

Quarterly Report of Activities

1 July to 30 September 2018



**SOUTH
CENTRE**

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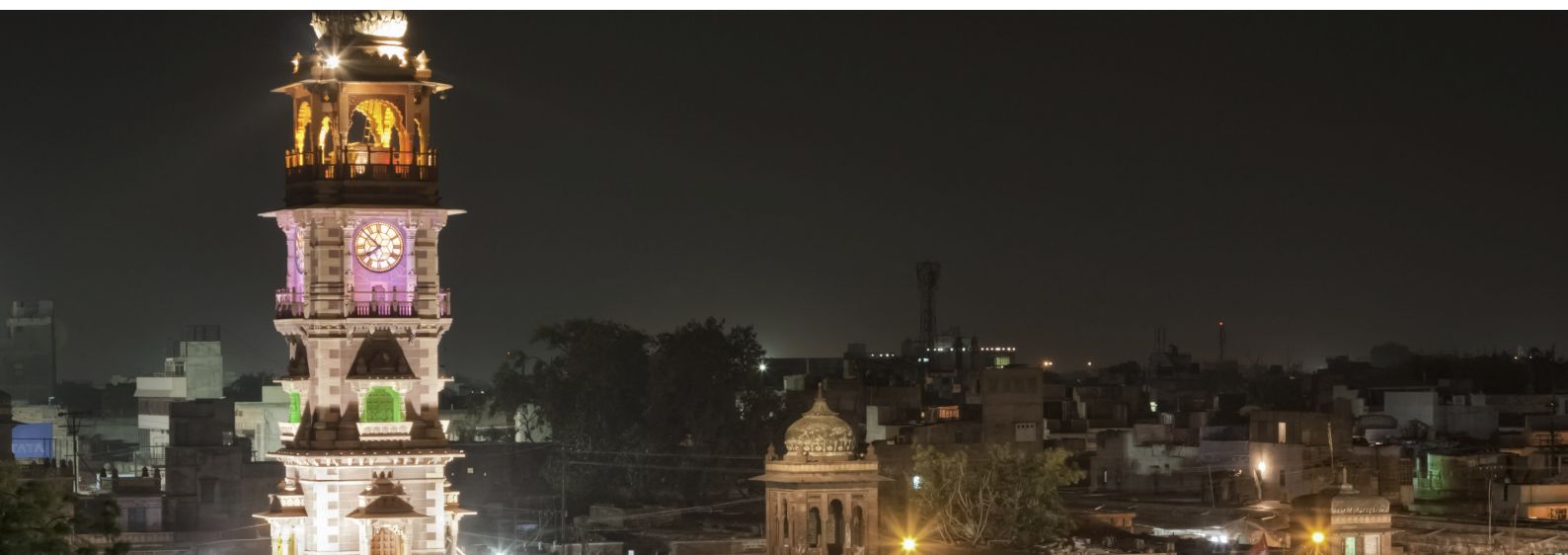


Introduction

This report summarizes the programmatic activities¹ of the South Centre (SC) during the period 1 July to 30 September 2018. It is intended to provide information, organized by Program and themes, about recent developments in the areas covered by the South Centre's Work Program and publications² and meetings organized or co-organized by the Centre to examine particular issues or to provide analytical support for international negotiations taking place in various fora. It also informs about external conferences and other meetings where the Centre has participated.

¹ The report also includes activities undertaken by the Special and Senior Advisors to the Executive Director.

² This report does not include references to unpublished background notes and other papers prepared in support of international negotiations in various fora.





Section I: Development, Innovation and Intellectual Property Programme (DIIP)

This section covers the issues of intellectual property, use of Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) flexibilities for public health, other health issues, and transfer of technology.

1. Intellectual Property

1.1. Intellectual property and biodiversity, traditional knowledge and access and benefit sharing

A. Recent Developments

Developing countries continue to seek a coherent and progressive development of international rules on biodiversity conservation, access and benefit sharing, and intellectual property (IP) protection.

An important process is the negotiations at the World Intellectual Property Organization (WIPO) Committee on genetic resources, traditional knowledge and traditional cultural expressions (IGC). Negotiations continue in the IGC for an international instrument that would address the mis-appropriation of genetic resources (GRs), traditional knowledge (TK) and traditional cultural expressions (TCEs). One important topic of negotiations on GRs is a mandatory requirement for patent applicants to disclose the origin/source of GRs on which the invention is based, so as to facilitate and promote compliance with national access and benefit sharing regulations. The July IGC session decided that an *ad hoc* expert group will be convened to advance the negotiations. The IGC has submitted a report of its work and negotiating texts to the WIPO General Assembly meeting in late September. The South Centre held meetings and prepared an analytical document to assist developing countries in their preparation for the negotiations. This work follows the Convention on Biological Diversity (CBD)-TRIPS conference that the South Centre co-organized in June 2018 on the sides of the World Trade Organization (WTO) TRIPS Council that brought together experts and wide political support for a solution in both the WTO and WIPO.

Another important process the South Centre supported in this period was the negotiations on an international legally binding instrument under the United Nations Convention on the Law of the Sea (UNCLOS) on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction. The first meeting of the intergovernmental conference for the instrument was held on 4-17 September in New York. The SC provided as input the research paper on the content of the instrument in September 2017 (SC Researcher Paper 79).

The SC has also continued to support the process of negotiations on a United Nations (UN) Declaration on the Rights of Peasants and Other People Working In Rural Areas in the Human Rights Council, which was approved at its 39th session from 21-28 September.

B. Publications

Analytical Notes

- Vitor Ido and Viviana Munoz Tellez, **Towards the Adoption of a UN Declaration on the Rights of Peasants and Other People Working In Rural Areas**, September 2018.

The UN Declaration on the Rights of Peasants and Other People Working in Rural Areas has been constructed by an Open-ended Intergovernmental Working Group over six years of open and transparent negotiations. The text has significant support from members of the Human Rights Council. Accordingly, member States of the Human Rights Council should adopt the Declaration through an upcoming Resolution at the 39th Human Rights Council Session (10-28 September 2018).

South Views

- **The Imperative of Protecting and Respecting Indigenous Peoples' Rights to Their Traditional Knowledge, Traditional Cultural Expressions and Genetic Resources in the Intellectual Property Rights Regime under the WTO and WIPO**, South Views No. 170, 9 August 2018, by Victoria Tauli-Corpuz.

