



**SOUTH
CENTRE**

Quarterly Report of Activities

1 January to 31 March 2019



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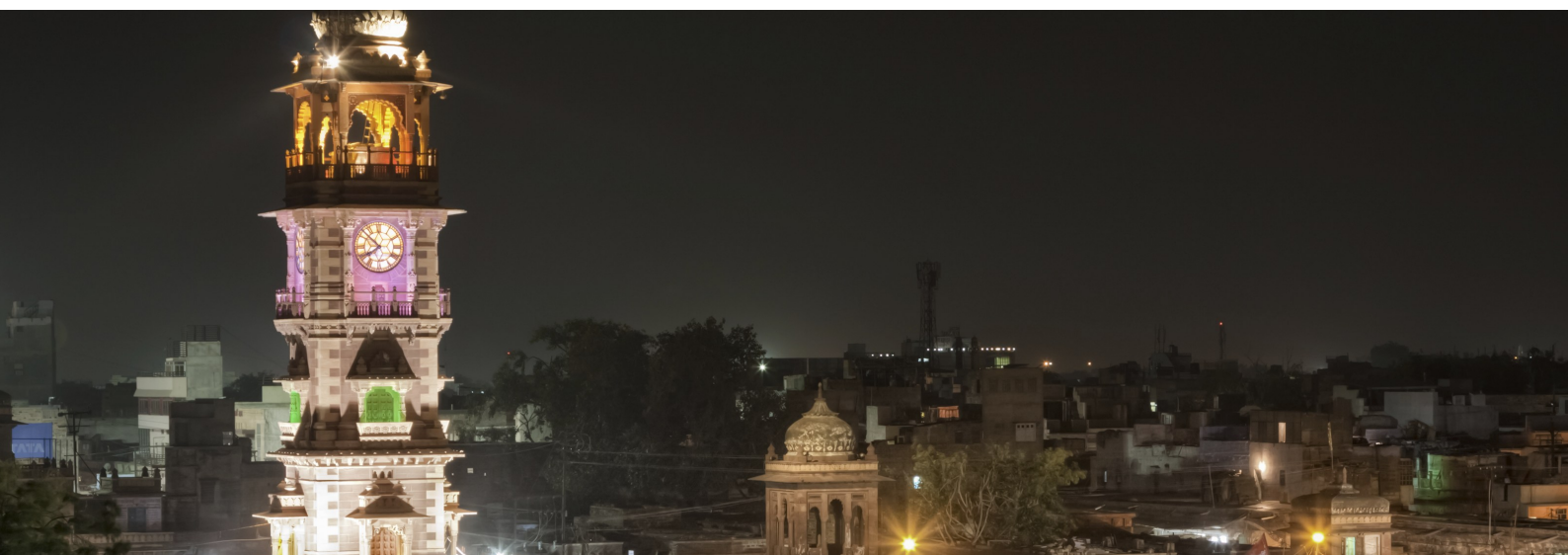
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Introduction

This report summarizes the programmatic activities* of the South Centre during the period 1st January to 31 March 2019. 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, publications made 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.

* The report also includes activities undertaken by the Executive Director, Special and Senior Advisers.





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

1. Intellectual Property

1.1. Intellectual property and biodiversity, traditional knowledge, 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 misappropriation 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. In spite of significant progress in the text negotiations, the US and Japan blocked consensus on transmitting the revised text as a working document for further discussion in the future IGC sessions. The 2018 WIPO General Assembly called upon the IGC to expedite its work. There has not been any discussion on the GRs text since the 2018 WIPO General Assembly. The 37th, 38th, and the 39th session of the IGC -held in March 2019- focused on a draft text on TK and TCEs. The negotiation on the GRs text is expected to be taken up only at the 41st session of the IGC, if the 2019 WIPO General Assembly agrees to renew the mandate of the IGC to continue undertaking text-based negotiations.

Since 2006, developing countries have also pursued discussion on a proposal in the World Trade Organization (WTO) Agreement on Trade-Related Aspect of Intellectual Property Rights (TRIPS) Council for an amendment to the TRIPS Agreement to introduce a new Article 29 bis requiring mandatory disclosure of country or source of origin of GRs or associated TK used in an invention, and evidence of prior informed consent and access and benefit sharing. In July 2008 a draft modality text (TN/C/W/52) was submitted with the support of 108 countries. A draft decision text (TN/C/W/59) submitted in April 2011, revised the proposal to be consistent with the Convention on Biological Diversity's (CBD) Nagoya Protocol concluded in October 2010. This proposal had also received broad support from developing countries. Some developed countries, however, refuse its discussion in the TRIPS Council, noting that the issue is being discussed in WIPO. There has been no progress from the status quo on this at the February 2019 session of the TRIPS Council.

In a notable decision concerning biopiracy through patent acquisition over genetic resources from developing countries, a court in the Netherlands declared patents taken by a Dutch company over the teff grain that has been grown in Ethiopia since ancient times to be invalid. The decision was confirmed in February this year after the time for appealing against the decision expired without any appeal being made. The South Centre has produced a South News report on this decision (see <https://us5.campaign-archive.com/?u=fa9cf38799136b5660f367ba6&id=13dbc46ed2>).

B. Publications

SouthNews

- ***SouthNews* No. 245, 13 March 2019 – Misappropriation of genetic resources: Dutch Court revokes patents on teff for failure to meet patentability criteria**, by Thamara Romero

On November 21, 2018 a Hague court revoked two patents that had been granted in 2003 by the Dutch Patent Office to Jans Roosjen on the processing of teff, a plant originating in Ethiopia and Eritrea. This decision sets an important precedent by putting an end, at least in the Dutch jurisdiction, to the undue appropriation through the patent regime of genetic resources. This practice is known as 'bio-piracy'.



Other Publications

- ***Intellectual Property: A Regulatory Constraint to Redress Inequalities*** by Carlos M. Correa, in *International Policy Rules and Inequality: Implications for Global Economic Governance*, José Antonio Ocampo, eds. (Columbia University Press, 2019).
- ***Intellectual Property and Development: Understanding the Interfaces*** (Liber amicorum Pedro Roffe), Carlos Correa, Xavier Seuba, eds. (Springer Singapore, 2019).

C. External Conferences and Meetings Attended

- 17-19 February 2019, Rome - Meeting of the Food and Agriculture Organization (FAO) Commission on Genetic Resources. The Executive Director participated and made a presentation on patenting of plants in a side event organized by Oxfam Novib on 19 February.
- 18-22 March 2019, Geneva - 39th session of the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions. DIIP researcher participated. This session of the IGC discussed revised draft articles on traditional knowledge and traditional cultural expressions.
- 26-29 March 2019, Riyadh, Saudi Arabia - First Meeting of the Advisory Board of the Saudi Authority for Intellectual Property. The Executive Director attended this event.

1.2. World Intellectual Property Organization

A. Recent Developments

In the reporting period, the 39th session of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) took place in March 2019. This session of the IGC undertook text based negotiations on draft texts for an International legal instrument/s on traditional knowledge and traditional cultural expressions. Discussions were undertaken at this session on the basis of draft texts that were transmitted from the 38th session of the IGC held in December 2018. The revised draft texts on TK and TCEs contain a number of alternative proposals on various draft articles, some of which have been re-introduced from the initial versions of the working documents. Thus, the challenge before the IGC is to narrow down on the text. There are fundamental differences between developed and developing countries on the issue of the nature of the instruments to be developed by the IGC, in particular whether it should be binding or not. Developed countries have called for evidence based discussions while questioning the necessity for a legal instrument while developing countries have expressed support for binding international legal instruments. The mandate of the IGC will expire in 2019 and will be considered for renewal by the WIPO General Assembly.

WIPO remains the most active multilateral forum for negotiations on intellectual property rights. During the reporting period, the South Centre organized an annual strategy and planning meeting on IP issues in WIPO under various WIPO bodies. The South Centre also provided suggestions upon request on possible options for implementation of the recommendations made by the Independent Review of the WIPO Development Agenda implementation. The Centre also organized a round table discussion with the education and libraries communities representatives on the issues on the agenda of the WIPO Standing Committee on Copyright and Related Rights (SCCR) which will take place in April 2019.

B. Publications

Background Notes (Limited distribution)

- Background Note, February 2019 – Matrix of Key Issues in the World Intellectual Property Organization (WIPO)
- Background Note, February 2019 – Recommendations of the Independent Review of the WIPO Development Agenda Implementation: Options for Follow up.

C. Conferences and Meetings Organized – Support to negotiations

- 7 February 2019, South Centre, Geneva - Annual Strategy and Planning Meeting on Intellectual Property Issues in WIPO
- 29 March 2019, South Centre, Geneva - Roundtable Discussion on the 38th Session of the WIPO Standing Committee on Copyright and Related Rights (with representatives of education and libraries communities)

1.3. World Trade Organization

A. Recent Developments

A regular session of the WTO Council for TRIPS was held in February 2019. The *status quo* continued on all standing agenda items of the Council including review of Article 27.3(b), relationship of TRIPS and CBD, protection of TK and folklore, non-violation and situation complaints, review of TRIPS implementation, and application of TRIPS provisions on geographical indications. Differences remain between most WTO members and the US and Switzerland on the application of non-violation and situation complaints to the TRIPS Agreement on which there is a moratorium until the next WTO Ministerial Conference. A major issue for developing countries is to assess the implications of non-extension of the moratorium.

The Council for TRIPS also discussed reports from developed countries on incentives for transfer of technology to least developed countries (LDCs) under Article 66.2 and on technical assistance for TRIPS implementation under Article 67. The reports under Article 66.2 continue to lack specificity on policy incentives targeted towards enterprises and industries in developed countries to encourage transfer of technology to LDCs. The TRIPS Council also held a discussion on the use of competition law and policy in relation to use of IP rights for promoting public health, under an ad hoc agenda item on IP and the public interest.

B. Publications

SouthNews

- **SouthNews No. 247, 26 March 2019 – Promotion of Public Health through Competition Law and Policy: Discussions at the WTO TRIPS Council**, by Nirmalya Syam

At the World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) Council session on 13-14 February 2019, South Africa submitted a communication (IP/C/W/651) to discuss the promotion of public health through competition law and policy. The proposal by South Africa called for continuation of the discussion on the linkage between intellectual property (IP) and competition law and policy under the ad hoc agenda item on Intellectual Property and the Public Interest, with specific reference to exploitative excessive pricing and restrictive practices such as reverse payment agreements, strategic patenting and niche pricing of off-patent pharmaceuticals. It invited WTO members to share their experience of using competition law regimes to address anti-competitive practices that affect access to medicines and share challenges that they face in the enforcement of competition law to that end.

Background Notes (Limited distribution)

- Background Note, February 2019 – Matrix of Key Issues in the WTO TRIPS Council

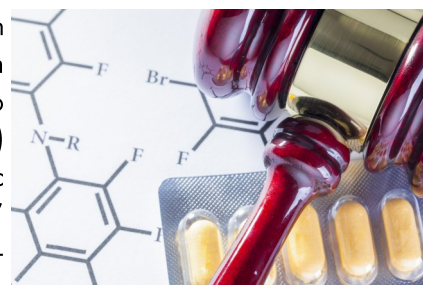
C. Conferences and Meetings Organized – Support to negotiations

- 7 February, South Centre, Geneva - Annual Strategy and Planning Meeting on Intellectual Property Issues in WTO.

2. Use of TRIPS Flexibilities for Public Health

A. Recent Developments

Access to medicines and the impact of IP on the market dynamics continue to be an issue of great relevance for developing countries, particularly in cases where high prices of newly introduced medicines make treatments unaffordable. There are also cases in which secondary patents (e.g. on formulations, salts, polymorphs, isomers) acquired in relation to existing medicines that are off-patent, unduly block generic competition and access to lower-cost medicines. While the use of 'evergreening' strategies became common in relation to drugs produced through chemical synthesis, they are also apparent in relation to biologicals, which often face additional regulatory constraints to enter the market. The timely introduction of biosimilars is critical to ensure access to treatment. Many countries are adopting policies to facilitate access to biosimilars, but a concerted effort is still necessary to counter actions that delay or block their commercialization.



