing country authorities, arriving at agreed norms and mutual action.

Senior tax policy makers and experts gathered and explored the elements of a developing country agenda on international tax cooperation in a two-day meeting in the South Centre in Geneva.

None of these activities are in conflict with OECD, or UN, or other international engagements, but these activities would strengthen developing country voices and contributions to other processes. Expanding South-South cooperation unleashes the possibility of identifying tax policies more in tune with needs and with greater effectiveness in developing country contexts. To be valuable, it is important that South-South cooperation be undertaken in a regular process, such as being anchored in annual meetings, and not done in an *ad hoc* manner as it is now.

In his lead-off remarks, Jose Antonio Ocampo, economics professor at Columbia University and former Colombian minister of finance, highlighted the ruinous tax competition among developing countries seeking to attract foreign investment including quite costly tax incentives for foreign investors. Upgrading cooperation and coordination (especially at the regional level) and applying other means to attract investment can be pursued as a South-South cooperation objective. On the accusations by OECD countries that developing countries are hosting tax secrecy jurisdictions that undermine their tax systems, Ocampo pointed out the largest and most harmful tax havens are located in territories under the umbrella of developed countries (such as the UK's crown territories) and these are indispensable components of the financial centres that developed countries play host to.

Logan Wort, Executive Director of the African Tax Administration Forum (ATAF) based in Pretoria, emphasized that an indispensable step, even before worrying about the negative or positive impact of tax cooperation and treaties, is the strengthening of domestic tax laws.

Ms. Anita Kapur (former Chairperson of the Central Board of Direct Taxes of India) and Mr. Flavio Araujo (Coordinator General of International Relations, Secretariat of the Federal Revenue of Brazil) discussed the work of the tax administrators of the BRICS countries in tax cooperation. The two of them shared many of innovations in their countries that have not been recognized or considered by OECD as consistent with its approaches, even when these could be more practical for developing countries. For example, Brazil imposes differential withholding taxes on transactions with an official list it maintains of tax havens, based on legislated criteria. The OECD has not managed to keep countries on its list of "uncooperative tax havens."

BRICS countries are also capital exporters, unlike many other developing countries. One thing that BRICS countries could contribute is to "do no harm" to the interests shared among developing countries to obtain more revenue from source taxation.

Mr. Ignatius Kawala Mvula, Assistant Director at the Zambia Revenue Authority, and a member of the UN Committee on International Cooperation in Tax Matters, led the discussion on the taxing rights over services – such as administration, management, and technical services - provided to subsidiaries from headquarters. The UN tax committee has made excellent progress in proposing a different treatment compared to the OECD approach which relies on a separate entity principle and is about to promulgate a set of expert suggestions. This would be a major milestone, the introduction of a new article (Article 14) in the UN tax model.

Eric Mensah, Chief Inspector of Taxes, Ghana Revenue Authority, discussed, how, at the end of the commodity boom, developing countries, especially in Africa, have started an effort to change their policies to make sure that the country obtains its fair share of the benefits from a commodity boom. These countries are also seeking to coordinate better their investment and tax policies so that potential mining investors do not play off one country against another to obtain a favorable treatment.

Erika Siu, independent consultant, discussed issues around transfer pricing and taxing multinationals as single firms. Developing countries have a material interest in relying on taxation of income at the source instead of by residence. Disciplines on private transfer pricing practices are of paramount interest to developing countries because of its effect on the source tax base of these practices. UNCTAD estimates that developing countries 'lose' $100 billion per year in revenues as a result of transfer mispricing; the OECD estimate for all countries is $100 to $240 billion per year.

Prof. Annette Oguttu, Professor of Law, University of South Africa, led the discussion on illicit financial flows. Upgrading transparency, international cooperation and sharing information on investors are important steps. African countries are seeking to agree on standards of cooperation to combat these flows and protect their public revenues.