Victoria Tauli-Corpuz, UN Special Rapporteur on the Rights of Indigenous Peoples and Member of the South Centre's Board, made a presentation about 'The Imperative of Protecting and Respecting Indigenous Peoples' Rights to Their Traditional Knowledge, Traditional Cultural Expressions and Genetic Resources in the Intellectual Property Rights Regime under the WTO and WIPO' at the International Conference on the TRIPS-CBD Linkage: Issues and Way Forward, held at the Palais des Nations, Geneva on 7-8 June 2018. The conference was jointly organized by the South Centre, the Centre for WTO Studies, New Delhi and the Indian Institute of Foreign Trade, and co-sponsored by the Permanent Missions of Brazil, India, Indonesia and South Africa to the WTO.

C. Conferences and Meetings Organized

- 22 August, Working Lunch Meeting for delegations at the South Centre in preparation for the Thirty-Seventh Session of the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC).

D. External Conferences and Meetings Attended

- 27-31 August, Thirty-Seventh Session of the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC).
- 28 September, Washington DC, Panel on the use of competition law and policy to promote access to medicines and other health technologies in developing countries at the 5th Global Congress on IP and the Public Interest.

1.2. World Intellectual Property Organization

A. Recent Developments

The WIPO remains the most active forum for negotiations on intellectual property rights. In the reporting period the following meetings of WIPO bodies took place: 28th session of the Standing Committee on the Law of Patents (SCP); 37th session of the Intergovernmental Committee on Genetic Resources, Traditional Knowledge and Folklore (IGC) reported above; 13th session of the Advisory Committee on Enforcement (ACE); 28th session of the Program and Budget Committee (PBC); and the WIPO Assemblies.

Issues of particular interest to developing countries in the SCP include exceptions and limitations to patent rights, patents and public health, patent opposition systems and transfer of technology. The SCP outcomes on these issues are limited, yet an agreement was reached at the past July 2018 session to undertake a study on voluntary and compulsory licensing mechanisms to promote public health. The South Centre organized a working lunch meeting for WIPO delegates in preparation for this session of the SCP on 4 July 2018 and provided an analysis of the proposals for the session. The SC also participated in the SCP as an observer and produced a *SouthNews* report on the outcomes. The SC also participated in the ACE and produced a *SouthNews* report on the discussions. This session of the ACE introduced for the first time an important discussion on IP and competition law in relation to IP enforcement. The SC also organized a Working Lunch briefing for WIPO delegates from developing countries in preparation for the 2018 WIPO Assemblies and helped delegations prepare for the discussions through a matrix analyzing the issues under discussion in WIPO and depicting possible scenarios on outcomes. The WIPO Assemblies were held from 24 September to 2 October. The main issues on the agenda included decisions on whether to move towards treaty negotiations on design rights in the form of a Design Law Treaty (DLT) and the selection of three countries where new WIPO external offices might be established.

B. Publications

SouthNews

- **Progress towards balanced work by the WIPO Committee on the Law of Patents**, SouthNews No. 223, 3 August 2018, by Nirmalya Syam.

The 28th session of the WIPO Standing Committee on the Law of Patents (SCP) achieved positive outcomes advanced by developing countries, despite difficult negotiations. Reference documents will be produced on exceptions and limitations to patent rights such as the research exception and compulsory licensing, for discussion in its future sessions, and discussions will continue on issues of 'quality of patents' including opposition systems, patents and health, patents and transfer of technology, and client-patent advisor privilege.

- **The balancing role of competition authorities and judges discussed at the WIPO Advisory Committee on Enforcement**, SouthNews No. 227, 20 September 2018, by Nirmalya Syam and Vitor Ido.

The need to freely design national competition laws and to ensure space for judicial discretion for fair and equitable decisions by specialized IP courts were some of the issues discussed at the 13th session of the World Intellectual Property Organization (WIPO) Advisory Committee on Enforcement (ACE) held on 3-5 September 2018 in Geneva.

Statements

- **Statement to the WIPO Assemblies**, September 27, 2018.

The need for an enhanced representation of developing countries in all World Intellectual Property Organization (WIPO) bodies, and for progress in establishing new international norms on traditional knowledge, genetic resources and cultural expressions as well as on copyright exceptions and limitations, was highlighted in the South Centre statement delivered to the 2018 session of the Assemblies of Member States of WIPO. It also noted that WIPO should support developing countries and least developed countries in preserving their policy space to craft national intellectual property regimes that are suitable to their contexts, needs and priorities through the use of greater flexibilities.



C. Conferences and Meetings Organized

- 4 July, Working Lunch meeting at the South Centre in preparation for the Twenty-Eighth Session of the WIPO Standing Committee on the Law of Patents (SCP) held on 9-12 July 2018.
- 18 September, Working Lunch Meeting at the South Centre in preparation of the Fifty-Eighth Series of Meetings of the Assemblies of the Member States of WIPO.

D. Support to Negotiations

The SC provided support to delegations during the meetings of WIPO committees on patents, enforcement and the assemblies of the treaties administered by WIPO and the General Assembly, which is the main body of the organization.

E. External Conferences and Meetings Attended

- 4 July, Conference titled: "Análisis e Impacto del Tratado de Cooperación en materia de Patentes (PCT)", organized by the Law Faculty, University of Buenos Aires.
- 3-5 September, 13th session of the WIPO Advisory Committee on Enforcement (ACE) held at the WIPO headquarters in Geneva.
- 24 September to October 2, Fifty-Eighth Series of Meetings of the Assemblies of the Member States of WIPO.



1.3. Unilateral measures – Section 301

A. Recent Developments

The SC continues to monitor the use of unilateral measures by developed countries, in particular measures by the United States based on the US Trade Act of 1974. The United States Trade Representative (USTR) Special Section 301 Report has placed several developing countries in a “priority watch list” for allegedly failing to provide adequate protection for intellectual property rights of US holders, even when the country may be fully in compliance with its international obligations under the WTO TRIPS Agreements and other international IP agreements. The unilateral trade retaliation imposed by the US on China based on the USTR report is of particular concern, as it not only aims to weaken the Chinese economy and its industrial development but also raises systemic concerns that any country may be victim of the intimidation and economic effects of the measures based on the US Trade Act of 1974. The South Centre has been discussing these developments with delegations and produced a policy brief calling on developing countries in the WTO to unite and take a decisive action to prevent economic and political intimidation as a tool to push reform of intellectual property policies, which undermines the multilateral trading system and the credibility of WTO as a ruled-based institution.