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 is implementing a project from July 2018 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 (for more information, see <https://ipaccessmeds.southcentre.int/>) . Various project activities have been implemented in 2018, including two trainings for patent examiners in India, the first training for patent examiners in South Africa and a meeting for national policymakers in Colombia.

In the first quarter of 2019, the South Centre received requests for expert advisory service under the project from a number of developing countries. The Centre also received a number of requests for national patent examiners trainings and policymakers meetings. The Centre organized a national training for judges in Brazil focusing on the use of TRIPS flexibilities for public health, and also participated in an expert group meeting at the African Union to discuss the IP protocol under the African Continental Free Trade Area (AfCFTA). The Centre prepared an informal assessment report at the request of Ecuador on the compatibility of the patentability criteria contained in the “Codigo Ingenios” with the TRIPS Agreement and the Andean Community Law. The Centre is also preparing an assessment report at the request of Bangladesh on the implications of the loss of TRIPS transition period on the pharmaceutical industry in Bangladesh upon graduation from an LDC to a developing country and its implications for access to medicines. In this context, an exploratory mission was undertaken to Bangladesh for undertaking stakeholder consultations in March 2019. The Centre also produced a Policy Brief analyzing the impact of the amendment to the TRIPS Agreement by adoption of a new article 31 bis which is intended to enable countries with no or insufficient capacity to manufacture medicines to access medicines under certain conditions under a special compulsory licensing system.

B. Publications

Policy Briefs

- **Policy Brief 57, January 2019 – Will the Amendment to the TRIPS Agreement Enhance Access to Medicines?** By Carlos M. Correa

An amendment to the TRIPS Agreement by incorporation of the text of the decision of the WTO General Council on 30 August 2003 (as article 31 bis) has been made in response to the problem identified in paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health. This paragraph sought a solution to situations where patented pharmaceuticals which are not available in a country with no or insufficient manufacturing capacity can be supplied by a foreign provider. As originally adopted, the TRIPS Agreement did not allow the grant of compulsory licenses for exports only, thereby preventing generic manufacturers from exporting the required products to countries unable to produce them. While the new article 31 bis is a step forward as it reflects public health concerns, it would be necessary to streamline the procedures to effectively ensure broader access to pharmaceutical products at low cost and in a timely manner.

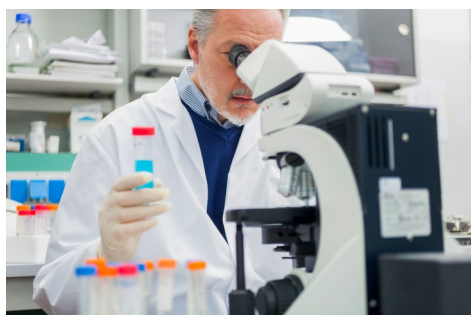
C. Conferences and Meetings Organized – Support to negotiations

- 11-13 March 2019, Angra dos Reis, Brazil - Curso, *Propriedade Intelectual e Acesso a Medicamentos: Tendências Contemporâneas*, organized in collaboration with EMARF/TRF-2 (the Federal Regional Magistrates School).



D. External Conferences and Meetings Attended

- 14 February 2019, Geneva – The Way Forward on Trade, IP, and Health Diplomacy of the Executive Course on Trade, Intellectual Property and Health Diplomacy of the Graduate Institute of International and Development Studies in Geneva. The Executive Director spoke at the closing session.
- 18-22 February 2019, Addis Ababa, Ethiopia - Expert Group Meeting on Draft Phase II Protocol Texts for the African Continental Free Trade Area Agreement. DIIP Senior Programme Officer participated.



3. Health

3.1. World Health Organization

A. Recent Developments

Some of the critical issues at the World Health Organization (WHO) for developing countries are the development of a roadmap on access to medicines, universal health coverage, antimicrobial resistance, and engagement of the WHO with non-State actors. The South Centre organized preparatory briefings for developing countries for the 144th session of the WHO Executive Board (EB). The EB meeting discussed a report on Universal Health Coverage (UHC) and three draft resolutions have been put forward to the World Health Assembly for approval including one on the preparations for the -level meeting on Universal Health Coverage that will take place at the United Nations General Assembly in September 2019. Developing countries will need to ensure that affordable access to medicines and treatments are addressed as critical components for achieving UHC. The EB also drafted resolutions on antimicrobial resistance and on water, sanitation and hygiene in health care facilities that will be discussed during the World Health Assembly in May. The EB has also recommended the acceptance of six organizations into official relations with the WHO under the Framework of Engagement with non-State Actors. Under this topic, timely sharing of information with member States on the management of risks, including conflict of interest, is particularly important.

B. Publications

Background Notes (Limited distribution)

- Background Note, January 2019 – Background Note on the 144th Session of the Executive Board of the World Health Organization

C. Conferences and Meetings Organized – Support to negotiations

- 17 January 2019, South Centre, Geneva - Working Lunch Meeting in preparation for the WHO Executive Board Meeting, 144th session

D. External Conferences and Meetings Attended

- 19 January 2019, Geneva - "WHO-Watch" Workshop, organized by the Peoples Health Movement in Geneva. DIIP Researcher participated and gave a presentation on antimicrobial resistance and tuberculosis in the context of the discussions of the WHO Executive Board Meeting.
- 23 January 2019, Geneva - Civil Society meeting organized by the Geneva Global Health Hub (G2H2) in preparation for the WHO Executive Board Meeting, 144th session, held at the World Council of Churches in Geneva. DIIP Researcher participated.
- 24 January - 1 February 2019, Geneva - World Health Organization Executive Board Meeting, 144th session, held at the WHO Headquarters in Geneva. DIIP staff participated.



3.2. Antimicrobial Resistance

A. Recent Developments

Antimicrobial Resistance (AMR) poses a major global challenge and international action to address it in a multifaceted manner is needed. This requires measures that ensure access to current and new antibiotics as well as to promote the development of new and effective antibiotics, to monitor and control the use of current antibiotics in human medicine as well as in food production. Strengthening the leadership and coordination efforts of the international agencies with mandates in those fields (WHO, the World Organisation for Animal Health (OIE), the Food and Agriculture Organization (FAO), the United Nations Environment Programme (UNEP)) is needed. The mobilization of appropriate financing for national, regional and international actions to articulate an effective and global action on AMR is also critical. As part of the implementation of the High-level political declaration on AMR, adopted in 2016, the UN Inter-agency Coordination Group (IACG) on antimicrobial resistance was formed to provide practical guidance as to ensure sustained effective global action to address AMR. From 29 January to 19 February 2019, the IACG held an open consultation on the latest draft recommendations. The IACG also held a number of discussions with different stakeholders to receive feedback on the proposed recommendations. The South Centre together with the IACG Secretariat hosted a discussion for civil society organizations. The South Centre also encouraged members of the Antibiotic Resistance Coalition (ARC) to take part. Furthermore, the South Centre also submitted written comments to the IACG. The IACG will be submitting the final set of recommendations to the United Nations (UN) Secretary-General who will then submit a report to the United Nations General Assembly with a set of final recommendations for action. The current recommendations explore five main areas: accelerate progress in countries, innovate to secure the future, collaborate for more effective action, invest for a sustainable response and strengthen accountability and global governance. Effective actions on AMR will depend on sustaining the political momentum and ensuring that support is provided for developing countries to implement them.

The South Centre has been granted observer status as an intergovernmental organization by the Codex Alimentarius, following consultations with FAO and WHO. The Codex Alimentarius or "Food Code" is a collection of standards, guidelines

and codes of practice adopted by the Codex Alimentarius Commission (CAC), which is the central part of the Joint FAO/WHO Food Standards Programme. It was established by FAO and WHO to protect consumer health and promote fair practices in food trade.

B. Publications

SouthNews

- ***SouthNews* No. 243, 6 March 2019 – SEEKING AN EFFECTIVE GLOBAL ACTION TO ADDRESS ANTI-MICROBIAL RESISTANCE:** Draft Recommendations of the Ad Hoc Interagency Coordination Group (see below)

South Centre News on AMR

- ***South Centre News on AMR* 28, 6 March 2019 – SEEKING AN EFFECTIVE GLOBAL ACTION TO ADDRESS ANTIMICROBIAL RESISTANCE:** Draft Recommendations of the Ad Hoc Interagency Coordination Group

The Interagency Coordination Group on Antimicrobial Resistance (IACG) –established by United Nations (UN) Resolution A/RES/71/3 in September 2016 to coordinate UN agencies' work on antimicrobial resistance (AMR)- was mandated to provide practical guidance so as to ensure sustained effective global action to address AMR and to submit a report to the UN Secretary-General in April 2019. Prior to the finalization of the report, the IACG has circulated a draft report to obtain inputs from various stakeholders on the draft recommendations. This process included a web based request for written submissions that was closed on February 19. The South Centre submitted comments to the IACG on the draft recommendations, which are reproduced in this article.

Background Notes (Limited distribution)

- Background Note, February 2019 – Response by South Centre to the Public Discussion on the Draft Recommendations of the Ad Hoc Interagency Coordination Group on Antimicrobial Resistance (IACG)

C. Conferences and Meetings Organized – Support to negotiations

- 25 February 2019, Geneva - Shaping the Future Agenda on Antimicrobial Resistance: Discussion with Civil Society Organizations on the draft Interagency Coordination Group on Antimicrobial Resistance (IACG) Recommendations, organized by IACG secretariat and hosted by WHO and South Centre at the WHO Headquarters in Geneva.

D. External Conferences and Meetings Attended

- 25 February 2019, Geneva - United Nations Inter-Agency Coordination Group on Antimicrobial Resistance (IACG) event on "Shaping the Future Agenda on Antimicrobial Resistance - Discussions with Civil Society Organizations (CSOs) on the draft IACG Recommendations". The Executive Director spoke at the event.



Section II: Global Governance for Development Programme (GGDP)

1. Climate Change and Sustainable Development

A. Recent Developments

After the adoption of the modalities, procedures, and guidance for the implementation of the Paris Agreement during the 24th United Nations Framework Convention on Climate Change (UNFCCC) Conference of the Parties (COP) in Katowice, Poland, in December 2018, multilateral policy discussions related to climate change are continuing, including under the UNFCCC, the Intergovernmental Panel on Climate Change (IPCC), the Green Climate Fund (GCF), in many regions, and in the United Nations (UN). Many developing country groups have used the first quarter to reflect on and assess the results of the Katowice negotiations; within the UN system, many UN agencies are preparing for the holding of the UN Climate Summit in September 2019; the IPCC is continuing its preparations for the 6th Assessment Report; and the GCF has taken important steps forward in its fund replenishment process.

During the period covered under this report, as well as intersessionally, the South Centre (SC) has focused on producing analysis of the outcome of the Katowice UNFCCC negotiations, on the IPCC preparations, and on doing trainings with some developing countries in relation to climate change reporting.

Other climate change and sustainable development-related activities include:

- **Least Developed Countries Renewable Energy and Energy Efficiency Initiative for Sustainable Development (LDC REEEI):** The initiative is seen as a bold collaborative effort by the Least Developed Countries to achieve universal access to sustainable energy for their people through integrated, sustainable and affordable modern energy approaches that scale up the share of renewables in the energy mix and maximize potential for energy savings. The initiative will be delivered through building LDCs stakeholders' capabilities and engaging partners, enabling the LDCs to meet the Agenda 2030 for Sustainable Development and ensuring no one is left behind. During this period, the Senior Adviser for Climate Change and Sustainable Development, in coordination with the LDCs climate change negotiators group focal point for the initiative and the new chair of the LDCs from Bhutan, approached the Green Climate Fund for funding.
- **Harnessing Renewable Energy for the Development in the Sahel:** This is one of the six priorities or pillars that constitute the United Nations Sahel Support Plan covering the period 2018 – 2030 and targeting the following ten (10) countries: Burkina Faso, Cameroon, Chad, The Gambia, Guinea, Mali, Mauritania, Niger, Nigeria and Senegal. Based on the vision note developed by the Senior Adviser on Climate Change and Sustainable Development, with the support of the Office of the UN Secretary-General's Special Advisor for the Sahel, the process of development of a programmatic framework for the operationalization of the pillar was initiated in close coordination with the multi-agency Sahel Working Group on Renewable Energy.
- **Gender and Energy Research Program:** The objective of this research program was to generate and analyze empirical evidence on the links between gender, energy and poverty, and to translate this evidence into recommenda-



tions for energy policy and practice with the aim to shape the global effort to provide universal access to sustainable modern energy services by 2030. Nine research teams from 26 universities and research institutions, of which 19 were from the Global South, conducted research in 12 countries. During this reporting period, the Senior Adviser on Climate Change and Sustainable Development finalized the research program. The narrative that emerges from the research can be summarized in the following key messages:

- ◇ Gender neutral energy policies are not enough to ensure gender-equitable outcomes;
- ◇ Involvement of women in decision making in energy system supply chains is good for women and their families and it is good for business;
- ◇ Modern energy services for women's productive uses contribute to women's empowerment and agency;
- ◇ End-use appliances that deliver modern energy services to reduce drudgery and save time can transform gender roles and relations;
- ◇ Improving the affordability, reliability, capacity and convenience of modern energy services can help achieve gender-equitable access and outcomes, and will be critical for universal access;
- ◇ Men's and women's roles are still dominated by social norms, but can be influenced by modern energy services and by engagements with political processes.