In leading the discussion on tax competition and tax cooperation post-BEPS, Dereje Alemayehu, Chair of the Global Alliance for Tax Justice, said that it is a mistake to take the view that the BEPS action points, even though they are many and detailed, constitute the kind of response in the priority list of developing countries. BEPS was concluded hastily and is incomplete and unsatisfactory in many aspects but now the global community is being asked to implement it. The manifold pressures and maneuvers on the part of OECD member states, especially its dominant countries such as the United States, to locate all tax cooperation decision-making to the purview of the OECD is not in the interest of developing countries, being inherently disadvantaged in this arena.

In discussing "Next steps: Research and Advocacy Priorities," Mr. Alvin Mosioma, founding direction of Tax Justice Network Africa, identified key priorities to include: (1) tax competition and tax incentives; (2) the ineffectiveness of existing transfer pricing standards; (3) BEPS gaps, international dominance, and legitimacy; (4) ignorance at the highest policy levels on the part of developing country authorities on the linkages between tax policy/cooperation with the overall development challenge; (5) what are efficient and effective tax policies applicable to developing countries; (6) how to elevate and contextualize alternatives that are more congruent with developing country needs and priorities.

There appeared to be a general view that upgrading and regularizing tax cooperation among developing countries is a workable project.

The BRICS discussion suggests that South-South cooperation is working and is possible and can be expanded among developing countries. It is important to recognize the political dimensions of tax cooperation, including among developing countries.

Any agenda among and for developing countries will include issues where there is common ground and other issues where there will be uncomfortable discussions, such as that of tax competition. Any developing country forum must incorporate both kinds of issues and confront problems that are created by developing country policies themselves. This is why it is important to create a safe space where developing country officials can discuss things candidly.

A developing country forum must create value for tax administrators and policy makers. The two-day meeting identified quite a few examples of tax policies and practices that would be of interest to administrators and policy experts. A developing country forum should be able to draw on the expertise in developing countries. It would be helpful if these successful practices could be documented and shared among developing country officials though publications and policy briefs.

An overall conclusion was the unqualified support on the part of the participants for additional follow up efforts to try to create a regular forum among developing countries on international tax cooperation. This forum could serve as a venue to improve coordination among developing countries in their participation in international activities such as at the UN, the IMF, and the OECD. A regular annual forum could provide the space to share and analyze effective practices more appropriate for developing country constraints, even if these practices are not recognized by developed country tax authorities.

Manuel F. Montes is the Senior Advisor on Finance and Development at the South Centre.

From Billions to Millions or Zero: It's Mostly Legal

Eurodad

Civil society representatives protest during the Financing for Development Conference held in Addis Ababa in July 2015 outside the room where delegations of developed countries were fighting to keep the issue out of the final outcome.

By Manuel F. Montes

In connection with the new United Nations development agenda, called "Agenda 2030," agreed in September 2015, the phrase **From Billions to Trillions** has become famous.

The phrase refers to the title of a report (World Bank 2015) by the group of international financial institutions, led by the World Bank and the IMF, as the group's contribution to the start of the Financing for Development (FfD) negotiations in July 2015. The report proposes that in order to achieve the Sustainable Development Goals (SDGs) in Agenda 2030 – with its 17 goals and 169 associated targets – trillions of dollars, instead of just billions of dollars in aid and investment will be required. While the previous UN development agenda, called the Millenium Development Goals (MDGs), required financing in the order of billions of dollars globally, trillions of dollars would be needed for the SDGs. The international financial institutions were making a technical contribution to the discussion, and excited over the prospect of scaling up their own operations to mediate the much higher level of financing flows required by the SDGs.

Aside from channeling international funds, the report also recognized the importance of assisting countries to design their policies to "maximize their own resources." This is quite logical. If these international banks manage to channel a lot of new external resources to these countries, these resources will ultimately have to be paid back, and developing countries will have to *permanently* scale up their capability to mobilize their own domestic resources, including collecting tax revenues.