B. Publications

Policy Briefs

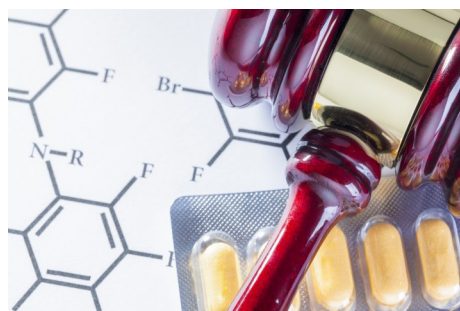
- Nirmalya Syam and Carlos M. Correa, **US Claims under Special Section 301 against China Undermine the Credibility of the WTO**, Policy Brief 51, September 2018.

The US action to place China in the Special 301 ‘Priority Watch List’ is unjustified and in contravention to the WTO rules. The claims made against China are based on standards self-determined by the Office of the United States Trade Representative (USTR), not on international standards. This is an example of a systemic problem that requires a concerted response. WTO members should unite to firmly oppose the imposition of unilateral measures that undermine the multilateral trading system and the credibility of WTO as a ruled-based institution.

2. Use of TRIPs Flexibilities for Public Health

A. Recent Developments

The South Centre has provided technical expert advice and negotiation assistance to developing countries in the area of use of intellectual property flexibilities to promote public health for many years. The South Centre developed a project proposal for substantial financial support from UNITAID to scale up this work, to include support for multilateral negotiations on an on going basis, publications as well as numerous trainings at regional and national level to policy makers, judges and patent examiners and authorities. The project was approved in September 2018, with a start date from July 2018. The South Centre has held a project kick off meeting with UNITAID. Various project activities have already begun to be implemented, including two trainings for patent examiners in India. Training of patent examiners in South Africa is being planned, as well as a regional training for policy makers in Latin America.



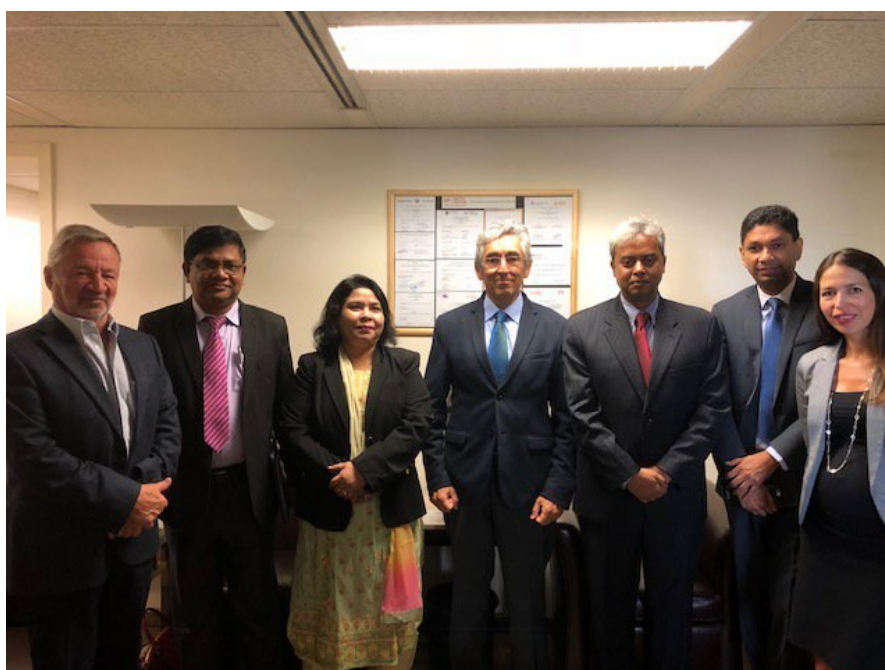
B. Conferences and Meetings Organized

- 13-14 August, Training for patent examiners in Delhi, India, together with the Indian patent office.
- 16-17 August, Training for patent examiners in Mumbai, India, together with the Indian patent office.



C. Support to Negotiations

- Official visit of the delegation of Bangladesh to provide advice on implications of the graduation of Bangladesh from least developed country (LDC) to low and middle income country (LMIC) on the transition period with regards to pharmaceutical patents and related obligations under the TRIPS Agreement.





3. Health

3.1. World Health Organization

A. Recent Developments

For the last year the World Health Organization (WHO) has been involved in the process of drafting a roadmap on access to medicines that would include current activities that WHO is carrying out as well as outlining key priorities for the WHO on this important issue.

The South Centre has been supporting countries as they submitted comments for the draft road map and also participated in the consultation that took place in the WHO in early September and made a statement outlining key priorities of developing countries. The Roadmap on access to medicines will likely be reviewed and a new draft will be submitted for the Executive Board Meeting in January 2019. The South Centre will continue to support Member States in engaging with the consultation process to ensure that key priorities for developing countries are well reflected.

B. Publications

Policy Briefs

- Nirmalya Syam and Mirza Alas, **Major Outcomes of the 71st Session of the World Health Assembly of WHO**, Policy Brief 49, July 2018.

The 71st session of the World Health Assembly (WHA) of the World Health Organization (WHO) took place from 21 to 26 May 2018 in Geneva, Switzerland. The Assembly adopted several decisions and resolutions including the adoption of the General Programme of Work (GPW) of WHO for the period 2019-2023, as well as decisions on addressing access to medicines and vaccines and their global shortage, and the recommendations of an overall programme review of the WHO Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property (GSPA-PHI). Also, the WHA adopted an important resolution to support the preparation of the first high-level meeting of the United Nations General Assembly (UNGA) this year on ending tuberculosis (TB) and another resolution supporting the preparation of a third high-level meeting of the UNGA on the prevention and control of non-communicable diseases (NCDs). Other significant resolutions that were adopted include resolutions on digital health, improving access to assistive technology and addressing the burden of snakebite venom.

Statements

- **South Centre Statement for the Informal Consultation on the Roadmap on Access to Medicines**, September 2018.

The draft roadmap is an important work in progress that needs to be further detailed with clear deliverables and timelines. The roadmap will need to ensure complementarity of its work and the implementation of the Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property (GSPOA).

C. Conferences and Meetings Organized & Support to Negotiations

- 23 July, Technical Briefing on Global Health Governance and Conflict of Interest held at the South Centre.
- 15 September, consultation for member States on the WHO Access to Medicines roadmap, with Médecins Sans Frontières (MSF), Knowledge Ecology International (KEI) and Drugs for Neglected Diseases Initiative (DNDi), Geneva.

D. External Conferences and Meetings Attended

- 16 July, Course on Access to Medicines: global inequity in the fulfilment of the rights to health organized by Universidad Complutense in Madrid.
- 10-11 September, WHO Member States Consultation of the Roadmap on Access to Medicines and Vaccines 2019-2023.