This research program has generated a wealth of empirical evidence and data that can inform gender, energy, and poverty policy and programs. Gender and energy policy makers and practitioners need this evidence in order to more effectively implement programs to equitably enable energy access for both women and men. A major finding of the research program is that 'context matters'. Context can make definitive answers naive or irrelevant, and this means that local and national research must play a key role in designing local interventions. This is the reason that gender assessments, including consultations with stakeholders, are recommended as a first step in the design of all energy policies and programs. The overall message of this research is that many insights into more effectively linking gender and energy are simply not being translated into use and action on the ground. For this reason, in addition to the empirical research already mentioned, 'dissemination-influence-change' programs, coupled with capacity development of target stakeholders/influencers, are required to facilitate uptake and utilization of research recommendations.

Two of the South Centre's staff are deeply involved with the IPCC's process for the preparation of its 6th Assessment Report: the Senior Adviser for Climate Change and Sustainable Development serves as one of the IPCC Vice-Chairs, and a Senior Programme Officer of the GGDP serves as one of the Coordinating Lead Authors for Chapter 15 (Climate Finance) of Working Group III of the 6th Assessment Report. The Senior Adviser for Climate Change and Sustainable Development participated in the various meetings (virtual) of the Executive Committee of IPCC to discuss, examine, and take urgent decisions on various matters related to the work of IPCC.

B. Publications

SouthViews

- **SouthViews No. 174, 5 February 2019: Scientific and Efficient Establishment of Urban Environmental and Resource Management System**, by Youba Sokona

Transformation in urban areas needs to happen now to achieve sustainable development and fight against climate change. This transformation needs to be inclusive by focusing on social justice, power asymmetries and vulnerable populations; and requires all actors at the national and international level to collaborate in order to exchange information, generate and work with accurate data, develop technology and provide the financial resources for the implementation of the right programs and policies. These are messages of the keynote speech by Prof. Youba Sokona, South Centre Senior Adviser on Sustainable Development and Intergovernmental Panel on Climate Change (IPCC) Vice-Chair, at the "Forum on the Implementation of the 2030 Agenda for Sustainable Development". He also highlighted the main take-aways from the recently released IPCC Special Report on Global Warming of 1.5°C.

- **SouthViews No. 175, 8 February 2019: 24th Conference of the Parties of the UNFCCC: The US COP?** by Mariama Williams

Despite its stated intentions to leave the Paris Agreement, the United States negotiating team continued to dominate many of the negotiations of key areas of the twenty-fourth meeting of the Conference of the Parties (COP 24) agenda of the United Nations Framework Convention on Climate Change (UNFCCC). The outcome of the meeting, branded the 'Katowice Climate Package', again showed developing countries sacrificing many redlines to save multilateralism. The Katowice Outcome reflects very little substantial advancement of the global climate protection agenda. However, the discussion and further refining of the rules will continue in the UNFCCC's upcoming negotiating sessions in 2019 as well as COP 25. Hence, developing countries have a chance to regroup and push forward to ensure sustainable development objectives are ensured and protected.

Other Publications

- **Climate Finance Readiness EBook**, by Yamrote Haileselassie, Rajesh Eralil, Mariama Williams and Soumya Samal (**Updated February 2019**) – This is prepared by the South Centre to provide developing countries with a "climate finance help desk" to help developing countries to access and to more effectively and efficiently utilize the complex web of climate finance available to them. This brief will be updated periodically and will have different geographical focus, with the current edition focused on Africa.
- **Resource Kit on the Green Economy for Women**, by Mariama Williams (**February 2019**) - Prepared for participants of the BRICS (Brazil, Russia, India, China and South Africa) Feminist watch webinar. This provides selected tools and resources for understanding the multiple shades of green growth, green economy, low carbon development and low emissions development strategies presently at play in the global political economy.

Background Notes (Limited distribution)

- Background Note on the Outcomes of COP24 Katowice, by Vicente Paolo Yu (January 2019) – This background note was distributed at a briefing for developing countries organized by the South Centre, and provides highlights of the main negotiated outcomes of COP24 that are of interest to developing countries in the context of the climate change negotiations and policy discussions.
- Background Note on Inequalities and Climate Change: Mitigation Policies to Address Disproportionate Impacts on Women, by Mariama Williams (March 2019) - Prepared for UN Women Expert Group on Sustainable Development Goals (SDGs), Session 5: Promoting inclusive and sustainable economic growth and social development that achieves gender equality and empowers all women and girls (February 2019). Mitigation within the context of sustainable development can help to promote gender equity and women's empowerment by addressing at least four issues: 1) women's and men's energy needs and uses; 2) women's and men's employment and entrepreneurship—potential challenges and constraints in the agriculture, energy and power sectors; 3) incorporating women's and men's traditional knowledge and practices into mitigation strategies and policy frameworks; and 4) paying focused attention on ensuring gender equity in the use, conservation and management of forests.

C. Conferences and Meetings Organized

- 28 January 2019, Geneva – The South Centre organized a briefing for the Geneva missions of its member States and other Group of 77 (G77) developing countries on the outcomes of the UNFCCC COP24 negotiations in Katowice, Poland, in December 2018. During this briefing, South Centre staff provided presentations on the various negotiated outcomes of COP24, the outcomes relating to climate finance, and the consideration at COP24 of the IPCC's 1.5°C Special Report.

- 13 February 2019, Geneva – South Centre organized and hosted a study visit to the South Centre of graduate students from the International and Development Economics Programme of the HTW-University of Applied Sciences in Berlin, during which South Centre staff gave a presentation on global development challenges facing developing countries, with a particular focus on climate change.

D. External Conferences and Meetings Attended

- 15-16 January 2019, Shenzhen – The Senior Adviser for Climate Change and Sustainable Development participated and gave presentations at the Shenzhen Forum on the Implementation of the 2030 Agenda for Sustainable Development. His participation in the forum included the following:
 - ◊ As a keynote speaker at the Forum of the Establishment of the Shenzhen National Innovation Demonstration Zone for 2030 Agenda for Sustainable Development that was held on the 15th of January. The forum was organized by the Science, Technology and Innovation Commission of Shenzhen Municipality, Southern University of Science and Technology, with the support of Shenzhen Municipal People's Government, and under the guidance of the Ministry of Science and Technology, People's Government of Guangdong Province
 - ◊ As a high-level panelist on 16th January to a seminar on "Change the City – the Forum on the Construction of Shenzhen National Innovation Demonstration Zone for Sustainable Development", sponsored by the International Mayors Communication Centre (IMCC), a Chinese non-governmental organization (NGO) with Consultative Status with the United Nations Economic and Social Council (ECOSOC), and organized by the Open Green City Lab, a subsidiary of Green City (Shenzhen) Public Service.



- 21-25 January 2019, Durban - Participation by the Senior Adviser for Climate Change and Sustainable Development in the coordination of the First Lead Author Meeting (LAM1) of the Working Group II contribution to the IPCC Sixth Assessment Report (WGII AR6). This contribution focuses on the impacts of climate change on natural and human systems and their vulnerabilities.
- 24 January 2019, Geneva – South Centre staff participated and gave a presentation on the interlinkages between environment, security, and peace at the United Nations Environment Programme Environmental Management Group (UNEP-EMG) Nexus Dialogue co-organized with the Geneva Center for Security Policy.
- 11-15 February 2019, Cali -- Participation by the Senior Adviser for Climate Change and Sustainable Development in the coordination of the fourth Lead Author Meeting for the IPCC Special Report on climate change, desertification, land degradation, sustainable land management, food security and greenhouse gas fluxes in terrestrial ecosystems (SRCCCL).
- 13 February 2019, Geneva – South Centre staff served as a presenter/discussant and gave a presentation on "Reviewing the concepts and frameworks of the Green Economy, Sustainable Development and Gender" in a Webinar on "Green Economy and Women: Decoding the Green Economy and Its Implications for Women and Girls" organized by the BRICS Feminist Watch.

- 19-21 February 2019, Accra – South Centre staff participated and served as a panelist/presenter in the “Finance and Development in Africa” consultation organized by the Third World Network Africa, the Centre for Research on Multinational Corporations (SOMO), and the Open Society Initiative for West Africa (OSIWA). South Centre staff gave a presentation on “Privatisation of Aid: The Case of Climate Bonds”, made contributions on the way forward for climate finance research and advocacy issues, and facilitated the workshop discussion on framing an Agenda on Global Finance, Disaster Risk Management (DRM) in Africa.
- 21 February 2019, Geneva – South Centre staff participated and gave a presentation on sustainable development and climate change linkages at a Geneva Center for Security Policy seminar on “International Cooperation Beyond Silos”.
- 26 February 2019, Geneva – South Centre staff gave a presentation on sustainable development policies and practices, particularly in light of climate change, to students doing a study visit of global institutions under the Geneva School for International Training.
- 27-28 February 2019, Vienna – South Centre staff participated in and contributed to the Expert Group Meeting on the Gender Perspectives of Sustainable Development Goals 10, 13 and 16, as a contribution to the 2019 High-level Political Forum on Sustainable Development (HLPF), organized by UN Women in collaboration with the United Nations Office on Drugs and Crime (UNODC) and the Office of the High Commissioner for Human Rights (OHCHR). This was at the technical/expert level and included representatives of Member States, United Nations entities, academia, civil society organizations and other stakeholders. South Centre staff framed the discussion with a short expert presentation which was followed by interactive dialogue among experts, and also prepared a short contribution, and shared findings of new or existing research.
- 28 February 2019, Cambridge – South Centre staff gave a presentation (via Skype) on multilateral climate change diplomacy and negotiations to the Louis Bacon Environmental Fellows Programme of the Harvard Kennedy School of Government.
- 28 February 2019, Geneva – South Centre staff gave a presentation on the concept of the green economy and the perspectives of developing countries on this concept coming from the Rio+20 UN Conference on Sustainable Development, at a seminar on the green economy organized by the Institute for Environmental Social Science and Geography of the University of Freiburg at the International Labour Organization (ILO).
- 3-9 March 2019, Kazan - Participation by the Senior Adviser for Climate Change and Sustainable Development to the coordination of the fourth and last Lead Author Meeting for the IPCC Special Report on the ocean and cryosphere in a changing climate (SROCC) that took place in Kazan, Russian Federation from 3 to 9 March 2019. At the margins of the meeting, the Senior Adviser for Climate Change and Sustainable Development organized an IPCC outreach event at the Kazan Federal University on “The IPCC Sixth Assessment Cycle and the Special Report on the Ocean and Cryosphere in a Changing Climate” on 5 March 2019. The event was well attended by Professors and Students of the University.
- 4-7 March 2019, Bahrain – South Centre staff participated as a trainer in a training workshop organized by the UN Environment Regional Office for West Asia together with the Arabian Gulf University for climate change and environment ministry officials from Bahrain, Kuwait, and Oman, in relation to the development of their domestic climate change reporting mechanisms and the preparation of their biennial climate change action update reports. During this training workshop, South Centre staff gave presentations on the design of climate change commitments for countries under the UNFCCC and its Paris Agreement, the outcomes of the UNFCCC COP24, the Katowice guidance adopted for the preparation of nationally-determined contributions, the linkage between climate change actions under the Paris Agreement and sustainable development, the Durban guidance on the preparation of biennial update reports under the UNFCCC, the Katowice guidance on the preparation of biennial transparency reports under the Paris Agreement, and the development of work plans with the Bahrain, Kuwait, and Oman climate change teams for the preparation of their biennial update reports.