In the matter of domestic revenue collection, we must recognize that just as these banks seek to channel incoming finance, private foreign investors are already using money channels that send resources out of developing countries, as as part of their strategies to reduce, evade, and avoid their tax payments.

Many analysts have exposed a pattern of corporate operations featuring earnings in the billions of dollars of revenues but which are associated with paying only millions of dollars in local taxes. The avoided tax payments are moved out of the local economy.

The billions-to-millions transformation is characterised by a tax rate of 10 per cent or less of revenues. This transformation is available to companies that operate in multiple tax jurisdictions, making the legal tax rate a weak indicator for the tax liabilities of foreign investors. Any international accounting firm worth its salt should be able to keep tax payments below 10 per cent of revenues when working with companies with international subsidiaries. These kinds of tax savings are not available to enterprises that operate only locally. These purely local companies end up bearing a higher proportion of the tax burden to the same extent that multinational companies operating in their midst are able to reduce their local tax payments.

Between 2009 and 2011, McDonald's in Europe reported a cumulative revenue of €3.7 billion and tax payments of €16 million (War on Want 2015) by moving its corporate headquarters to Switzerland, charging royalty payments from subsidiaries, which were channeled to a tiny Luxembourg subsidiary. On revenues of $11.9 billion, Amazon paid $16 million tax in 2015 in Germany (Bergin 2015) by coursing profits to the lightly taxed jurisdiction of Luxembourg. The roll call of US companies with this kind of European billions–to-millions tax structure would include Starbucks, Google, Apple, Caterpillar.

The billions-to-millions tax structure is practically a global standard no matter the currency involved. In Australia, from 2002 to 2013, Apple paid Australian dollars 193 million tax on Australian dollars 27 billion revenue, a tax rate of 0.7 of 1 per cent (Okenden 2014). In Australia, in 2014, nine drug companies paid 85 million (Australian dollars) in taxes on $8 billion revenue (Mather 2015); the companies explained that they all studiously abided by the OECD guidelines on transfer pricing.

With its extensive system of business incentives, the situation in the US could be worse. Many large companies have tax liabilities, also from billions to millions, but get tax credit sufficient to pay zero taxes or get a net subsidy from the government (Ritholtz 2012). In 2011, the ten most profitable US companies paid an average of 9 per cent in federal taxes, lower than the average American. In 2011:

-Exxon had pre-tax earnings $73.3 billion, a tax provision $31.1 billion (42 per cent tax rate) and actually paid $1.5 billion in taxes or a 2 per cent tax rate on profits.

-Apple had pre-tax earnings $34.2 billion, a tax provision $8.3 billion, actual payments $3.9 billion (11 per cent tax rate).

An important dimension of the billions-to-millions tax structure is that the largest losses of tax revenues are based on tax strategies that are completely legal. The Mbeki Report (2015) indicates that of three categories of illicit capital flows from Africa:

-60 per cent is "Commercial," meaning these are made possible from rules and practices of accounting and legal structures both domestic and international, double taxation treaties, transfer pricing practices, tax evasion, trade misinvoicing and abusive transfer pricing;

-35 per cent can be associated with "Crime," including the drug trade, human trafficking, illegal arms dealing, and smuggling of contraband; and

-5 per cent from "Corruption" associated with bribery and theft by corrupt government officials.

African countries lose $50 billion a year in illicit flows, which is about double what these countries receive in total from ODA.

The corporate form, which allows foreign controlled companies to engage in transfer pricing and profit shifting, facilitates the "commercial" form of illicit financial flows. It also facilitates the secrecy over who are the actual companies and individuals taking advantage of the international tax system. The controversy over the "Panama Papers" in April 2016 revolved around leaked electronic information on the operations of a law firm whose main business was the creation of corporations to move income to different tax jurisdictions.