3.2. Antimicrobial resistance

A. Recent Developments

During this period the South Centre was involved in global discussions on framing the future global governance on antimicrobial resistance (AMR) as well as the overall work of the UN Interagency Coordination group (IACG) on AMR. The South Centre provided submissions to the IACG discussion paper 'Future global governance for antimicrobial resistance' and 'Antimicrobial resistance: national action plans'. These submissions aim at assisting the IACG as it prepares to provide recommendations to the UNGA in September 2019.

The South Centre also collaborated with the Antibiotic Resistance Coalition (ARC) by providing inputs and analysis that resulted in the submission of various written inputs to the IACG on all the papers that were open for public consultation including: national action plans, stewardship, communication, research and development (R&D) and innovation.

The South Centre also supported the Group of 77 (G77) and China with written inputs during the negotiation of the draft text of the political declaration on tuberculosis (TB) in New York. The High-level Meeting on TB took place at the UNGA on September 26. This meeting was important in positioning TB at the global level particularly because this disease is highly prevalent in low and middle income countries and continues to be the deadliest infectious disease. Another important aspect is that multi-resistance TB (MDR-TB) is on the rise and therefore TB will need to be fully included in all actions related to antimicrobial resistance.

The South Centre was also involved in the formal consultations for the WHO process of negotiating a Stewardship and Development Framework on AMR to be held 1-2 October 2018. The Centre convened a Member State briefing and provided written analysis on the elements of the framework to support member states' negotiations. The South Centre will also attend the consultation. The WHO will need to have a final framework to submit to the UNGA in 2019 as part of the implementation of the political declaration on AMR.

B. Publications

Policy Briefs

- Mirza Alas and Viviana Muñoz Tellez, **Considerations for the Effective Implementation of National Action Plans on Antimicrobial resistance**, Policy Brief 53, September 2018

Effective design and implementation of national action plans (NAPs) is critical for the response to the growing challenge of antimicrobial resistance (AMR). This policy brief describes the messages that the South Centre has transmitted to the United Nations Inter-Agency Coordination Group (IACG) on AMR in the context of its public consultation, towards shaping its recommendations that will be submitted to the United Nations Secretary-General in the second half of 2019.



Statements

- **Statement by the South Centre delivered at the High Level Meeting on the Fight to End Tuberculosis, UNGA New York, September 2018.**

This is the South Centre statement at the High Level Meeting on the Fight to End Tuberculosis during the 73rd session of the United Nations (UN) General Assembly held on 26 September 2018 at the UN headquarters in New York.

- **Statement by the South Centre delivered at the Third High-Level Meeting on the Prevention and Control of Non-Communicable Diseases, UNGA New York, September 2018.**

This is the statement by the South Centre to the Third High-Level Meeting on the Prevention and Control of Non-Communicable Diseases (NCDs) during the 73rd session of the United Nations (UN) General Assembly held on 27 September 2018 at the UN headquarters in New York.

South Centre News on AMR

- **South Centre supports preparation for the UN High-Level Meeting on Tuberculosis in UNGA.** South Centre News on AMR 22, 2 July 2018. (Vitor Ido and Mirza Alas)
- **Monitoring progress of national action plans to combat antimicrobial resistance.** South Centre News on AMR 23, 26 July 2018. (Mirza Alas)
- **Addressing antimicrobial resistance to advance the SDGs: The IACG briefs New York delegations at HLPF 2018 on its work.** South Centre News on AMR 24, 16 August 2018. (Viviana Muñoz Tellez)
- **Global governance mechanisms to sustain global action on Antimicrobial Resistance.** South Centre News on AMR 25, 14 September 2018. (Viviana Muñoz Tellez)

C. Support to Negotiations

The program coordinator held various individual meetings with delegations of developing countries in New York, during a visit in July, to support the negotiation of the draft text on the high level political declaration on tuberculosis. She was also part of the discussions within the UN IACG on various issue areas in expert capacity, including R&D and access, as part of its work towards recommendations to the UNGA in 2019. These included conference calls and meetings. Comments were also sent to the Group of 20 (G20) developing countries on the negotiating text of the G20 Health Ministers Declaration.

- 21 September, Working lunch on WHO Member State Consultation on the Framework to Combat Antimicrobial Resistance, Geneva.

D. External Conferences and Meetings Attended

- 18 July, "Antimicrobial Resistance and the SDGs: challenges and opportunities - A briefing by the UN Interagency Coordination Group on Antimicrobial Resistance", UN headquarters, New York. DIIP Program Coordinator attended, also participates in the IACG.
- 17-18 September, Meeting on Future AMR Global Governance, Stockholm. The Executive Director participated.



3.3. Biosimilars

A. Recent Developments

Bio-therapeutics offer new possibilities to treat many diseases, yet access to bio-therapeutics is highly constrained, largely due to their high cost. Thus, interventions to increase access to bio-therapeutics, in particular their equivalent generic versions (biosimilars) are important. Biosimilars are not widely available mainly due to the requirements of the regulatory framework, intellectual property barriers and actions by the originator companies to influence prescription choices by the medical profession. The South Centre continues to support countries to ensure that the WHO can deliver on its 2014 WHA resolution 67.21 that urged "to work to ensure that the introduction of new national regulations, where appropriate, does not constitute a barrier to access to quality, safe, efficacious and affordable bio-therapeutic products, including similar bio-therapeutic products." A related process is to ensure that WHO gives proper guidance, and in this regard the South Centre is supporting the revision of the WHO guidelines on evaluation of similar bio-therapeutic products. The South Centre is also producing analyses and disseminating information in the area of biosimilars, through a recent publication of a policy brief, as well as holding meetings for delegations. The South Centre is also exploring a new project in this area to increase publications and trainings to policymakers at regional level.

B. Publications

Policy Briefs

- Germán Velásquez, **The International Debate on Generic Medicines of Biological Origin**, Policy Brief 50, August 2018.

The debate on generic medicines is not new. What makes it different today is that attacks levelled against biological generic products are couched in even more “technical” and abstruse language. The high price of biological drugs stems mainly from the introduction of barriers to the entry of generics into the market. In any debate on the feasibility of producing biological generic products identical to the ‘original’ ones, it should be made clear that what are at stake are not identical products but therapeutic equivalents.