- 5-6 March 2019, Brussels – South Centre staff participated and gave a presentation on “Developing Countries and the Katowice Climate Package: Accentuating the Positives” in the Special meeting of the Subcommittee on Sustainable Development on COP24 Outcomes and Roadmap to COP25 organized by the Secretariat of the African, Caribbean, and Pacific Group of States (ACP).
- 7-8 March 2019, Frankfurt – A South Centre Senior Programme Officer, in her capacity as coordinating lead author for Chapter 15 of the 6th Assessment Report of the IPCC, met with her fellow coordinating lead author at her institution in order to develop a joint plan of work for the preparation of the chapter with the various chapter authors. In this connection, she developed together with her coordinating lead author the first order research draft for the climate finance and climate investment research of Chapter 15: Investment and finance of Working Group III—Mitigation of the climate change contribution to the Inter-governmental Panel on Climate Change (IPCC) sixth assessment report, in preparation for the first Lead Authors’ meeting that will be taking place in April 2019.
- 15 March 2019, Geneva – South Centre staff gave a presentation on international environmental diplomacy, with a focus on the climate change negotiations, to students doing a study visit in Geneva to international institutions under the School for International Training.
- 20 March 2019, Geneva – South Centre staff gave a presentation on future challenges and global solutions, highlighting the global macroeconomic, technological, and climate change challenges that developing countries face, in addressing their near- and medium-term development prospects, at a seminar on global security implications organized by the Geneva Center for Security Policy.

2. Tax Cooperation

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. During this reporting period, there were initiatives undertaken at the Organisation for Economic Co-operation and Development (OECD) and other organizations in relation to discussions on illicit financial flows, tax cooperation reform (including on the Base Erosion and Profit Shifting (BEPS)), and on financing for development issues. At the same time, the South Centre was focused on developing research and analysis on tax issues and in preparing for the holding of the 2019 Annual Forum on Tax Cooperation among Developing Countries.



B. Publications

Policy Briefs

- **Tax Cooperation Policy Brief No. 6 (January 2019): Illicit Financial Flows: Conceptual and Practical Issues**, by Hon. Irene Ovonji-Odida and Algresia Akwi-Ogojo

The issue of illicit financial flows (IFFs) is of great significance for many countries looking to mobilize domestic resources for achieving their development goals. The High Level Panel on Illicit Financial Flows from Africa, led by H.E. Thabo Mbeki, brought the issue into the global spotlight, notably since the release of exposés like the 'Panama Papers'. This policy brief elaborates on the conceptual underpinnings of IFFs, its sources and the development costs they generate. Building on the report of the High Level Panel, it provides recommendations to stem IFFs from developing countries.

- **Tax Cooperation Policy Brief No. 7 (February 2019): Developing Countries and the Contemporary International Tax System: BEPS and other issues**, by Marcos Aurélio Pereira Valadão

This policy brief addresses the design of international taxation and tax cooperation in the context of issues presented in the Organisation of Economic Co-operation and Development (OECD)/Group of Twenty (G20) Base Erosion and Profit Shifting (BEPS) Project. It further considers their significance for developing countries and provides the Brazilian approach to those issues. The brief concludes by exploring the importance of regional cooperation *vis-à-vis* international organizations and highlights relevant considerations for developing countries engaging with the contemporary international tax system.

C. Conferences and Meetings Organized

- 24 March 2019, Marrakech – With the Economic Commission for Africa and the Independent Commission to Reform International Corporate Taxation, the South Centre co-organized and co-hosted a side event entitled "Leading or Following? Shaping Tax Reform in Africa" at the fifty-second session of the Economic Commission for Africa Conference of African Ministers of Finance, Planning and Economic Development. South Centre senior staff gave a presentation on "Stemming 'Commercial' Illicit Financial Flows".

D. External Conferences and Meetings Attended

- 14-15 March 2019, Lima – The Senior Adviser for Finance for Development participated and spoke in the annual Group of 24 (G24) technical group meeting (TGM) being hosted by Peru which currently holds the presidency of the G24, and presented and disseminated South Centre's paper (Research Paper no. 87) on Illicit Financial Flows (IFFs).



- 18-19 March 2019, New York – The Senior Adviser for Finance for Development participated in the "Global Collaboration and Learning on Extractive Industries" organized by the Ford Foundation in New York and shared the Centre's analysis of challenges confronting developing country tax policy making and enforcement on foreign investors in extractive sectors arising from the disadvantageous standards championed by the OECD.

3. Finance for Development

A. Recent Developments

This thematic area focuses on the work of the Centre in relation to monitoring the debt burdens of developing countries and the systemic gaps and deficiencies that give rise to resource constraints and growing debt in developing countries. Debt vulnerability and unsustainability are likely to become multilateral areas of great policy concern for developing countries. Continued capital accounts volatility, capital flight, and turmoil on global markets threaten the ability of developing countries to finance their debt burden. In this context, the South Centre continues to follow multilateral debt issues as part of its work.



B. External Conferences and Meetings Attended

- 29 January 2019, New York – The Senior Adviser for Finance for Development gave a presentation at the Fifth Annual Symposium on the Role of Religion and Faith-Based Organizations in International Affairs in the United Nations headquarters in New York on the proposal of the New International Financial and Economic Architecture. The proposal seeks fundamental changes in international rules on financial regulation and the just and effective resolution of international debt crises of developing countries.

4. Investment Policy

A. Recent Developments

The South Centre continues following negotiations on the reform of the investor-state dispute settlement mechanism at the United Nations Commission on International Trade Law (UNCITRAL) Working Group III. In preparation for its next meeting in April 2019, the South Centre convened a meeting with a number of selected countries to update them in the process and serve them in the preparations for the upcoming meeting. Similarly, it participated in the 12th Annual Forum of Developing Country Investment Negotiators co-organized with the International Institute for Sustainable Development (IISD). It has continued following the European Union proposal on the establishment of a multilateral court for the settlement of investment disputes and the “modernization” of the Energy Charter Treaty (ECT). The South Centre organized a meeting on the implications of the ECT investment provisions/protection for developing countries.

B. Publications

SouthNews

- **SouthNews No. 241, 1 March 2019: Colombia's statement on reform of IIAs at opening session of the 12th Annual Forum of Developing Country Investment Negotiators**

The need for reform of investment protection agreements is gaining momentum. Views on the scope and extent of such reform differ, but there is a growing consensus that asymmetries in and abuses of the investor-state dispute mechanism need to be addressed. Reproduced below is the statement (in Spanish) by Camilo Alberto Gómez Alzate, General Director of the Legal Agency of the State of Colombia, presented at the opening session of the International Institute of Sustainable Development (IISD) -South Center 12th Annual Forum of Developing Country Investment Negotiators 'Shifting International Investment Law Toward Sustainable Development: Strategies for Renegotiation, Reform and Defense', on the 27th of February 2019 in Cartagena, Colombia.

- **South News No. 242, 4 March 2019: European Union members confirm rejection of investor-State disputes to settle EU-based investors' claims**, by Vicente Yu

Note on the Declaration made by Member States of the European Union (EU) on the legal consequences of the judgment of the Court of Justice of the European Union in *Achmea* and on investment protection in the European Union.

- **South News No. 244, 11 March 2019: Developing countries should be at the forefront of ISDS and IIAs reform processes**, by Daniel Uribe

There is sufficient evidence to firmly engage in a process of fundamental reform of the international investment agreements (IIAs) and investor-State dispute settlement (ISDS) system. Developing countries' negotiators and experts discuss the way forward during the 12th Annual Forum of Developing Country Investment Negotiators held in Cartagena, Colombia on 27 February-1 March 2019.

Policy Briefs

- **Investment Policy Brief No. 14 (March 2019): Building a Mirage: The Effectiveness of Tax Carve-out Provisions in International Investment Agreements**, by Daniel Uribe and Manuel F. Montes

This policy brief analyses the language of taxation carve-out provisions incorporated in International Investment Agreements (IIAs), and its effectiveness with regards to restricting the protection and dispute settlement provisions of IIAs only to non-tax-related claims. It illustrates that even in cases where such carve-out provisions have been incorporated into IIAs, the broad language and lack of clarity in the drafting of such provisions have effectively allowed Investor-State Dispute Settlement (ISDS) tribunals to scrutinize tax measures adopted by States, and even determine that such measures resulted in a breach of State's obligations under the agreement. It makes recommendations on how States could effectively implement such carve-outs when negotiating, reforming or drafting new international investment agreements.

- **Investment Policy Brief No. 15 (March 2019): UNCITRAL Working Group III: Can Reforming Procedures Rebalance Investor Rights and Obligations?** By Lorenzo Cotula and Terrence Neal

The work of the United Nations Commission on International Trade Law (UNCITRAL) provides an opportunity to rebalance the international investment regime – but only if the full gamut of key issues are identified. Requiring investors to uphold standards of responsible business conduct (RBC) is largely a function of substantive rights and obligations, but it also presents procedural dimensions that fall within the purview of the UNCITRAL process. This policy brief explores the issues and discusses possible options for reform.

- **Investment Policy Brief No. 16 (March 2019): The Future of Investor-State Dispute Settlement Deliberated at UNCITRAL; Unveiling a Dichotomy between Reforming and Consolidating the Current Regime**, by Kinda Mohamadieh.

Reform of investor-state dispute settlement (ISDS) is being deliberated at the United Nations Commission on International Trade Law (UNCITRAL) Working Group III, which will be meeting in New York between the 1st and 5th of April 2019. For several years, the ISDS regime has been under scrutiny from voices in both developed and developing countries. ISDS reforms have been addressed in multiple forums, including national, bilateral, regional and multilateral levels, such as the United Nations Conference on Trade and Development (UNCTAD). Reforms could include moving away from arbitration as the norm for dispute settlement between foreign investors and host states or end up by introducing adaptations that might make arbitration in ISDS cases perform in a more acceptable way. Finding one-size-fits-all solutions in these deliberations is unlikely. Advancing relevant reforms would require full and effective participation of interested countries, equal opportunity for different points of views to be heard and integrated into the design of any potential outcome, and effective mechanisms to address any potential conflicts of interest within this forum.

Other Publications

- **Developments in international investment law in relation to intellectual property in 2017**, by Carlos M. Correa, in *Yearbook on International Investment Law & Policy 2017*, Lisa Sachs, Lise Johnson, and Jesse Coleman, eds. (Oxford University Press, 2019).
- **The Impact of Foreign Investor Protections on Domestic Inequality**, by Manuel Montes, in *International Policy Rules and Inequality: Implications for Global Economic Governance*, José Antonio Ocampo, ed. (Columbia University Press, 2019).

C. Conferences and Meetings Organized

- 13 February 2019, Geneva – South Centre organized a Discussion Session on the Energy Charter Treaty and Implications for Developing Countries. The discussion session was attended by delegates of the Group of 77 and China. The session was an opportunity to review the nature of the rules that the investment chapter of the ECT contains, and to discuss the potential implications that joining the ECT may have on developing countries' efforts to advance reforms of international investment agreements that seek to link investment with sustainable development objectives.
- 14 February 2019, New York - The South Centre co-organized and co-hosted with the Friedrich Ebert Stiftung (FES) a Side Event to the 57th Session of the Commission for Social Development entitled "Multilateralism as an essential tool to reduce inequality within and among countries (SDG 10)" in the United Nations Headquarters in New York. The Centre's Senior Adviser on Finance for Development and Permanent Observer to the UN spoke on the need to undertake fundamental reforms in trade policy and investor protections if the current multilateral system, which has been failing at enabling development, is to be revitalized.
- 27 February-1 March 2019, Cartagena – South Centre co-organized the 12th Annual Forum of Developing Country Investment Negotiators in Cartagena, Colombia. The Executive Director and South Centre staff participated and spoke in the Forum, which was attended by senior-level negotiators and experts from developing countries. It served as a space to discuss the current trends and perspectives in regard to international investment agreements' (IIAs) negotiations, policy-making, and the experiences from and lessons learned in different national and regional contexts that are relevant to the possible reform of the international investment regime. The Forum also focused on the developments and efforts already made by developing countries in the reform processes at national and regional level, and how such experiences could orient the current processes of modernization of the International Centre for Settlement of Investment Disputes' (ICSID) regulations and rules, as well as the discussions at the Working Group III of the United Nations Commission on International Trade Law (UNCITRAL).