In May 2014, the IMF (2014) published an analysis of the international tax system, using the word "spillovers" to call the impact of tax policies of individual countries on other countries. This study finds that "the network of bilateral double taxation treaties based on the OECD model significantly constrain the source country's rights," (IMF 2014, p. 12) the source country being where the actual economic activities are based. This study finds that the international tax system requires thoroughgoing reform. The fact that the estimated spillover impacts on non-OECD countries are twice as large as on OECD countries speaks to the urgency of this reform. The IMF (2014, p. 1) suggests that "Limiting adverse spillovers on developing countries requires not just capacity building, but also addressing weaknesses in domestic law and international arrangements."

One of the most bitter experiences in the negotiations towards the outcome of the Third Financing for Development Conference in July 2015 is that developed countries dangled offers of resouces for capacity building in tax design and administration to developing countries, but sought to maintain exclusive control over norm setting in international arrangements by successfully blocking the upgrade of the UN work on tax cooperation to an intergovernmental body. This outcome protects the monopoly over standard setting to the OECD which developed countries control.

Developing countries have pioneered many innovations in tax policy and administration that are not recognized as legitimate by the OECD. The South Centre has begun work in building South-South cooperation activities to strengthen efforts in developing countries to strengthen their tax systems.

Manuel F. Montes is the Senior Advisor on Finance and Development at the South Centre.

Debt Dynamics in China—Serious problems but an imminent crisis is unlikely

By Yuefen Li

Recently, there have been many articles in the international media predicting that China is facing an imminent financial/debt crisis worse than the 2008 US subprime crash. However, a closer look at the debt dynamics in China highlights some fundamental differences between the debt situation of the source country of the 2008 global financial crisis and that of China. Facts point to worrisome debt trends and problems, in particular with the corporate sector and the fast credit expansion, but would not support the current gloom and doom predictions.

Debt denominated in foreign currencies is around 12% of the GDP in 2015 according to the World Bank data, dwarfed by China's foreign exchange reserve as well as assets held abroad. This ratio is much lower in comparison with many developing countries including some Asian countries growing at a faster rate than China. In addition, China also runs a relatively big current account surplus. Therefore, currency mismatch in debt position is not a problem for China.

Public debt is around 40 percent of GDP, a manageable rate and lower than that of many advanced economies. The Achilles heel is corporate debt which is very high at about 145% of GDP. The most dangerous trend is the speed of the debt accumulation which carries systemic risks if not addressed very quickly.

However, the mitigating factors are, firstly , China's debt is predominantly domestic, especially after the fast deleverage of corporate foreign debt in 2015 and secondly, China's gross savings are close to 50% of GDP. On the other hand, household debt is relatively low and savings are high, which is an important cushioning factor. The analysis from the IMF economists also confirms that there is a healthy risk-sharing across households and corporations. Countries that save more can afford to borrow more. Besides, certain features of the Chinese economy allow corrective measures to be taken more quickly than some other economies. For instance, capital control measures and state ownership of some systemically important banks can provide the government with more policy space in times of need. A comforting fact is that the high leverage issue is not a problem that the government is not aware of. As the Associate Managing Director of Moody's Investors Service stated recently at an interview at CNBC "Not only do the (Chinese) authorities know what the situation is, but they have the tools and the intention, the willingness to address the issue (of) high leverages."

I. Size and composition of China's debt problem

According to IMF data, the total debt of China, which includes all categories of liabilities, was at 225 percent of GDP. Comparatively speaking, this ratio is lower than some developed countries but higher than almost all the developing countries except two.

China's debt is predominantly domestic and external debt is low: Moody's estimated China's domestic debt at 196.8 percent of GDP in 2014 and external debt at 7 percent in 2015. External debt is much lower than many emerging and developing economies. Thus, China does not have difficulties in servicing its external debt at all. The IMF's latest regional report stated that foreign bank claims on China account for $1 trillion. Foreign direct investment and portfolio equity together account for 70 percent of China's external liabilities, a much safer structure of liabilities than debt denominated in foreign currencies. Its net international investment position is about 1.6 trillion or 15% of GDP.