3.4. Biomedical research and development

A. Recent Developments

The South Centre’s work in the area of pharmaceutical innovation focuses on promoting research and development that deliver affordable, quality medical products for all. In this regard, attention is given to systemic issues as to how the R&D is operating as areas for intervention to tackle excessive high pricing and monopoly control, remedy gaps in R&D for diseases that disproportionately affect developing countries, shortages of essential medicines, and lack of innovation in new antibiotics. The South Centre is also leading work in understanding capacities for R&D in developing countries. In this regard, it recently organized a national consultation in India on biomedical R&D with participation (and co-sponsorship) of the domestic industry, as well as of high level policy makers, academia and civil society. A study was also commissioned on the state of the Indian pharmaceutical industry, which provides a large part of the production of generics that are used in developing countries.

B. Conferences and Meetings Organized

- 13-14 August, Conference on Biomedical R&D for Public Health co-organized with the Pharmaceuticals Export Promotion Council of India (PHARMEXCIL), and the Council for Scientific and Industrial Research (CSIR), India, held in New Delhi. The conference brought together 28 representatives from government departments, publicly funded R&D initiatives, the Indian pharmaceutical industry, as well as participants from civil society and academia.



C. External Conferences and Meetings Attended

- 25-26 July, Workshop on Principles and Practices for Biomedical R&D in the Public Interest organized by Wellcome Trust, DNDi and the Geneva Graduate Institute, and held at the Wellcome Trust Offices. DIIP coordinator participated and opened and led discussion on theme 7: Availability and Stewardship.

4. Transfer of Technology

A. Recent Developments

The WTO Working Group on Trade and Transfer of Technology (WGTTT) is mandated to examine the relationship between trade and transfer of technology and make recommendations on steps that might be taken within the mandate of WTO to increase flows of technology to developing countries. However, no progress has been achieved in formulating practical recommendations on how to increase transfer of technology to developing countries. Discussions in the WGTTT have stagnated around differing views on its mandate and priority areas for discussion. At the July 2017 session of the Working Group, the African Group called on the WTO secretariat to compile a summary of all proposals, so that the WG can identify priority areas and time frames to conclude the discussions. The South Centre prepared a background note in preparation for this session compiling developing country proposals and suggesting potential new work for the working group. South Africa, Pakistan, India, Philippines, Namibia (current chair of the WGTTT) have formed a core group to take the issue forward at the next session of the WGTTT on October 25 and held a working meeting to assist in the preparations for the session. The South Centre in this period closely supported the Chair and the core group with meetings and providing comments to the interventions and proposals.

B. Conferences and Meetings Organized & Support to Negotiations

- 10 July, Working Lunch in preparation for the 58th session of the Working Group on Trade and Transfer of Technology held on 16 July 2018.

Section II: Global Governance for Development Programme (GGDP)

This section covers the issues of climate change and sustainable development, finance for development, debt and economics, investment policy, corporate accountability, global governance and south-south cooperation.

1. Climate Change and Sustainable Development

A. Recent Developments

Negotiations are currently on-going in the United Nations Framework Convention on Climate Change (UNFCCC) in relation to the drafting of the implementing rules for the Paris Agreement; discussions are ongoing in the Green Climate Fund (GCF) in relation to the replenishment of the Fund; the Intergovernmental Panel on Climate Change (IPCC) is currently finalizing its special report on the global warming of 1.5°C and starting preparations for the 6th assessment report; the High-Level Political Forum on Sustainable Development (HLPF) for the Sustainable Development Goals (SDGs) are continuing with thematic discussions on the extent to which various SDGs are being achieved, and discussions have just been launched in relation to the multilateral consideration of a new Global Compact on the Environment.

Developing countries face significant challenges in all these areas, particularly in negotiations on the implementation rules for the Paris Agreement, as it is necessary to preserve and further develop the basic principles and mechanisms adopted under the Agreement, notably in relation to the common but differentiated responsibilities (CBDR).

The South Centre's work in this area has focused on the UNFCCC climate change negotiations, climate financing including through the GCF, climate science such as the IPCC, and the multilateral policy discussions in relation to the 2030 Agenda on Sustainable Development and the SDGs.

B. Publications

SouthNews

- **G77 and China input paper for the Sixth Session of the High Level Political Forum on Sustainable Development**, SouthNews No. 21, 17 July 2018.

The Sixth Session of the High Level Political Forum on Sustainable Development is taking place on 9-18 July in New York under the auspices of ECOSOC. The theme of HLPF 2018 this year is: 'Transformation towards sustainable and resilient societies'. A Ministerial High Level Segment is taking place from 16 to 18 July. A zero draft outcome was circulated on June 12. This is the input paper presented by the Group of 77 and China which highlights the key concerns of the developing countries and their challenges for implementing the 2030 Agenda for Sustainable Development.



- **Energy for Development in a Carbon-constrained World**, SouthNews No. 225, 27 August 2018, by Youba Sokona.

Energy constraints limit economic growth in many developing countries; there are over 2 billion people around the world that lack access to energy services. Energy systems, currently dominated by a supply oriented approach with centralized units, do not take advantage of current development of renewables and can hardly provide options for widening access to all in a foreseeable future. These are some of the issues addressed at 'Energy for Development in a Carbon-constrained World' (EDC2018) organized by the Carnegie Institution for Science, with the participation of Youba Sokona, Senior Adviser on Sustainable Development of the South Centre.

- **IPCC holds outreach in Sudan**, SouthNews No. 226, 31 August 2018, by Youba Sokona.

In order to have a better understanding of the Intergovernmental Panel on Climate Change (IPCC) and the key findings of the IPCC Fifth Assessment Report (AR5), an outreach event on the role and activities of the IPCC was held in August in Khartoum, Sudan. Youba Sokona, Vice-Chair of the IPCC and Senior Adviser on Sustainable Development of the South Centre, participated in the event.



C. Conferences and Meetings Organized

- July and August 2018 – The South Centre assisted various developing countries, through its research, analysis, and the organization of informal meetings, in preparing for climate change negotiations in Bangkok in September 2018.

D. Support to Negotiations

- Analytical support was provided to various developing country delegations, on demand, in relation to HLPF SDG issues by the SC Permanent Observer in New York.
- During the Bangkok UNFCCC negotiations (2-9 September), the South Centre provided technical and research support to various developing countries and their negotiating groups on various issues covered by the negotiations.



E. Support to Climate Science

- During this quarter, the South Centre's Senior Adviser for Climate Change and Sustainable Development participated in various international meetings and outreach events in connection with the work of the IPCC, the preparation of its assessment and special reports, and the role of the IPCC in furthering climate science.