- 3-6 March 2019, Turin – The Executive Director made presentations on investment and intellectual property law at the International Labour Organization (ILO)/University of Turin program on Trade Law.
- 12 – 14 March 2019, Geneva - Meeting on ISDS Reform and UNCITRAL Working Group III (WG III) Process. The meeting was attended by selected country officials actively engaged in UNCITRAL WG III process and ISDS reform processes. The meeting served as a space in which participants were able to review the deliberation of UNCITRAL WGIII sessions and identify the concerns that countries have considered important within the process of reforming ISDS, and that have not been covered in the UNCITRAL deliberations. Similarly, it allowed participants to focus on the strategies in which participating countries could work together to advance their views in UNCITRAL deliberation in preparation for its next meeting in April 2019.

D. External Conferences and Meetings Attended

- 10-11 January 2019, Beirut – South Centre staff participated and gave a presentation at the Preparatory Forum for the Arab Economic and Social Summit organized by the Arab NGO Network for Development and the UN Economic and Social Commission for West Asia on the 10th and 11th of January. The presentation covered issues pertaining to needed reforms in trade and investment policies in the context of sustainable development objectives. The forum resulted in a set of recommendations that were submitted to the Arab Economic and Social Summit, which was held in Beirut (18-20 January).



5. Corporate Accountability

A. Recent Developments

The South Centre is actively supporting a group of developing countries in the negotiations towards the adoption of a legally binding instrument on business and human rights mandated under UN Human Rights Council (HRC) Resolution 26/9. The Mission of Ecuador, on behalf of the Chairmanship of the Open-ended Intergovernmental Working Group (OEIWG) on business and human rights, released the Zero Draft of the Legally Binding Instrument and the draft of an optional protocol in 2018. Negotiations on a revised draft will continue during the Fifth Session of the OEIWG in October 2019.

B. External Conferences and Meetings Attended

- 8 March 2019, Geneva – South Centre staff attended the 40th Session of the Human Rights Council during which the Report on the fourth session of the open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights was adopted by the Council.
- 8 March 2019, Geneva – South Centre staff attended and spoke as a panelist in the discussion entitled “The Case for an International Court of Civil Justice”. The session discussed ideas from Maya Steinitz’s book *The Case for an International Court of Civil Justice* (University of Iowa School of Law). Other participants in the panel included: Carlos Lopez, International Commission of Jurists, and Elizabeth Tuerk of UNCTAD’s Investment Division. Nathalie Bernasconi, IISD’s Group Director of the Economic Law and Policy Program, moderated the event.

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). The Centre's work has focused in this period on the analysis of national ecosystems and institutional architectures for the implementation of SSC in developing countries, including identifying the elements of such a national ecosystem that are crucial for harnessing the benefits of such cooperation. The Centre has, in the context of a project with the Islamic Development Bank, examined country-specific practices from developing countries that have successful national ecosystems for SSC and will prepare specific recommendations on establishing robust national ecosystems.

A Memorandum of Understanding (MOU) between South Centre and the United Nations Office on South-South Cooperation (UNOSSC) was signed during BAPA+40 on 22 March 2019 in Buenos Aires to promote joint activities in South-South and Triangular cooperation (SSTrC). An MOU between the Latin American and Caribbean Economic System (SELA) and the South Centre was also signed during BAPA+40 on 22 March 2019 in Buenos Aires to carry out joint actions aimed at promoting SSTrC with a view to strengthening economic and social development and supporting the achievement of Sustainable Development Goals (SDGs) in Latin America and the Caribbean.



B. Publications

SouthNews

- **SouthNews No. 246, 21 March 2019: South Centre Statement at BAPA+40**

Statement by Dr. Carlos Correa, Executive Director of the South Centre, at the Second High-Level United Nations Conference on South-South Cooperation (BAPA+40) Plenary, held in Buenos Aires in March 2019.

SouthViews

- **SouthViews No. 176, 6 March 2019: South Africa's South-South cooperation 40 years after BAPA**, by Neisan Alessandro Besharati

As member states and the United Nations (UN) prepare to come together for the 2nd High Level Conference on South-South cooperation (SSC) forty years after the adoption of the Buenos Aires Plan of Action (BAPA), this article reflects on the journey South Africa has made in implementing technical cooperation with developing countries (TCDC). Although the Apartheid government of Pretoria was excluded from the discussions in Buenos Aires, in the last two decades South Africa has played a major role in SSC, promoting capacity building, exchange of experiences, and TCDC in Africa and intra-regionally. The article will explore the degree of compliance by South Africa with the 38 recommendations (Recs. 1-38) set out in the BAPA, and the follow up work still required, both nationally and globally, to advance the SSC agenda.

- **SouthViews No. 178, 19 March 2019: South-South cooperation for confronting the neglected problem of snakebite envenoming: the role of Costa Rica**, by Dr. Jose María Gutiérrez and Ambassador Elayne Whyte Gómez

South-South cooperation in practice: Costa Rica has played a leading role in South-South cooperation on snakebite envenomings & in promoting a WHO multi-stakeholder global action plan to address this neglected tropical disease.

Research Papers

- **Research Paper No. 91 (February 2019): Key Issues for BAPA+40: South-South Cooperation and the BAPA+40 Subthemes**, by Vicente Paolo B. Yu III

Developing countries today face multiple interlinked macroeconomic, financial, climate, and development challenges. South-South cooperation is an important element for developing countries to meet these challenges individually and collectively, and in multilateral North-South dialogue and global governance. The overall theme of the Second High-level United Nations Conference on South-South Cooperation (40 years after the Buenos Aires Plan of Action for Promotion and Implementing Technical Cooperation among Developing Countries/BAPA+40) is the “Role of South-South cooperation and the implementation of the 2030 Agenda for Sustainable Development: challenges and opportunities”, with sub-themes. This research paper will present some concepts relating to South-South cooperation that have been developed by the South and the United Nations system, and looks at some issues that would be relevant to discussions that may be undertaken with respect to Subthemes (i) “Comparative advantages and opportunities of South-South cooperation”; (ii) “Challenges and the strengthening of the institutional framework of South-South cooperation and triangular cooperation”; and (iv) “Scaling up the means of implementation of the 2030 Agenda for Sustainable Development in support of South-South cooperation and triangular cooperation”. It concludes by providing recommendations for the consideration of developing countries in response to the various subthemes, as inputs to support the active engagement by developing countries in the negotiations for the BAPA+40 outcome document.

C. Conferences and Meetings Organized

- 20 March 2019, Buenos Aires – South Centre co-organized with the UN Conference on Trade and Development (UNCTAD), the Islamic Development Bank (IsDB) and the UN Office for South-South Cooperation (UNOSSC), a Side event on “*South Cooperation for Financing for Development in the Digital Era*” during the UN Conference on South-South Cooperation. The Senior Adviser on South-South Cooperation and Development Finance spoke as a panelist. The panel also included one vice minister, one deputy of an important regional organization and one senior official of IsDB. The round table held in the side event offered a platform to share good practices and lessons learned in the Global South by bringing experts to discuss concrete ways on how to harness South-South cooperation to scale-up and better use development finance to develop productive capacities, and foster structural transformation and progress towards attainment of the 2030 Agenda for Sustainable Development.
- 21 March 2019, Buenos Aires – South Centre co-organized with the Islamic Development Bank and the UN Office for South-South Cooperation a Side event on “*Enhancing National Ecosystems for South-South and Triangular Cooperation*” during the UN Conference on South-South Cooperation. The Executive Director opened the event with IsDB and UNOSSC while the Senior Adviser on South-South Cooperation and Development Finance moderated the side event. The panel included 3 ministers, 1 ambassador and a senior official from Brazil. The attendance was very good, around 160 participants comprising several ambassadors, some senior officials, heads of think tanks and academia. The objective of the event was to advocate for the importance of strengthening or setting up national ecosystems for South-South and Triangular Cooperation (SSTrC) for Agenda 2030 and to discuss modalities to achieve these objectives. Important elements/pillars of such ecosystems were spelt out.



- 21 March 2019, Buenos Aires – South Centre co-organized with the International Labour Organization (ILO) a Side event on “The Future of Work, Youth Employment and South-South Cooperation” during the UN Conference on South-South Cooperation. The Executive Director moderated the event. The panel included several heads of organizations. The side event considered a panel discussion on SSTrC and the future of work for youth from three angles: policies for skills development, green jobs, and social dialogue. It also provided recommendations for BAPA+40 participants on effective integration of South-South and triangular cooperation into Youth Employment Policies.

D. External Conferences and Meetings Attended

- 14 January 2019, Geneva – South Centre staff attended the Handover Ceremony of the Group of 77 and China Geneva Chapter, and witnessed the handover of the chairmanship of the group from Pakistan to Ecuador. The Senior Adviser for Policy of the South Centre spoke on behalf of the Centre and reiterated the Centre’s continued support to the Group of 77 in its work.
- 21-23 January 2019, Beijing - South Centre staff undertook a mission to Beijing in order to have meetings with think tanks and the entire chain of governmental and semi-governmental institutions responsible or engaging in South-South and Triangular Cooperation for validating research by the South Centre on National Ecosystems for South-South and Triangular Cooperation under the SC/IsDB project and for the preparation of BAPA +40.
- 5-8 February 2019, Cairo - South Centre staff undertook a country mission to Cairo to meet H.E. Ambassador Hany Selim, Assistant Foreign Minister of International Cooperation for Development, and H.E. Ambassador Ahmed Shaheen, Secretary General of the Egyptian Agency of Partnership for Development, for validating research by the South Centre on National Ecosystems for South-South and Triangular Cooperation under the SC/IsDB project and for the preparation of BAPA +40.
- 13 – 15 February 2019, Delhi - South Centre staff undertook a mission to New Delhi for having meetings with the Ministry of External Affairs, Department of Ministry; with the Department of Industrial Policy and Promotion of the Ministry of Commerce and Industry; and with Research and Information Systems for Developing Countries (RIS) for validating research by the South Centre on National Ecosystems for South-South and Triangular Cooperation under the SC/IsDB project and for the preparation of BAPA +40.
- 14 - 15 February 2019, Rabat - South Centre staff undertook a country mission to Rabat for having meetings with the Moroccan Agency of International Cooperation (AMCI), Ministry of Foreign Affairs and International Cooperation, Ministry of Commerce, Ministry of Agriculture and other entities for validating research by the South Centre on National Ecosystems for South-South and Triangular Cooperation under the SC/IsDB project and for the preparation of BAPA +40.

- 25 February - 22 March 2019, Geneva – South Centre staff attended the high-level opening of the 40th session of the Human Rights Council, in order to highlight the Centre's commitment to working with developing countries on human rights issues, particularly on the right to development and the legally binding instrument on transnational corporations and human rights.
- 11 March 2019, New York – South Centre staff, together with the Centre's Permanent Observer to the UN in New York, participated in the "Workshop on Networking Across Boards and Borders: Strategies for Advancing Gender-Responsive Social Protection, Access to Public Services and Sustainable Infrastructure" organized by the UN Commission on the Status of Women (CSW). The theme of the event was 'Honoring the current centenaries of Women's suffrage in some countries and the fight for equal participation of women over the last decades all over the world'. This gathering was an opportunity for participants to engage in informal discussions on this year's CSW themes and reforms for gender equality, exchange on best practices, and networking across boards and borders with the intention to strengthen international solidarity for women's empowerment.
- 11-22 March 2019, New York – South Centre staff participated in the 63rd meeting of the Commission on the Status of Women (CSW63). The Commission on the Status of Women (CSW) is the principal global intergovernmental body exclusively dedicated to the promotion of gender equality and the empowerment of women. Participation in the CSW is usually at the technical/expert level and includes representatives of Member States, United Nations entities, academia, civil society organizations and other stakeholders.