Central government debt is not high but local government debt is huge: China's public debt has risen markedly, to 40.6% of GDP at the end of 2015, according to Moody's estimates, from 32.5% in 2012. The central government debt was at 17 percent of GDP in 2015. This ratio is still below the public debt to GDP ratios of major advanced economies.

Household debt is low and savings are high: Households now have debt equal to 38% of GDP. Much of the debt is concentrated in house mortgages which are considered as high quality collaterals. The probability of defaulting on mortgages is low.

Corporate debt is high: The most vulnerable part of the composition of the Chinese debt is its corporate debt which stands at 145% of GDP. A large part of it is owed by state owned enterprises (SOEs).

Though the size of the corporate debt is alarming, it should not be understood as the government being exposed to contingent liabilities as big as 145% of GDP. This is because most of the SOEs are financially healthy and pose no risk of needing direct or indirect government support. According to Moody's, about 20-25% of GDP of debt owed by SOEs may require to be restructured. The IMF warned that the corporate debt could result in bank losses equal to 7 percent of GDP, not as large as the debt restructuring-resulted bank loss as implied by Moody's though still significant.

On the other hand, much of the corporate debt is either bank loans or domestic onshore bonds rather than offshore bonds. Seeing that the cost for floating corporate bonds are much cheaper than bank loans, Chinese corporates have rushed to the domestic bond market in recent years, pushing the ranking of the Chinese bond market to the world's third largest with the current size of around US$ 7.7 trillion, just behind the United States and Japan. According to the Chinese central bank, the interest rate for bank loans in the first quarter of 2016 was 5.7 percent across all maturities while the yield on 10-year AAA-rated corporate bonds averaged only 3.8 percent in line with data from main bond clearing houses. Such a huge cost differential in borrowing may have resulted in arbitrage and distortion in the financial market. Corporate debt also highlights the need for economic structural reform especially for the sectors with overcapacity. For instance, labor intensive textile enterprises tend to have higher debt and non-performing loans (NPL). Basically, the old economy firms (mining, manufacturing, construction, real estate, public administration, etc.) borrowed the most, accounting for 64% of total loans in recent years.

II. Systemic financial and economic risks posed by the debt burden

Though the size and composition of China's debt does not support the prediction of an imminent debt crisis in view of its asset position, they do expose some underlining systemic financial and economic risks.

<u>Breathtaking speed of debt increase and diminishing returns:</u> Economists have often used such adjectives as "neck breaking" and "breathtaking" to describe the fast economic growth of China in the 1980s and 1990s. Right now the same two words could be borrowed to describe the increase of the Chinese debt burden. The past 7 years have witnessed a tremendously dangerous debt built up. Externalities like the global financial crisis and the resultant low aggregate demand is a factor. China's deliberate self-chosen structural transition from a trade and investment driven growth model to one which relies more on domestic consumption and service industry could be another reason. However, this fast increase of debt also exposes some distortions and systemic risks. Lending by the shadow banking sector and bonds increased fast.

The alarming phenomenon is that the already fast credit increase has picked up speed in 2016. Credit growth in the first quarter of 2016 was reported to be up 58% over the same quarter in 2015 at 7.8 trillion Chinese yuan. The first round of expansionary credit policy in response to the global financial crisis in 2008 had some positive effects to counter the negative effects of the global financial crisis by expanding aggregate demand. However, now the margin efficiency of credit increase has been diminishing as an increase in each unit of credit in China is generating lesser and lesser amount of GDP. Some economists have been debating whether this is a result of wasteful investment, including lending to the so called "zombie enterprises" - enterprises which are not efficient or with overcapacity - to keep them afloat. It may also be the case that money borrowed has been kept at the balance sheet of enterprises without being invested in productive sectors. To stimulate the economy without looking into the absorbing power and efficiency could be counterproductive and create bubbles and wasteful investments.