F. External Conferences and Meetings Attended

- Workshop on South-South and technological cooperation for climate change action and sustainable development co-organized by the United Nations Office for South-South Cooperation and the Technological Executive Committee of the UNFCCC, 11 – 13 July.
- Working meeting about Energy for Development in a Carbon-constrained World (EDC2018) on 6-9 August 2018 organized by the Carnegie Institution for Science housed in the Carnegie's Department of Global Ecology on the Stanford University campus.
- Additional sessions of the UNFCCC Ad hoc Working Group on the Paris Agreement (APA) and subsidiary bodies in relation to the negotiations under the Paris Agreement Work Programme, 3-9 September, Bangkok.



2. Finance for Development

A. Recent Developments

This thematic area focuses on the work of the Centre in relation to finance for development issues, including in the area of tax cooperation, illicit financial flows, and capital controls.

There is a global consensus that the international tax regime is broken and is in need of thoroughgoing reform. The main question is: will the direction of change result in equitable taxing rights and burdens, reduce inequality, and result in public authorities recovering the resources needed for development. To ensure adequate participation of developing countries in the reform process the South Centre is running a tax cooperation project intended to create a network of developing country tax professionals.

B. Publications

Policy Briefs

- **Interaction of Transfer Pricing & Profit Attribution: Conceptual and Policy Issues for Developing Countries**, By Dr. Vinay Kumar Singh (Additional Commissioner of Income Tax, Government of India), Tax Cooperation Policy Brief No. 3, August 2018.

Till 2010, model tax conventions treated profit attribution to permanent establishments and transfer pricing under different articles, and profit attribution under Article 7 allowed sales to be taken into account both in the direct accounting method as well as the indirect apportionment method. However, the revised Article 7 in the 2010 update of the OECD Convention approximated profit attribution with transfer pricing and omitted the option of apportionment, thereby undermining sales and contributions made by market jurisdiction to business profits. When a tax treaty retains Article 7 based on the UN Convention or the earlier OECD Convention, Contracting States can take sales into account and also opt for apportionment. Developing countries need to fully understand these implications of Article 7 in their tax treaties, and opt for informed choices for transfer pricing and profit attribution to permanent establishments, including apportionment that takes sales into account.

- **Exchange of Information: Indian Experience, Developing Country Implications**, By Jahanzeb Akhtar (Indian Revenue Service, Principal Commissioner of Income Tax, Ministry of Finance, Government of India), Tax Cooperation Policy Brief No. 4, September 2018.

Exchange of tax-related information between countries is a critical tool for addressing information asymmetries between governments and taxpayers that facilitate tax evasion/avoidance. However, the existing system of information exchange has been essentially designed and implemented by the OECD, without the participation of developing countries. This policy brief thus discusses India's experience with implementing information exchange for tax and other purposes, with lessons being drawn for other developing countries grappling with base erosion and profit shifting.





C. Conferences and Meetings Organized

- 31 August-1 September, Geneva, Consultation workshop on Finance for Development (FFD) and South-South Co-operation was held at the South Centre with the participation and support of the United Nations Conference on Trade and Development (UNCTAD) and Friedrich Ebert Stiftung Geneva office.
- 11 September, Geneva, Presentation on the work of the South Centre and on tax and development issues to developing country mid-career civil servants and academics participating in the Managing Global Governance (MGG) course organized by the German Development Institute.

D. Support to Negotiations

- Senior staff based in New York assisted the G77 in negotiations for the FFD forum outcome

3. Financial issues and Debt

A. Recent Developments

The Centre continues to monitor and study the financial situation and evolution of debt burdens of developing countries, the continuation of systemic gaps and deficiencies that give rise to resource constraints and increased foreign debt in developing countries. This is a key area of concern for developing countries in light of emerging signs of a new global financial crisis happening.



B. Publications

Policy Briefs

- **Causes of Currency Turmoil in Emerging Economies**, Policy Brief No. 52, September 2018, by Yuefen Li.

Many emerging economies and developing countries are facing strong economic headwinds. Currency depreciation pressure is mounting for some countries. Argentina and Turkey are coping with currency crises, massive capital outflows and hyperinflation. To say their crisis is completely self-inflicted is not correct. The exogenous shocks have played an important role. Other emerging economies and developing countries as a whole should be vigilant and try to defend their currencies and maintain financial stability. It is also high time to try to fix the flaws in the international financial system.

SouthNews

- **The Contribution of Development, including Poverty Reduction, in Promoting and Protecting Human Rights**, *SouthNews* No. 222, 19 July 2018, by Yuefen Li.

The linkage of poverty alleviation and promoting and protecting human rights is close. The role of the government in formulating and implementing the right development strategies is vital for enhancing this linkage. Meanwhile, the policy space to implement them is required. The obligations of the international community to provide an enabling and supportive global economic environment to assist the governments to overcome obstacles and reduce risks could not be overemphasized.

C. External Conferences and Meetings Attended

- 7 Sept. 2018, UNCTAD Summer School 2018 on Money, Finance and Debt: Old debates, new challenges (lecture on “Debt issues and UNCTAD Principles on Sovereign Financing”).

4. Investment Policy

A. Recent Developments

The South Centre has continued to follow-up the discussions at the United Nations Commission on International Trade Law (UNCITRAL) Working Group III pertaining to reform of investor-state dispute settlement. After co-organizing with the G-77+China Secretariat a number of briefings for G77 delegates in Vienna, New York and Geneva, the Centre will continue to work with the G77 in preparation for the next meeting of UNCITRAL WG III to be held in Vienna (29 October-2 November 2018). On the 1st of March 2018, the Council of the European Union issued the negotiating directives for a convention establishing a multilateral court for the settlement of investment disputes. The South Centre has examined the European Union’s proposal to provide inputs into the on going debates on the matter.



B. Conferences and Meetings Organized

- 5 July 2018, Geneva, South Centre Dialogue on Rethinking Arbitration in Dispute Settlement between States and Foreign Investors.
- 19 July 2018, Geneva, Follow-up briefing session focused on reforms in the investor-state dispute settlement (ISDS) system, particularly the proposal for establishing a multilateral investment court.

C. Support to Negotiations

- Negotiations of UNCITRAL Working Group III on Investor-State Dispute Settlement Reform: The South Centre has continued to follow-up the discussions at UNCITRAL Working Group III pertaining to reform of investor-state dispute settlement, and to inform the G77, including to support them in the preparations towards the WG meetings.