- 17-20 March 2019, Buenos Aires – The Executive Director and the Senior Adviser for South-South Cooperation and Development Finance participated and represented the South Centre in the Second UN Conference on South-South Cooperation on the 40th Anniversary of the Buenos Aires Programme of Action on Technical Cooperation among Developing Countries (BAPA+40), during which they participated in different side-events and provided advice to developing countries during the BAPA+40 negotiations.
- 19 March 2019, Buenos Aires – The Executive Director moderated the second session "Regionalisation and South-South Cooperation: sharing best practices and nurturing synergies across regions" during the UNOSCC/ the Association of Southeast Asian Nations (ASEAN)/ the UN Economic and Social Commission for Asia and the Pacific (UNESCAP) side event on "Shaping the Future of Regional South-South Cooperation: Sharing the ASEAN Experiences and Nurturing Synergies across Regions" during BAPA+40.
- 21 March 2019, Buenos Aires – The Executive Director was a panelist at BAPA+40 Plenary 3rd Interactive Panel Discussion on "Scaling up the means of implementation of the 2030 agenda for sustainable development in support of SSTrC".
- 21 March 2019, Buenos Aires – The Executive Director chaired the RIS and the Network of Southern Think-thanks (NeST) Side event on "South-South cooperation for access to health technology" during BAPA+40.
- 26 March 2019, Geneva – South Centre staff participated in an UNCTAD XV preparatory workshop-briefing organized by the G77 and China in Geneva together with UNCTAD, and gave a presentation on the historical evolution of the global economic context since the 1960s, the corresponding shifts in development economics theory as reflected in multilateral economic diplomacy discourse, and the role and responses of UNCTAD to such evolution and shifts.



Section III: Trade for Development Programme (TDP)

1. WTO Reform

1.1. The Special and Differential Treatment at the WTO

A. Recent Developments

The US kicked off 2019 with two proposals which, if adopted, would undermine developing countries' unconditional rights to special and differential treatment (S&D) at the World Trade Organization (WTO):

- An Undifferentiated WTO: Self-Declared Development Status Risks Institutional Irrelevance (WT/GC/W/757, 16 January 2019). This paper argues that due to 'great development strides', including the decrease in poverty to the lowest level in history, the WTO's construct of North and South or developed and developing countries no longer makes sense. Countries therefore should not be allowed to self-declare themselves as 'developing countries'.

US also complained in the paper that developed countries have been severely disadvantaged in the WTO system due to Special and Differential Treatment flexibilities that all developing countries enjoy. "All the rules apply to a few (the developed countries), and just some of the rules apply to most, the self-declared developing countries".

According to the US, self-declaration of the development status is making global trade rules applicable only to a small group of countries (developed Members). It concludes that "an inability to differentiate among (developing) Members – puts the WTO on a path to failed negotiations. It is also a path to institutional irrelevance, whereby the WTO remains anchored to the past and unable to negotiate disciplines to address the challenges of today or tomorrow".

- Draft General Council Decision: Procedures to Strengthen the Negotiating Function of the WTO (WT/GC/W/764, 15 February 2019). This paper concretizes the concepts in the first paper. It provides criteria graduating some 34 developing countries or 53.6 percent of the global population out of Special and Differential Treatment altogether, based on the following criteria, some of which have nothing to do with trade:
 - ◇ membership or accession to OECD;
 - ◇ membership of G20;
 - ◇ classified as 'high income' by the World Bank; or
 - ◇ a country with 0.5% or more of global merchandise trade.

It also proposes to eliminate S&D as an unconditional right for all other Members: "Nothing in this Decision precludes reaching agreement that in sector-specific negotiations other Members are also ineligible for special and differential treatment". What this suggests is that for current and future negotiations, S&D may be provided but this would have to

be negotiated based on criteria that will be devised during the negotiations, i.e. no Member, including LDCs, would be guaranteed S&D flexibilities.

In response to the US' first paper (WT/GC/W/757), China, India, South Africa and Venezuela, Laos, Bolivia, Kenya and Cuba, Central African Republic and Pakistan came up with a counter-narrative on 4 March (WT/GC/W/765/Rev.2).¹ Using a broad range of indicators, they illustrated the point that the development divide (economic and in human development terms) is still very much present between developed and developing countries. Therefore, it argued, the

"self-declaration of developing Member status, a fundamental rule in the WTO, has proven to be the most appropriate classification approach to the WTO. Despite the impressive economic progress made by many developing Members over the past decades, development divide persists and has actually widened. Further, developing Members continue to confront many formidable challenges, which underscores the continued relevance of S&DT provisions in their favour... Any attempt to dilute S&DT would be in conflict with the fundamental premise of equity and fairness that underpins an international treaty framework in a context of a Membership as diverse as that of the WTO".

The proponents also note that "Unless we are willing to properly address the practical demands and specific difficulties of the developing Members as well as the reversed S&DT for developed Members, we will never be able to encourage them (developing Members) to fully participate in and make due contributions to the future negotiations." They conclude with a final observation: "If the promise of taking everyone along is a desirable objective to be fulfilled and if inclusiveness has to be ensured then S&DT for all developing Members is the obvious solution".

These submissions led to a heated debate in the WTO's General Council meeting of 28 February. The US Ambassador Dennis Shea, in introducing the US paper said that the

"practice of Members self-declaring development status at the WTO has severely damaged the organization's negotiating arm by inhibiting the ability to differentiate among self-declared developing Members. This practice also allows extremely advanced economies to claim rights to flexibilities that are not commensurate with the strides these economies have made in terms of development".

He concluded, "This makes no sense. It hurts us all, especially the poorest among us. We face a stark choice: reform or irrelevance."²

In response, China's Ambassador said,

"I acknowledge that developing Members have made impressive progress in trade, economic and social development in the past decades. Denying this fact is denying ourselves and overwriting the progress made. However, we are also well aware that the divide between developing and developed Members remains huge.

"In 2017, while per capita GDP of the U.S. is 59,531 USD, the figure of China, India, Brazil, South Africa and many other developing Members is still less than 10,000 USD. Furthermore, since 1995, the year in which the WTO was established, the absolute increment data clearly shows that the per capita GDP gap between developing and developed Members has actually been widening."

Ambassador Zhang also gave many other examples of the gaps that the emerging economies still face as compared with the developed countries, including poverty levels, level of profitability of companies, number of top universities etc. He noted that, "In the eyes of our U.S. colleagues, special and differential treatment seems to be a loophole in the multilateral trading system. But to me, it is rather a narrow path that developing Members have to take to keep up in a structurally bi-

¹ WT/GC/W/765/Rev.2: The Continued Relevance of Special and Differential Treatment in Favour of Developing Members to Promote Development and Ensure Inclusiveness, Communication by China, India, South Africa and the Bolivarian Republic of Venezuela, Lao People's Democratic Republic, Plurinational State of Bolivia, Kenya and Cuba, Central African Republic and Pakistan, 4 March 2019.

² Statement by Ambassador Dennis Shea, U.S. Permanent Representative to the World Trade Organization, On Procedures to Strengthen the Negotiating Function of the WTO, United States Trade Representative (USTR), Geneva, 28 February 2019, <https://geneva.usmission.gov/2019/03/05/57216/>.

ased system”.

He talked about the ‘structural imbalance in the multilateral trade negotiations’:

“Who sets the negotiation agenda? Who leads the negotiation process? Who has more say in shaping the negotiation outcome? If we dig deeper into these questions, we’ll see that some developed Members have certain de-facto privileges in the negotiations and they have made good use of these privileges. If such structural imbalance continues, the only way for developing Members to partially remedy the imbalance is through special and differential treatment”.³

India’s Ambassador Deepak also highlighted the gaps between developed and developing countries including in poverty levels. He noted that

“Self-declaration of development status has been a long-standing practice since the early days of the GATT, and therefore it became a part of the ‘customary practices to be followed by the WTO’ within the meaning of Article XVI.1 of the Marrakesh Agreement. Depriving developing Members of the policy space that is a right, and that was enjoyed by each developed Member in their process of structural transformation and economic growth, would be a gross violation of the basic tenets of equity and justice and would strike at the very legitimacy of the rules-based system”.

Amb. Deepak also noted that in the past, WTO Members had exhibited realism and fairness, agreeing to S&D provisions as an unconditional right for developing Members. He cited Pascal Lamy as the EU Trade Commissioner stating that development belongs “right at the heart of the multilateral trading system”. He concluded that “if future negotiations do not adopt a similar approach then this would be a certain recipe for intractable deadlock in negotiations. It is in the combined interest of the entire WTO Membership to avoid this possibility”.⁴

The gaps between developed and developing countries are in fact increasing. The work of Jason Hickel of the London School of Economics and author of *The Divide: A Brief Guide to Global Inequality and its Solutions* is instructive.

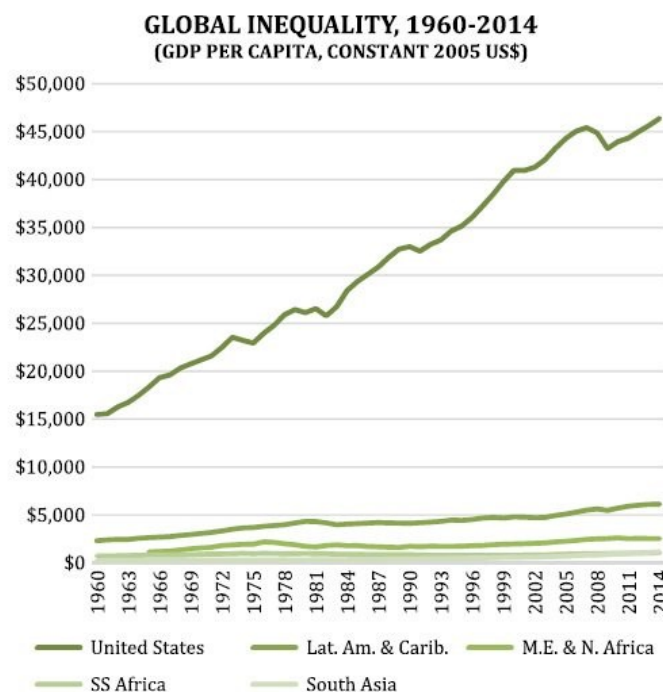


Figure 2. Inequalities between core and periphery regions, 1960–2014 (gross domestic product [GDP] per capita, constant 2005 US\$). Data source: World Development Indicators.

³ Statement of H.E. Ambassador Zhang Xiangchen of China at the WTO General Council meeting, 28 February 2019, Permanent Mission of China to the WTO (published by the South Centre: see <https://us5.campaign-archive.com/?u=fa9cf38799136b5660f367ba6&id=c57a8f1d46>).

⁴ Statement by India to the WTO – Development, Permanent Mission of India, 28 February 2019.

B. Publications

SouthViews

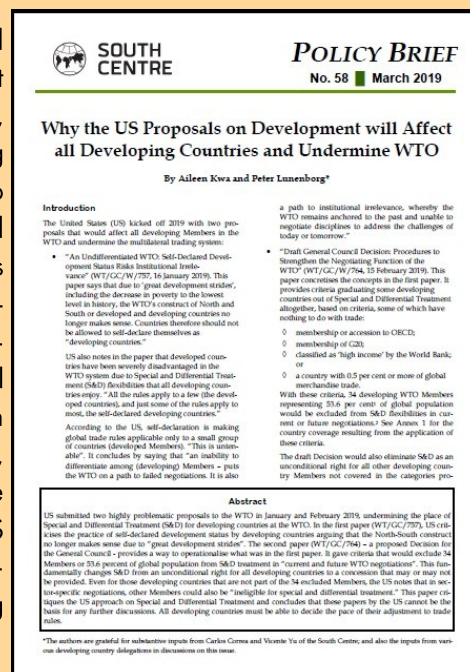
- **SouthViews No. 177, 13 March 2019: Preserving Special & Differential Treatment in WTO: statement by Ambassador Zhang Xiangchen of China at the General Council Meeting**

There remain significant gaps between developing and developed WTO Members in terms of economic and social development, and developing Members still face tremendous capacity constraints in participating in the multilateral trading system. The fundamentals for the application of special and differential treatment in favor of developing Members remain unchanged. US Communications WT/GC/W/757/REV.1 and WT/GC/W/764 neglect this. Below is the statement by H.E. Mr. Zhang Xiangchen, Permanent Representative of China to the World Trade Organization (WTO), at the General Council Meeting on Communications of Development on 28 February 2019.