<u>Non-performing loans from the corporate sector and local governments pose threat to the banking sector:</u> The IMF estimates that 15.5 percent of total commercial banks' loans to corporates, or $1.3 trillion (12 percent of GDP) are potentially at risk of being turned into non-performing loans as the profit earnings of the enterprises do not show the ability to service their debt. In addition, it is doubtful that local governments have the capacity to service the debt mountain amounting $4 trillion in view of their limited channels for raising revenue.

Recently, the central government has allowed corporations to swap their debt with banks in exchange for equity, named debt-for-equity swap. This kind of technique was used by other countries as well as China before. In times of good economic growth, it could be quite effective as with time the size of debt would decrease to a very manageable amount. It happened to China in the late 1990s. However, at times of slower economic growth as it is now, its effectiveness could be reduced and could even worsen the burden on the banking system as banks would be forfeited the business opportunity to receive interest and principal payments and also lose the ability to sell the equity to the central bank or other banks. The IMF published a paper in April 2016 to alert that the maturity transformation and liquidity transformation through the debt-for-equity swap may just kick the can down the road and would not address the problem of NPL fundamentally. Meanwhile, it could worsen the banks' asset quality. Similarly, local governments will be allowed to swap 1 trillion yuan ($160 billion) of their existing high-interest debts for lower-cost bonds. Such a swap should also be accompanied by policies to increase local government revenue and promote efficiency of their investment.

III. An imminent debt crisis is unlikely

Even though corporate sector and local governments are the country's major problems in terms of debt, they still seem to be manageable for the moment if actions to redress the problems would be taken quickly.

At the central government level, the foreign reserves are still the largest in the world at more than US$ 3.2 trillion in February 2016. Even though trade surplus has been shrinking, current account surplus is still healthy. The corporate and local government debt are predominantly domestic. If needed, the central government is in a position to stimulate the economy by increasing central government debt.

The savings level in China is still high and is mainly intermediated by the banking sector. An economist from Fitch rating agency commented on this unique feature of the Chinese financial system and stated that "China's financial system is dominated by banks and funded overwhelmingly by retail deposits. Both the banks and borrowers are either state-owned or heavily state-influenced. These factors suggest that the kind of collapse of confidence among creditors that might precipitate a financial crisis is unlikely in China." The relatively low household debt and high savings rate is a good anchor for the financial system. It minimizes the risk of fast reduction of consumption which can have negative impact on growth, employment and investment. The IMF economists considered this as a healthy risk-sharing across households and corporates, meaning households save and the corporates borrow. Households continue to have confidence in the banking system making the Chinese banks relatively liquid and a financial crisis led by drying up of liquidity less likely.

Another mitigating factor is that much of the credit is coming from the banking system and is not highly leveraged. The banking system is liquid and mainly financed by deposits. Bank deposits amount to more than 200% of GDP. The financial system in China still lacks the sophistication of the advanced economies where securitization is much more prevalent than in China. On the whole, China has very significant amount of highly liquid assets.

China's GDP growth rate is decent, at 6.9 percent, especially in the current world economic environment. Its growth outlook is still robust. The IMF recently revised it a bit higher while lowered GDP growth forecast for some countries.

Two factors should be also taken into consideration, namely China's capital account has not yet been not fully liberalised, though reforms are underway. Besides, government has more direct influence over state-owned banks and SOEs.

Even in the worst scenario when corporate debt and local government debt turned into non-performing loan en mass, which does not seem likely at this moment, the Chinese central government would still have tools and resources to deal with the problem. Firstly, the government has the fiscal space as its fiscal deficit is only around 3% of GDP. During the past and current financial crisis, socialization of debt has been repeatedly used even though it has been widely criticized. In times of need, China has policy space to do the same. It should be relatively less painful for China as much of the corporate debt is owed by SOEs and some large banks are state owned. However, this should not kick SOE reform down the road. In addition, as some major banks are state owned and with good liquidity positions, the government can resort to banks to step in at a scale much larger than the current swaps if the situation warrants such kind of intervention.

