

The South Facing a New Era of Unilateralism and Protectionism

A South Centre Briefing for Developing Countries by
Martin Khor, Executive Director

Palais des Nations , UN Office in Geneva,

17 April 2018

www.southcentre.int

Recent Era of International Cooperation Efforts: Mixed Success

- **1992 Rio Conference on Environment & Development.** South succeeded to include development into tackling environment crisis
- Rio Principles balanced the environmental Precautionary Principle with the Right to Development
- Established Common but Differentiated Responsibilities (CBDR) key principle
- To operationalise these, also adopted were the Principles of Finance and Technology Transfer to Developing Countries, recognising historical and present responsibilities of North & different stages of development

Rio 92 led to CBD & UNFCCC

Convention on Biological Diversity CBD

- Biological resources belong to countries in which they reside, not “universal heritage”.
- Plants, seeds, Genetic resources, traditional knowledge in South belong to South countries
- Access to bio-resources balanced with Benefit Sharing with countries of origin
- Finance and Technology transfer to South
- Nagoya Protocol on Benefit Sharing
- WHO agreement on sharing of viruses and vaccines

Climate Change Convention (1)

- Climate change is greatest challenge to future of humanity and Earth
- Key issue of convention and negotiations: Who shares the economic and technical burden of adjustment. Negotiations are about distribution of world output and income (GDP, GNI).
- Agreed: North mainly responsible for historical emissions; South still needs economic development
- North must take the lead in emissions control and assist South with finance and technology
- The extent South acts depends on extent the North's finance and technology commitments are met

Climate Change (2)

- Principle of common but differentiated responsibilities (CBDR): North tries to water it down but South manages to defend it
- But North tries to de-operationalise it in many ways eg asking for common approaches and targets, dilute finance commitment, remove IPRs and even “technology transfer” from texts
- North agrees to \$100 bil a year finance per year to South by 2020 but big shortfall. Green Climate Fund has only \$10 bil since inception and slow in disbursements. By contrast, according to many estimates including by UN: South needs \$1,000 bil a year for climate mitigation and adaptation.

Climate Change (3)

- Paris Agreement 2015 showed major efforts and negotiating skills of South alliances resulting in quite a balanced agreement
- But principles and gains made by South now being challenged in post Paris negotiations in UNFCCC through efforts to re-negotiate and to re-interpret Paris.
- US pull-out of Paris and GCF funds and its reversal of national policies a blow to multilateralism
- However South still committed to actions but faces huge challenge of negotiations and national actions.
- Danger the UNFCCC or its equity principles may not survive. Era of cooperation is fading.
- Thus there is even more need for South to work together and defend interests of South and the world.

Setbacks and Problems:

Debt/Structural adjustment

- External debt crisis became a major blow to many South countries in 1980s, 1990s up to early 2000s. Burden borne by debtors (mainly South and poorest countries) in absence of fair loss sharing by creditors and debtors. “Lost development decades.”
- Problem worsened by wrong prescribed policies by IMF and World Bank which led to depressed growth/prolonged recession instead of recovery; dismantling of role of state in economy; social calamity (health, education, jobs, poverty).
- Large tariff cuts in poorer countries led to de-industrialisation and big decline in agriculture and food production. Eg heavily subsidised rice, chickens, tomato from US, Europe overwhelmed local agriculture producers in West Africa and elsewhere. “Big Bang liberalisation” theory proved wrong
- HIPC initiative, resulting from Social Summit proposals of G77, came “too little and too late.”

Setbacks & Problems: Commodities

- Commodity exporting South countries suffered for most of post WW2 period from low prices and deteriorating terms of trade, depressing their growth and contributing to debt crises.
- Spurt in commodity prices in early 2000s gave hope to reversing the commodity problem, but the boom-bust cycle instead resumed.
- New problem of financialisation of commodities, causing speculation
- South countries' potential exporters eg African cotton producers suppressed by subsidised North products
- Commodity dependence still high & on the rise (UNCTAD)

Financial Crises (1)

- Absence of multilateral cooperation & coordination in global finance a major vacuum in multilateralism
- Post WW2 Bretton Woods orthodoxy of controlling financial speculation nationally and controlling cross-border flows overtaken in 1970s by efficient markets theory
- This fuelled increasing financialisation of economy, growth of speculative instruments and booms and busts in global capital flows
- South influenced by G7 and IMF orthodoxy, opened itself to finance inflows and their inevitable outflows, causing disruption/devastation: Asian and other crises of 1990s.