Policy Briefs

- **Policy Brief No. 58 (March 2019): Why the US Proposals on Development will Affect all Developing Countries and Undermine WTO**, by Aileen Kwa and Peter Lunenborg

US submitted two highly problematic proposals to the WTO in January and February 2019, undermining the place of Special and Differential Treatment (S&D) for developing countries at the WTO. In the first paper (WT/GC/757), US criticizes the practice of self-declared development status by developing countries arguing that the North-South construct no longer makes sense due to "great development strides". The second paper (WT/GC/764) – a proposed Decision for the General Council – provides a way to operationalize what was in the first paper. It gave criteria that would exclude 34 Members or 53.6 per cent of global population from S&D treatment in "current and future WTO negotiations". This fundamentally changes S&D from an unconditional right for all developing countries to a concession that may or may not be provided. Even for those developing countries that are not part of the 34 excluded Members, the US notes that in sector-specific negotiations, other Members could also be "ineligible for special and differential treatment." This paper critiques the US approach on Special and Differential Treatment and concludes that these papers by the US cannot be the basis for any further discussions. All developing countries must be able to decide the pace of their adjustment to trade rules.



C. Conferences and Meetings Organized

- 1 February 2019, Geneva - Meeting on a range of WTO Issues, 1 February
- 11 February 2019, Geneva - Meeting on the US Proposal on Self Declaration of Development Causing WTO Irrelevance
- 19 February 2019, Geneva - Meeting on US Proposed Draft General Council Decision on Development



1.2. Transparency and Notification

A. Recent Developments

US is also at the forefront of proposing the strengthening of rules on transparency and notification, leading to severe punitive measures if countries fall behind. At present, all WTO members (including the US in the area of services) are behind in one way or another in their WTO notifications. However, developing countries, especially Least Developed Countries (LDCs) are lagging behind because of the technically complex and onerous nature of notifications across so many areas. US' proposal in Nov. 2018 (JOB/GC/204), co-sponsored by EU, Japan and others would force countries falling behind in their notifications in the area of goods to be subjected to punitive administrative measures, including having to pay higher Membership fees. Once a notification lapses for the third year, a Member requesting to take the floor in a formal meeting would be given the floor last i.e. that Member would not be able to influence a debate or negotiation. These measures would apply even if Members are currently up to date, but had missed a notification in an earlier year.

This seems to be a major element of the so-called 'WTO reform'. It is anticipated that this issue will also be raised at the G20 meetings hosted by Japan in 2019.

B. Publications

Research Papers

- **Research Paper 92 (March 2019): Notification and Transparency Issues in the WTO and the US' November 2018 Communication**, by Aileen Kwa and Peter Lunenborg

Various WTO Members submitted a Communication to the WTO in November 2018 which, if accepted, would affect the implementation of Members' transparency and notification obligations at the WTO. It would strengthen the already burdensome notification obligations and introduce new punitive administrative measures should obligations not be complied with. This paper provides information about WTO Members' current notification obligations and their level of compliance; looks at the history of discussions on notifications, particularly in the Working Group on Notification Obligations and Procedures which took place in 1995 – 1996; and provides an analysis of the Communication. The analysis focuses on the extent to which the elements are consistent with or go beyond the current WTO disciplines. It concludes that non-compliance with notification obligations is real. However, rather than expanding obligations and introducing punitive measures, constructive and effective solutions should be based on nuancing of obligations in the context of a Special and Differential Treatment approach and through the use of incentives. It also acknowledges that countries with a chronic lack of capacities will continue to struggle with the WTO's complex notification obligations and requirements until they attain higher levels of development and, thus, improved institutional capacities.

C. Conferences and Meetings Organized

- 18 March 2019, Geneva - Meeting on the Working Party on Domestic Regulation (WPDR); Notification and Transparency Issues; trade concerns

1.3. Trade Concerns

A. Recent Developments

In February, the EU circulated a non-paper entitled 'Procedural rules for WTO committees and councils addressing trade concerns'. In this paper, EU raised several issues – including making sure that the agendas of meetings where trade concerns are raised are circulated in advance so as to 'enhance transparency'. For 'persistent trade concerns', the EU also proposes a bilateral process that would involve the Secretariat and possibly other experts from other agencies to find a solution.

These are moves that will change the functioning of the WTO as was set up in the Marrakesh Agreement. The Marrakesh Agreement provided the mandates for the regular committees to oversee implementation of existing Agreements. It also provided for Members to take cases to the Dispute Settlement Body (DSB). A 'mediation' type set up is being proposed.

Some problems this proposal could raise include

- Obliging developing Members to put in more time into the regular work of the committees will add considerably to the burden already shouldered by developing country delegates. The majority of developing country delegations to the WTO today do not attend all the meetings in all the committees and negotiations because they simply do not have enough human resources.
- Some trade concerns which have in the past been raised in some committees are not even within the scope of the Agreements, or whether or not they are is a matter for resolution in the DSB.
- Giving emphasis to a bilateral process (the 'mediation' set-up proposed) could subject developing countries to more pressures than what may take place through the multilateral processes in the regular committees and the DSB.

B. Publications

Informal Notes (Limited distribution)

- Comments on the EU and Swiss non-papers, Informal Note, 18 March 2019
- Comments on the Swiss non-paper on a mediation framework to support Members in finding mutually agreeable solutions to trade concerns, Informal Note, 18 March 2019

C. Conferences and Meetings Organized – Support to Negotiations

- 18 March 2019, Geneva - Meeting on the Working Party on Domestic Regulation (WPDR); Notification and Transparency Issues; trade concerns
- 28 March 2019, Geneva - Meeting on WTO issues – Transparency and notification; Trade Concerns; Development and WTO Reform



2. E-Commerce

A. Recent Developments

A group of over 70 developed and developing Members of the WTO launched informal plurilateral negotiations on E-commerce in Davos in January 2019. The US has been at the forefront of this initiative. It wants free data flows and no data/ server localization policies. As of the Davos meeting, China - which applies a very different model of Internet governance, particularly in terms of data flows, from the US - has also joined these negotiations.

This development regarding plurilateral negotiations has raised many questions for WTO developing Members. Many are also being approached by proponents to join these negotiations, with promises of assistance to address the digital divide. The questions many developing country officials are asking themselves include:

- What are the implications of the US model of e-commerce rules on developing countries and their ability to digitalize?
- What are the implications and risks of joining these negotiations; or the implications and risks of not joining these negotiations?
- What kinds of data regulation policies do developing countries need in order to keep control over the data generated in their jurisdictions, participate in the digital economy on an equal footing and diversify their economies?

As data is the new economic 'raw material', many developing countries consider how to put in place regulations that provide for data sovereignty, so that their domestic or regional suppliers, and not just the big digital companies, can benefit from their citizens' data, including through data localization rules applied to support the building up of digital domestic industries in some countries (e.g. China; Turkey - banking services; South Korea – location-based data).

Given the growing importance of e-commerce and the need to design the appropriate policies at the national and regional level, the South Centre has joined the eTrade For All Initiative launched by UNCTAD in 2016, namely as a provider on advice on intellectual property issues relating to e-commerce. WTO, WIPO, the International Trade Center (ICT), the United Nations Economic Commission of Africa (UNECA), [the](#) International Telecommunication Union (ITU) are among the institutions that also participate in this Initiative.

B. Publications

SouthViews

- **SouthViews No. 173, 23 January 2019: E-commerce and Developing Countries: The South Asian Experience**, by Rahul Choudhury

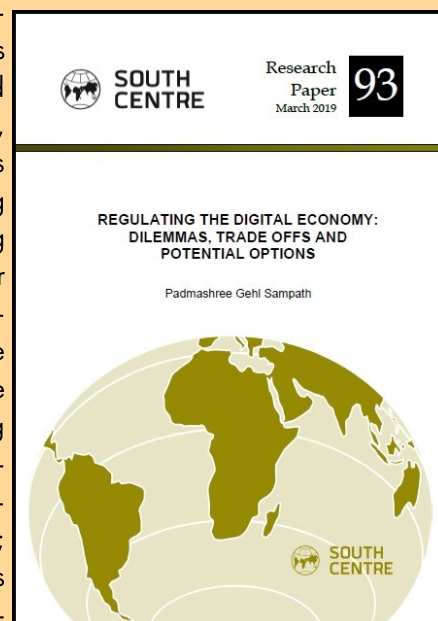
The evolution of Electronic Commerce or E-Commerce has brought about a significant change in the way business is conducted across the globe. The e-commerce which emerged during early 2000 in the United States and other developed parts of the world has expanded to almost all the developing countries by now. Developing countries like India, Brazil, and Indonesia have provided a fertile ground for the growth of this sector and even surpassed many developed countries in terms of market size. There exist a lot of differences in the e-commerce market in South Asian countries. Although there has been a significant growth in this sector in the South Asian region, still it has a way to go.

Research Papers

- **Research Paper 93 (March 2019): Regulating the Digital Economy: Dilemmas, Trade Offs and Potential Options**, by Padmashree Gehl Sampath

The digital economy has been growing exponentially in recent years thanks to new technologies that are promoting a global transformation. Key technologies responsible for this transformation have become the subject of intense discussions under the umbrella term 'fourth industrial revolution'. This paper offers a discussion on the differentiated impact of digital technologies on unemployment, capabilities building and technological catch-up for developing countries. It articulates some of the key issues and tradeoffs for developing countries that should be considered in policy discussions and deliberations.

Two important conclusions for policy stand out from the analysis in this paper. Firstly, new digital markets introduce a range of market failures throughout the process of knowledge creation, knowledge mediation, value creation, value capture and trade in the digital economy. The new technology-mediated economy is imperfect, riddled with information asymmetries, monopolies, algorithmic intransparencies and 'winner-takes-all' effects. Secondly, these market failures intensify all existing government or institutional failures that have held back development in developing countries. Any pre-existing binding constraint – such as the lack of coordination for innovation, lack of ability to mobilize domestic resources, inability to create linkages, low resilience of the domestic entrepreneurship sector, tax avoidance, and the failure to regulate competition – will have a direct bearing on how the gains of the fourth industrial revolution can be secured. The real challenge for developing country policy makers, therefore, is to be able to articulate their own industrialization and developmental goals as part of the transition to the digital era and to enact policies that enable it. The paper also warns against technological determinism; an approach that simply focuses on widely applying existing digital technologies for the broader good of mankind without a discussion of its public policy implications.



Informal Notes (Limited distribution)

- The Digital Economy and the Current E-Commerce Discussions at the WTO – A Development Perspective, Informal Note, 15 March 2019

C. Conferences and Meetings Organized – Support to Negotiations

- 15 March 2019, Geneva - Meeting on E-Commerce

3. Agriculture

A. Recent Developments

Agriculture is an area of major interest to developing countries. An outcome on one or more aspects of agriculture has always featured in WTO Ministerial Conferences. This year, the process has been intensified. Coordinators have been appointed to lead discussions on issues under all the agriculture pillars. This is contrary to the 'sequencing' that has always been part of the agriculture negotiations – that domestic supports should first move before other pillars of negotiations in agriculture are taken up.



A major area of negotiations has been and will continue to be domestic supports. South Centre has stressed the importance of addressing the imbalances in rules resulting from the Uruguay Round. This includes the issue of Final Bound 'AMS entitlements' which developed countries have, but most developing countries in the WTO do not. Those with Final Bound Aggregate Measurement of Support (AMS) entitlements (\$95 billion for the EU; \$19 billion for the US) are able to use their entitlements to concentrate support in specific commodities (e.g. EU in the area of skimmed milk powder, US for rice, cotton, sugar etc). However, most developing countries had bound themselves at 0 AMS entitlements and can only provide a 'de minimis' amount of AMS supports i.e. most developing countries are able to provide supports of only up to 10% of total value of agricultural production for a specific product (8.5% for China). In contrast, the EU's AMS supports in skimmed milk powder, for instance, amount to about 53% of value of skimmed milk production. This has caused unemployment and food insecurity in developing countries importing milk powder from the EU (e.g. Burkina Faso local milk producers).⁵

Nevertheless, some Members argue that the domestic support problem today is not one created by US or EU, but by China and India. In aggregate amounts, China's agricultural supports (\$208 billion) have surpassed those of the US (\$135 billion), however, at a per farmer level, Chinese subsidies are miniscule (\$863 per farmer) compared to those of the US (\$60,586 per farmer). China has nearly 250 million farmers, the US has about 2.2 million. Making comparisons of aggregate numbers without taking into consideration the situation on the ground does not make sense.