IV. The way forward

Being the second largest economy in the world, China's contribution to the economic growth in the world has been significant, accounting for 27 percent for 2015 and 26 percent in 2014. Therefore, it is entirely reasonable and natural for the world to pay attention to and even worry about the debt problem China is facing. A financial catastrophe for China would definitely have major ramifications to the world. It is important for China to face the challenges and take urgent steps to address the current problems. The following may be some of the options that deserve to be considered:

Slow down the fast credit expansion and enhance investment quality: Increasing debt and lower economic growth is a legacy of the global financial crisis. The current credit explosion in China carries the risk of a banking crisis in coming years. The corporate and local government debt are approaching critical levels. Banks and financial intermediary institutions should enhance capacity in pricing risks and improve quality of lending. An important part of the credit should be spent on productive sector to allow decent growth and debt servicing capacity. With the current debt level, credit expansion without proper design would amount to giving alcohol to a drunken person, which would only worsen the hangover. It is important to distinguish borrowing which creates wealth and return for servicing debt from borrowing which delays restructuring needs and prolongs the life span of entities which see no prospects of bringing back returns larger than the investment.

Not to deleverage would lead to the Japanese style of chronically low or no growth for decades, as high debt servicing would be a burden for economic growth and structural reform would be pushed to the future .

Undertake structural reform for SOEs and taxation reform for local governments: Restructuring the SOEs would be essential for addressing the debt burden of the corporate sector and make them robust and lean. As for local governments, a fundamental examination and reform of the taxation system may be required to allow sustainable stream of revenue to the local governments and have a clear redistribution of financial obligations and responsibilities between the central and local governments.

Maintain economic growth: The best way of solving the debt problem would be maintaining and enhancing economic growth. Yet, it is a complicated and multidisciplinary topic. It is abundantly clear that to rely solely on credit expansion without decent return would defeat the purpose.

Live with appropriate level of debt: Excess of debt in some sectors may continue to haunt for some years. Yet, it should be pointed out that as China is still a developing country at the stage of catching up, it would need to live with some debt. There is a trade off in paying down domestic and external debt. Therefore, if the fiscal position is comfortable and no debt crisis is looming, to maintain some level of debt would be healthy. Organic economic growth with no debt could forego chances of faster economic growth. With China's high savings rate, it seems China can afford to have relatively high debt. But to determine what is the comfortable and optimal level of debt is not an easy job. It is a science rather than art.

Strengthen deposit insurance: Deposit insurance could increase confidence in the banking system and is considered as an option against bank run risk. Apparently, the Chinese population has confidence in the banking sector. Nevertheless, its pros and cons could be studied.

Continue with the current deleveraging policy measures: Current debt swaps for corporate and local government debt are not unique policy measures. China has used it before, as well as other governments. It would be important to undertake empirical studies and examine ways to make them more effective.

China's debt dynamics is an excellent case to demonstrate that assessing debt sustainability and tracking debt vulnerabilities is a complicated task. The macroeconomic structure, savings pattern, characteristics of the banking system, economic policies, liquidity provision and a host of other factors interact with each other. For emerging and developing economies whose domestic financial markets are neither mature nor deep, it would be necessary to strengthen capacity for effective asset and liability management in national debt management.

Yuefen Li is the Special Advisor on Economics and Development Finance of the South Centre.

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EDITORIAL COMMITTEE

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(in English, French and Spanish)
www.SouthCentre.int

South Centre
Tel: +41 22 791 8050
Email: south@southcentre.int

The debt crisis discourse and the dynamics in China is an excellent case to demonstrate that assessing debt sustainability and tracking debt vulnerability is a complicated task.