Finance(2): The coming financial explosion

- G7 “recovery policies” based on easy money and massive debt creation have laid the ground for bigger future crisis: South Centre and BIS
- In former BIS leaders’ terms, irresponsible and reckless G7 policies have created time bombs leading to an even bigger explosion in near future.
- South Centre focus on global reforms needed and South-South and national defences to be put in place as reforms not forthcoming
- South countries are now open to new financial vulnerabilities. They need to prepare for devastating global crisis ahead and begin to undertake reforms and take mitigating measures. Should not lock themselves into being unable to act eg due to clauses in FTAs preventing action on speculative capital flows.
- International debt restructuring mechanism could be a major buffer and tool in crisis management; South attempts to establish it failed so far. Its absence is factor why there is little international cooperation and defence against the coming crisis.

Zig-zags in multilateral trade: Background to WTO

- Trade relations after WW2 were guided by GATT after failure of efforts to set up more holistic and development-friendly Havana Charter
- North dominated GATT & obtained massive SDT by getting exemption from GATT rules for agriculture and textiles in which South was efficient and had advantage
- North planned Uruguay Round to expand GATT mandate through new issues. Reasons: (1) GATT national treatment principle suited them and they wanted to apply it to many other areas; (2) strong enforcement of rules through trade retaliation and later cross-sectoral retaliation.
- High EU official: “GATT/WTO is our vehicle of first choice for global economic governance.” It captures more countries than debt/IMF and structural adjustment can do.

How WTO differed from GATT

- Through Uruguay Round, new issues with big obligations on South entered the “trade system”: IPRs/TRIPS and Services with investment having a foot in through TRIMS as well as services.
- Within trade in goods, subsidies once used by North were prohibited or restricted for South but subsidies still used by North were allowed (eg for R and D).
- North in exchange agreed to end textiles exemption after a decade, and agreed for agriculture to return. But the AoA was only a framework and greatly flawed.
- It allowed continuing high tariffs and high subsidies, and allowed limitless subsidies if they are “green” as defined by AoA. Issues of importance to South like food-security stockholdings were not “green” but subjected to convoluted and unfair definitions.

IPRs and TRIPS

- IPRs entering the trade system is the most illogical feature of UR and WTO. IP is not in line with but contrary to trade liberalisation and market competition. It already has another home (WIPO).
- It has given WTO a bad image and reputation. Jagdish Bhagwati (GATT DG Dunkel's advisor in UR) on TRIPS in Financial Times: We made a mistake, we pretended it was somehow a trade issue by putting a prefix trade-related. It has turned WTO into a rent collector and given a bad name to trade. We should take it out of WTO and give it to WIPO.
- IP gives monopoly rights to big companies mainly of the North while most South countries bear the economic costs.

IP royalties shoot up

- In 1996, IP royalties received from abroad were: US (\$32 bil), EU (16 bil), Japan (7 bil); total of these 3: \$55 bil
- In 2016, they shot up to US (\$124 bil), EU (125 bil) Japan (39 bil). Total: \$288 bil
- In 1994, low and middle income countries paid royalties of \$3 bil. In 2016, this went up to \$59.2 bil. The net payment (after taking account of receipts) was \$55 billion. If we add Singapore and South Korea the figure jumps to \$71 bil (2016).
- Yet the actual cost is even higher. The South pays for higher import and domestic consumer prices for medicines and other products because of high monopoly pricing by patent-holding companies of the North. Eg some countries pay \$20,000 to 60,000 per patient for Hepatitis C when the generic price is about \$300-600.