D. External Conferences and Meetings Attended

- 16 July 2018, A discussion of what trade unions should know about options within the multilateral system, co-organized by Friedrich-Ebert-Stiftung, Rutgers University Centre for Innovation in Worker Organization, American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), Kalmanovitz Initiative at Georgetown University.
- 27-28 September 2018, Annual Columbia International Investment Conference "Rethinking International Investment Governance: principles for the 21st Century," New York.

5. Corporate Accountability

A. Recent Developments

The South Centre has been active in the process pertaining to a legally binding instrument on transnational corporations (TNCs), other business enterprises (OBEs) and human rights. The Chair has released the zero draft text of a legally binding instrument. This document will serve as basis for the negotiation in the Fourth Session of the open-ended intergovernmental working group (OEIWG), to be held from 15 to 19 October 2018.

B. Conferences and Meetings Organized

- 9-13 July 2018, Geneva, Summer School on Human Rights and Development, South Centre and the International Youth and Student Movement for the UN (ISMUN).
- 10 July 2018, Geneva, Fourth Strategic Meeting on the implementation of Human Rights Council (HRC) Resolution 26/9 and the elaboration of the international legally binding instrument on TNCs and OBEs with respect to human rights.





6. Global Governance and South-South Cooperation

A. Recent Developments

This thematic area covers the Centre's work in relation to global governance issues, including in the human rights area (such as the right to development) and on South-South cooperation (SSC). Recent events in this context are the deep level of engagement between the Centre and the UN Special Rapporteur on the Right to Development, and the launch of preparations and discussions within the UN system and among other stakeholders on the 2nd UN High Level Conference on SSC that will take place in March 2019.

B. Publications

South News

- **Presentation of Dr. Carlos Correa, Executive Director of the South Centre, at the G77 and China Briefing, SouthNews No. 220, 12 July 2018.**

This is the statement of the new Executive Director of the South Centre Dr. Carlos M. Correa during his first meeting with the Group of 77 and China held at the Palais des Nations in Geneva on 11 July 2018.

C. Conferences and Meetings Organized

- 12 September 2018, Geneva, South Centre and G77 and China Geneva chapter held a joint meeting entitled "Brainstorming meeting in preparation of the 2nd High-level UN Conference on SSC (BAPA+40)" on the occasion of the UN South-South Cooperation Day.



D. External Conferences and Meetings Attended

- 30-31 July 2018, Cairo, Consultation meeting on 40 years after the Buenos Aires Plan of Action (BAPA+40) organized by the United Nations Office for South-South Cooperation (UNOSSC) and the Ministry of Foreign Affairs of Egypt.
- 6-10 August 2018, Geneva, 21st session of the Human Rights Council Advisory Committee.
- 7 August 2018, Geneva, 1st Meeting of Experts of the Biological Weapons Convention.
- 13-14 August 2018, New Delhi, South-South Cooperation and BAPA+40 – Theoretical Perspectives and Empirical Realities.
- 31 August-1 September 2018, Geneva, Workshop on The Financing for Development Follow-Up and Review Process: Multilateral and Southern perspectives.
- 17-18 September, Brasilia, International Seminar Methodologies and Tools for International Cooperation Measurement - Brazilian Cooperation Agency (ABC).
- 18 September 2018, Geneva, Side event organized by the World Council of Churches on the occasion of the 39th session of the Human Rights Council.



Section III: Trade for Development Programme (TDP)

1. World Trade Organization

A. Recent Developments

The US implemented for the first time since the early 1990s against a General Agreement on Tariffs and Trade (GATT)/ WTO Member, unilateral trade actions under its Section 301 of the Trade Act of 1974. In the early days, Japan and the European Union (EU) were targets. Today these actions are against China on grounds of unreasonable or discriminatory practices relating to technology transfer. The first round of additional tariffs were implemented on 6 July on US\$34 billion of imports from China. The second round of tariffs on approximately US\$16 billion of trade were implemented on 23 August. In response, China also levied additional tariffs after US' actions. We may not have seen the end of these US actions – more may be coming.

Together with the earlier actions by US under Section 232 on aluminium and steel, the WTO's everyday functions are being disrupted and the world community is only now appreciating the WTO's day-to-day basic but critical functions in the regulation of trade. The predictability and stability provided by the WTO is now under threat. If the US can disrupt rules when it has difficulties, who is to blame others if they retaliate, or if they take similar measures to protect their own industries?

The Appellate Body (AB) crisis also further deepened in August as the US once again refused to allow for the reappointment of the 4th remaining AB Member, Shree Baboo Chekitan Servansing of Mauritius. Ambassador Servansing's term ends on 30 September. The Appellate Body would by 30 September 2018 be left with three Members, the minimum number needed for it to function. If this situation continues, by December 2019, the AB would be non-functional.

Since the Eleventh Ministerial Conference (MC11) considerable energy has been put in WTO into informal plurilateral discussions, rather than into issues where there are existing multilateral discussions or negotiating mandates, such as agriculture, the 1998 E-Commerce Work Programme (endorsed in MC11) and domestic regulation discussions.

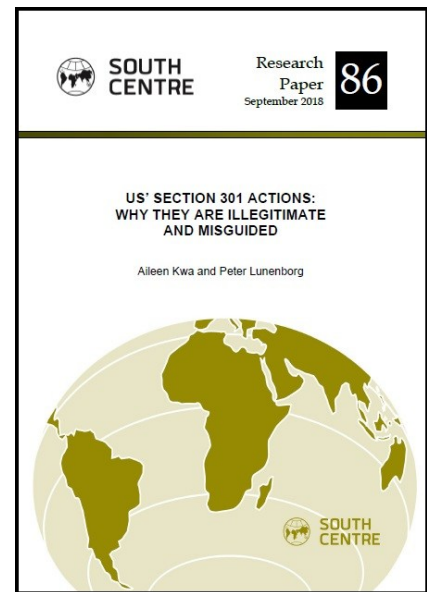
Important differences amongst WTO Members have also emerged on the issue of Special and Differential (S&D) Treatment. Some developed countries are pushing for S&D based on case-by-case justification (not available to all developing countries). However, the general position of developing countries is that S&D and flexibilities for all are a core component of WTO Agreements and must be preserved.

B. Publications

Research Papers

- **US' Section 301 Actions: Why They are Illegitimate and Misguided**, Research Paper No. 86, September 2018 by Aileen Kwa and Peter Lunenborg.