Nevertheless, developing countries are being asked to take cuts to their 'de minimis' entitlements, despite the fact that they have zero Final Bound AMS entitlements. China and India, supported by a majority of developing countries (Africa Group, African, Caribbean and Pacific (ACP) Members) have indicated that they can entertain cuts to the de minimis but only after developed countries have eliminated their Final Bound AMS entitlements and all Members are on a level playing field. This issue is in fact an example of reverse Special and Differential Treatment (S&D) for developed countries. The stalemate in the negotiations remains.

Other issues discussed in the agriculture negotiations are the pending Special Safeguard Mechanism (SSM) and Public Stockholding for Food Security Purposes (PSH). In the discussions on PSH this year, questions raised by some Members may side-track real negotiations (some are asking about the rationale and for more information about such programmes).

Besides these issues, other issues taken up in the agriculture discussions also include market access and export restrictions.

B. Publications

Informal Notes (Limited distribution)

- Domestic Supports: Some Figures and Trends, Informal Note, 29 January 2019
- Domestic Supports Narrative, Informal Note, 29 January 2019
- Snapshot of PSH Negotiations (2008 – 2018), Informal Note, 6 February 2019
- Overview of current submission on Market Access, Informal Note, 28 February 2019
- Policy Space (Domestic Supports), Informal Note, 28 February 2019
- Responses to Coordinators' Questions, Informal Note, 1 March 2019

⁵ See Press Release by the European Milk Board, 29 September 2016, <http://www.europeanmilkboard.org/en/special-content/news/news-details/article/west-african-producers-in-dialogue-with-eu-policy-makers.html?cHash=dc74da16887ce2efb4902fe34239fe17>.

C. Conferences and Meetings Organized – Support to Negotiations

- 29 January 2019, Geneva - Working Lunch meeting on Agriculture Issues
- 6 February 2019, Geneva - Meeting on Public Stockholding
- 1 March 2019, Geneva - Meeting on Agriculture issues

4. Services Domestic Regulation

A. Recent Developments

There is a mandate in GATS Article VI.4 to have domestic regulation disciplines “where necessary”. These are disciplines which would apply to measures relating to qualification requirements and procedures, licensing requirements and procedures and technical standards.

The discussions in 2016 – 2017 at the WTO were heated, with many developing countries making the case that there was no necessity for these disciplines especially in the context of the emerging digital economy where governments will be required to step in to regulate in new ways not before envisaged. Disciplines that would require licensing requirements and technical standards to be ‘objective’ are likely to tie governments’ hands and prevent them from using legitimate policy options to support domestic services industries. As multilateral negotiations were stalemated, some Members started plurilateral negotiations on domestic regulation in 2018.

At the end of 2018, India submitted a proposal in the multilateral fora, asking for domestic regulation disciplines for Mode 4 – the movement of natural persons. This is an area where market access opportunities (from the Uruguay Round) have been limited, and where there are many non-transparent and also unclear and non-objective criteria (e.g. visa regulations), which have impeded the movement of natural persons, even when a market access commitment has been made.

B. Publications

Informal Notes (Limited distribution)

- Do Visa Requirements and Procedures Fall Within the Scope of GATS and Art VI.4?, Informal Note, 29 January 2019

C. Conferences and Meetings Organized – Support to Negotiations

- 18 March 2019, Geneva - Meeting on the Working Party on Domestic Regulation (WPDR); Notification and Transparency Issues; trade concerns

5. Fisheries Subsidies

A. Recent Developments

In the first quarter of 2019, three 5-day meetings (clusters) on fisheries subsidies were held, in the week of 14 January, 25 February and 25 March. The Incubator Group meetings have been abandoned, as they did not yield results. The Chair instituted four facilitators dealing respectively with Illegal, Unreported and Unregulated (IUU) fishing, overfished stocks, overcapacity and overfishing and cross-cutting issues. A series of new proposals have been submitted or have been drafted, mostly by developed countries. The March cluster focused on these proposals,



shifting the focus of the discussions from the Chair's text to these proposals. At the same time, Members are considering how to make best use of the facilitators.

South Centre will continue to support developing countries, *inter alia*, through the analysis of proposals and Secretariat communications and providing for a broad-based platform for developing countries to test proposals and build alliances. The Centre has also been requested to generate ideas on elements of the fisheries subsidies negotiations, such as on S&D.

B. Publications

Informal Notes (Limited distribution)

- Observations from survey analysis Code of Conduct on Responsible Fisheries, Informal Note, 14 January 2019
- Comments on WTO Secretariat fish statistics paper, Informal Note, 16 Jan 2019
- OECD data on fisheries subsidies, Informal Note, 22 January 2019
- Definition of fishing, fish, fishing vessel and aquaculture, Informal Note, 5 Feb 2019
- Fish catches by origin (in value) – Own EEZ, Foreign EEZ and High Seas, Informal Note, 14 March 2019
- Top 30 fishing entities - Share in world marine capture and share of fish capture from own EEZ, Informal Note, 14 March 2019
- Brainstorming text on fisheries subsidies, various reiterations, Informal Note, latest - 15 March 2019

C. Conferences and Meetings Organized – Support to Negotiations

- 22 January 2019, Geneva - Meeting on Fisheries Subsidies
- 6 February 2019, Geneva - Meeting on Fisheries Subsidies
- 15 March 2019, Geneva - Meeting on Fisheries Subsidies

Several bilateral meetings on request were also held.

6. Gender and Trade

A. Recent Developments

Trade policy is not gender neutral. It has a very specific and particular impact on women due to potential to either ameliorate or exacerbate existing discrimination and disadvantages that women face. This recognition has been increasingly formalized through numerous academic research, civil society organization (CSO) research as well as policy relevant research by institutions such as UNECA, UNCTAD and the Commonwealth Secretariat and has led to the emergence of a stream of work identified variously as 'gender and trade' or 'trade and gender', since at least, the last 20 years. It has been at the intersection of trade policy and women's rights activism and feminist scholarship since at least the Hong Kong Ministerial but did not receive much institutional uptake by the WTO. UNCTAD as the agency of the UN intergovernmental task force on gender has been actively involved in the issues for some time now. But it was not on the screen of the WTO and trade policy makers until the launch of the Joint Declaration on Trade and Women's Economic Empowerment on the occasion of the WTO Ministerial Conference in Buenos Aires in December 2017. Since then the issue has ramped up with the WTO Secretariat hosting a number of seminars including a global conference on the issue co-hosted with the World Bank in December 2018. While the Joint Declaration has been regarded as a step forward by many organiza-

tions, over 160 women's groups rejected the WTO declaration as 'pink washing' of trade expansion/liberalization and as a potential 'Trojan horse' to e-commerce, and pointed out to seek a more gender just trade.⁶

South Centre was invited to co-host a meeting on the issue of gender and trade on the side-line of the sixty-second meeting of the Commission on the Status of Women (CSW 62) in Feb./March 2018. Since then, the South Centre has been involved in this issue of trade justice and trade that supports social and economic development and women's overall economic and social empowerment in this context. This is a growing strand of work that also links with the Centre's work on gender and climate change and on gender and tax policies.

B. External Conferences and Meetings Attended

- 12 March 2019, New York - Formal launch of the Gender and Trade Coalition—A Feminist Alliance for Trade Justice. As a side-event of Commission of the Status of Women (CSW) 63, the launch was attended by over 100 persons. There are 200 organizations and networks that have signed on to the unity statement of the coalition and another 200 submissions were gathered at the launch event. SC staff moderated as well as presented on the panel that launched the network.
- 12-13 March 2019, New York - Gender and Trade Coalition Strategy Meeting. One year after the Think Meeting (organized with the support of the South Centre, Regions Refocus and FES) initiated the Gender and Trade Coalition, this 2019 follow on strategy meeting focused on creating 'a collective timeline of action towards analysing and opposing the neoliberal instrumentalization of women's rights as a tool to facilitate the free flow of capital, resources, and labour.' The Gender and Trade Coalition has grown to over 200 organizational memberships, reflecting a cross-section of civil society organizations, feminist groups, academia, and trade unions. The 2019 strategy meeting convened members in the same space, to deepen analysis on the intersections of trade and gender and galvanize action around policy alternatives.
- 13 March 2019, New York - Ensuring gender just trade: Challenges and ways forward. Side event jointly organized by UNCTAD and the Gender and Trade Coalition with the support of Organisation of Women in International Trade (OWIT). Trade policy is not gender neutral. It has a very specific and particular impact on women due to perpetual discrimination and disadvantage experienced by women. Moreover, women are not a homogenous group and, therefore, they are differently impacted by trade depending on their income, position in the labor market, educational level, race, class, countries, etc. If trade policies are designed without taking into account their gender-specific outcomes, these policies risk magnifying existing gender inequalities. The event provided the opportunity to share perspectives, concerns, lessons learned and recommendations from a wide range of stakeholders on what constitutes gender-just trade for women in the Global South and on how to make trade a tool for inclusive development.



⁶<https://wideplus.org/2017/12/14/wide-together-with-more-than-160-civil-society-associations-called-on-governments-to-reject-the-wto-declaration-on-womens-economic-empowerment/>

7. The African Continental Free Trade Agreement (AfCFTA)

A. Recent Developments

The African Continental Free Trade (AfCFTA) Agreement is expected to enter into force in July 2019, 30 days after the 22nd instrument of ratification will be deposited with the African Union Secretariat. Nonetheless, the tariff concessions need to be negotiated. The total number of bilateral negotiations under the entire CFTA would be large, estimated at around 350 (not taking into account existing intra-African trade agreements). There are also a number of unsettled issues such as the applicable transition periods for customs union that LDCs have, the need for an adjustment facility, rules of origin and the negotiation approach (e.g. whether as a first step non-sensitive products should be scheduled applicable to all African imports), among other issues. The AfCFTA is an ambitious regional trade integration project, for which leaders have set very tight deadlines. South Centre provides technical advice with a view to reaching balanced outcomes and facilitating the operationalization of the AfCFTA.

B. External Conferences and Meetings Attended

- 18-21 March 2019, Addis Ababa - Dedicated Session of the Negotiating Forum. The AfCFTA Negotiating Forum meeting of March 2019 received updates in various areas (rules of origin, non-tariff barriers (NTBs), services, e-payments) and discussed proposals for the AfCFTA Secretariat, a possible AfCFTA adjustment mechanism, simulations and unresolved issues in the area of goods.



8. Brexit

A. Recent Developments

The UK has to establish its own goods and services schedules at the WTO as a consequence of Brexit (if not cancelled at the last minute). In the area of goods, the EU has proposed to 'apportion' its tariff rate quotas (TRQs) between itself and UK. At the same time, the UK has had several parallel consultations on TRQs with Members. Most Members do not agree with EU's proposed apportionment method, as it is tantamount to reducing market access. Furthermore there are a lot of uncertainties as to how the UK will establish its tariff schedules (beyond TRQs). Without bound tariffs, UK presumably would have complete flexibility to set its own tariffs, but it is understood that UK could not provide AMS beyond de minimis nor maintain country-specific TRQs (as this runs counter to most favored nation (MFN) treatment).

Activities

- On request by Members, assistance in claiming trade interests with EU and UK, January-March 2019
- Comments to UK-Eastern and Southern Africa (ESA) 'continuity agreement', February 2019

9. EPA/Post-Cotonou/ACP Relations

A. Recent Developments

The Economic Partnership Agreement (EPA) negotiations are in a deadlock in most regions. However, in the 'ESA' (East and Southern Africa) region, which is composed of Zimbabwe, Zambia, Comoros, Madagascar, Mauritius, negotiations for a comprehensive EPA have been launched.

Simultaneously the negotiations for a post-Cotonou agreement have started. The negotiation mandate for this agreement encompasses many trade and trade-related issues.

Activities

- Inputs to Scoping paper 'Deepening of the EU-ESA interim Economic Partnership Agreement', January/February 2019
- Note on special agricultural safeguard, February 2019
- Comments to review of the Georgetown Agreement, March 2019



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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