Continued zig zags in WTO

- The Doha Round was launched in 2001 with the promise of putting development at the centre. The South wanted reforms to the WTO imbalances especially in agriculture, subsidies, TRIMS etc. But the North wanted more new issues (investment, procurement, competition).
- This divide has continued to this day. Three of the Singapore issues were withdrawn from Doha in 2004. Most negotiating energy as on agriculture and NAMA as the implementation issues and SDT fell by the wayside.
- But in a massive change of heart by the US and others, even the agriculture agenda is now rejected by them, thus causing a crisis to Doha.
- At MC11 in Buenos Aires, the contradictions led to few decisions being taken. WTO is in a deadlock, with debates centering on whether Doha has a future, whether agriculture will ever be reformed, whether the direct development issues of SDT and food security will ever get a fair hearing, and whether plurilaterals have a place or no place in the multilateral system

The wave of unilateralism

- But these post MC11 issues are now being overwhelmed by the new big tide of unilateral actions, by the US.
- First, the invocation of national security in US trade law to raise steel and aluminium tariffs. Second the use of Section 301 of US trade law to impose 25% tariff on \$50 bil and perhaps \$150 bil of China's imports, under the claim that China has violated IPRs and imposed technology transfer on US firms in China.
- The two major actions by the US threaten the viability of the multilateral trading system and even the rationale of WTO. Many developing countries were persuaded to join WTO because they were assured that Section 301 unilateral action would not be used again when WTO was established under strengthened rule of law and the DSU.
- Before that many developing countries and some developed countries (eg Japan) faced Section 301 tariff increase or other actions when the US deemed it was not complying with US interests or standards.

Section 301 is illegal under WTO

- The US Section 301 violate the WTO agreements. A member can take unilateral measures only in 6 situations: subsidised import, dumped import, import surge, BOP problem, general exceptions and security reasons.
- It can take a measure only in accordance with DSU, showing its benefit is being impeded and following definite procedures for settling this matter through the process of panel and appeal.
- The allegation of IPR violation raises the issue: is the US taking the standard of the US or of the WTO? Can it use Section 301 to punish another country for not complying with TRIPS plus standards?
- The use of national security in the steel and aluminium case is an equally dangerous unilateral action. Although the WTO has a national security clause, it has not been used because this would open the gates for members to make use of it in an arbitrary manner. By making use of this reason via domestic trade law, the US may be opening these gates to a new era of unilateralism not only to be used by itself but others as well.

Need for the South to reflect and respond

- Many South countries joined WTO to obtain predictability for their exports. They wanted Section 301 and other unilateral actions to be in the past, and to be protected by the rule of law.
- They were even willing to swallow the imbalances of other WTO agreements and rules to obtain this trade certainty. However if Section 301 and new tools such as national security and now to be used especially by major trade powers, then their rationale for joining would be undermined. There would be little benefits left.
- It is thus imperative for South countries to quickly reflect on this new threat to multilateralism and have their views be known about the dangers of unilateralism, and to act as soon as possible.
- At the least, countries can speak out in the relevant WTO bodies including the General Council. They can also be interested parties during counter actions such as complaints and panels taken by a member or some members against the unilateral actions.
- Those countries affected can also think of WTO allowable actions such as raising their applied tariff to the bound rate to apply to imports of the offending party. Dissatisfaction with the unilateral actions need to be expressed not only inside WTO but also in capitals and in regional and other bodies in which the South has a presence.

Conclusion

- Although the future of multilateral cooperation does not look bright at present, its spirit and actions can be revived and then strengthened.
- South-South cooperation should not replace but complement North South cooperation: a principle adopted by South organisations.
- However in a new era where North South cooperation is waning, it is even more important to develop S-S cooperation in all major areas, so that it could even build a new multilateralism from the bottom up.

The future for the South

- The South collectively is now collectively stronger than twenty or fifty years ago, and it can be stronger even, 10 years from now. We need to find and implement cooperation in practical as well as strategic terms in sustainable development, trade, production, technology, environment, health, food security.
- Not just as a complement to something that is now fading, but as a top priority. In doing so, the South countries would have to sometimes put aside, at least for a while, their narrower immediate interests for the larger good of the South as a whole.

Thank you!

Martin Khor
South Centre
Geneva, Switzerland
mkhor@igc.org
director@southcentre.int

The **South Centre** is an intergovernmental organization of developing countries established in 1995 with its headquarters in Geneva. As the multilateral think tank of the South, the Centre provides policy advice and undertakes research and analysis on key issues such as development, international trade, macroeconomic policy, global health, innovation, climate change and sustainable development. We promote South-South Cooperation and more equitable relations between North and South to the sustainable development of all peoples.

See more on the work of the South Centre at www.southcentre.int