This research paper examines the US' Section 301 unilateral actions against China, stemming from the US' concerns over China's ambitious industrial policies and its rapid technological advancements. It outlines the accusations of the US regarding China's conditions for technology transfer and what the US sees as overly intrusive Chinese government involvement in investments. It looks in detail at why the US' actions are in fact illegitimate and misguided. Most of the US' accusations are not framed by WTO rules. Furthermore, the US cannot unilaterally take action that contravenes another WTO Member's rights under WTO agreements without going through the WTO's Dispute Settlement Body. Most strikingly, the US is accusing China of industrial policies and for supporting its companies to move up the technological ladder while it has been the pre-eminent country having its own version of such policies including until today. If these actions continue and expand, the ensuing trade war is likely to delegitimize the WTO and its current functions in regulating trade, lead to economic slow-down, and even possibly financial crises in emerging economies.



2. WTO Reform

A. Recent Developments

US' concerns regarding the rise of China, particularly its increasing technological prowess is also shared by other developed countries, including the EU. In an attempt to try to contain China's rise, US wants to see

- Changes to the Dispute Settlement Body (DSB) so that the US' capacity to protect its industries (including through its anti-dumping methods) will not be questioned
- Expansion of WTO rules to capture the policy interventions of emerging economies to industrialise e.g. on industrial subsidies, state owned enterprises, technology transfer, and digital trade
- Graduation – no more S&D for developing countries, except maybe for LDCs; and a case-by-case approach to S&D
- More transparency and notification requirements and more questions on domestic policies in WTO regular bodies

EU, Canada, and Japan seem to also share some of the US views on the reform of WTO rules. They also seem to support a 'deliberative function' for the WTO so that members would be able to bring (possibly with no need for consensus), new issues for discussion that may eventually lead to the expansion of WTO rules. Some have also suggested an enlarged role for the WTO Secretariat so that they can also voice opinions on issues which still remain controversial for the Membership.

In this light, July and August saw some informal documents on WTO modernization being leaked or published. These 'modernisation' proposals raise important concerns for developing countries, as they do not only touch on substance, but also on the functioning of the WTO system itself.

B. Support to Negotiations

- 19 September 2018, Meeting with delegations on WTO Reform proposals.

3. E-Commerce

A. Recent Developments

The US and other members are actively promoting that digital trade rules be discussed in the context of the WTO, on the basis of the joint statement made by 70 members at the MC11. South Centre prepared during this quarter a series of meetings on digital trade and cooperation that will take place in October.

B. Publications

SouthViews

- **Digital economy policies for developing countries**, SouthViews No. 169, 24 July 2018, by Parminder Jeet Singh.

Digital economy is a given, as much as industrialization was inevitable on invention of means of incorporating steam and later fossil fuel and electric power into manufacturing. It is not a matter of being for or against it. It is about what kind of digital economy we should have. A development agenda for digital economy needs to be articulated, based on a narrative that takes proper account of developing country interests.

C. External Conferences and Meetings Attended

- Attended Geneva Internet Platform (GIP)/DiploFoundation Briefings on Internet Governance (July-August 2018)
- 12 September 2018, IndustriALL Global Union Working Group on Trade and Industrial Policy.
- 29 September 2018, 5th Global Congress on Intellectual Property and the Public Interest Session on WTO E-Commerce Discussions.

4. Agriculture

A. Recent Developments

The Chair's work programme for September to December 2018 proposed that the Committee on Agriculture in Special Session (COA-SS) will meet four times during this period (the meeting in September focuses on dispute settlement (DS), cotton, public stockholding for food security purposes (PSH)). South Centre continues to give support to these negotiations, including working with Groups (Group of 33 (G-33), African Group) upon request.

B. Support to Negotiations

- Meeting on Agriculture, 5 July 2018.
- Meeting on Agriculture, 19 September 2018.





5. Fisheries

A. Recent Developments

The Chair of the Rules Negotiating Group (RNG) has developed a work programme for September-December 2018 (TN/RL/30). He introduced a process with 'Incubator Groups' (IGs) which will meet in the week prior to the RNG (in total 4 times until end of the year). In total 4 Incubator Groups have been formed with around 10 delegations. In the IG week, each IG will discuss subtopics in the fisheries negotiations allocated to them for 1 day. The morning is devoted to brainstorming within the IG and the afternoon for meetings with interested 'consulting' delegations. The IG reports are supposed to capture all ideas without attribution and will be presented at the plenary in the first day of the RNG week.

There have been concerns about this process: Group positions can become fractured or even contradictory (African Group, African, Caribbean and Pacific Group of States (ACP), LDC) and information between the IGs will not flow freely compared with a plenary discussion. Another concern is the risk that the IG or a less-than-plenary process could eventually supplant the RNG. For instance, the first text-based negotiation in the RNG is on overcapacity, one of the difficult issues, and does not follow a more logical order of the text (i.e. scope, definitions and then moving on to other issues). This could be designed to argue that the normal RNG process is not yielding results.

In this process it is important to provide a common platform for developing countries to exchange ideas and positions and to continue to provide negotiation support. Hence, during September to December, at least 8 fisheries meetings are planned (4x pre-IG week, pre-RNG week) as well as meetings with interested delegations to discuss specific issues (draft negotiating text, analysis of texts, statistics).

B. Support to Negotiations

- Meeting on Fisheries Subsidies, 20 July 2018.
- Meeting on Fisheries Subsidies, 14 September 2018.
- Meeting with Sri Lanka on Fisheries Subsidies, 5 September 2018.
- Meeting with Egypt on Fisheries Subsidies, 17 September 2018.

C. External Conferences and Meetings Attended

- United Nations Centre for Trade Facilitation and Electronic Business(UN/CEFACT) - Meeting of Sustainable Fisheries Team of Specialists – 6 July.
- 2nd Oceans Forum on Trade-related Aspects of SDG 14 (UNCTAD) – 16 and 17 July.

6. African Continental Free Trade Area (AfCFTA)

A. Recent Developments

In March 2018, African Union (AU) leaders adopted the AfCFTA. However this agreement does not (yet) contain market access commitments in goods and services. Leaders have instructed the development of tariff and services negotiation modalities and the tabling of tariff offers by the end of this year. The South Centre started to provide technical support to these negotiations, including with a view to ensuring that Special and Differential Treatment is incorporated in the AfCFTA and to provide analysis of the possible impact of AfCFTA implementation.

B. External Conferences and Meetings Attended

- 10-13 September, 12th AfCFTA Negotiating Forum in Lusaka, Zambia.



SOUTH CENTRE

The South Centre is the intergovernmental organization of developing countries that helps developing countries to combine their efforts and expertise to promote their common interests in the international arena. The South Centre was established by an Intergovernmental Agreement which came into force on 31 July 1995. Its headquarters is in Geneva, Switzerland.

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