

WTO - IN SEARCH OF A NEW ROUND

*Momentum may be gathering again to launch a new Round of multilateral trade negotiations at the World Trade Organization(WTO). Why is it needed at all? What is at stake for the developing countries? Has the WTO as an institution recovered from its recent setbacks? These were some questions posed by the South Bulletin(SB) to **Professor Muchkund Dubey**, former Foreign Secretary to the Government of India. Among his many postings abroad, Prof Dubey also served as India's Ambassador to the UN, in Geneva. Currently, he teaches at the Jawaharlal Nehru University in Delhi and is President of India's Council for Social Development.*

Someshwar Singh

SB: What do you think are the main compulsions for a new trade Round?

Prof. Dubey: When the GATT was established, one of its principal purposes was to free world trade through successive Rounds of negotiations. Nine rounds have so far been held and they have shown tangible results. Trade today is much more liberal and open than ever before in the post-second World War period. A liberal and open multilateral trading system has given tremendous impetus to the world economy - to growth and output. I see no reason why this method of organising multilateral rounds should not be continued after the establishment of the WTO, because the objective remains the same.

The question of the need for a new trade round arises mainly because several WTO Agreements provide for reviews. And the review process invariably involves negotiations, thus making the WTO a forum for constant negotiations. So the argument is that when you have continuing negotiations, do you really need a Round of negotiations?

I feel we still need a Round for several very specific reasons. A Round is designed to yield a balanced outcome because you must take into account interests of all members in a range of areas. A Round can, therefore, help developing countries to demand attention to the areas of their interest. In the absence of a Round, what would really

happen is that developed countries would be able to exclusively push their items on the agenda by virtue of their superior negotiating power.

We have already seen it in the five years of the functioning of the WTO - the manner in which information technology products were brought in at the Singapore Ministerial meeting, and the e-commerce issue similarly brought up at the Geneva Ministerial Meeting. Also, in the Services negotiations, we have seen that they were able to pursue negotiations in areas where their interests are involved (like financial services, and basic telecommunications) to the complete neglect of questions like the movement of natural persons, in which developing countries' interests are at stake. Only one round was held and there is no talk that better results can be achieved and developing countries can be given greater access in this area if another round of negotiations is held.

Besides, a Round is a finite exercise - that is taken up at a point in time and concluded within a given period. Therefore, there is a greater certainty of results - even though our experience with the Uruguay Round was that it took two to three years longer than envisaged. I feel that the justifications for a new Round are very much there. They derive from the basic objective of WTO. In short, this is an organised,

(continued on next page)

INSIDE PAGES

TRIPS, Patents and Acces to Essential Drugs	4
Cocoa Woes.....	6
The OPEC Summit and the Future of Oil.....	7
Agricultural Liberalisation Increasing Rural Poverty.....	9
Basmati Patent.....	11
Energy Services.....	12

rational and planned way of proceeding with the task of liberalising trade.

SB: How can developing countries advance their concerns in the new Round?

Prof. Dubey: The successive Rounds of negotiations have not really resulted in the kind of access that they expected for their export products in the markets of the developed countries. Duties on items of interest to them which are regarded as "sensitive" by the developed countries, are still inordinately high. Secondly, there are higher rates of duty on processed products than on raw material form. The result is that the effective rates of protection are much higher than duties indicate. This issue has been discussed since the late 50s and early 60s, when special groups were set up in the GATT for dealing with the problems of developing countries. But the progress made in this direction has not been satisfactory.

I think developing countries must now take this up very vigorously. Though it basically involves tariffs, the numerous non-tariff barriers in the industrial goods area and the experience after the establishment of WTO have shown that whatever concessions were given in tariffs have been nullified by the introduction of what one may call "neo-protectionist" measures. I think there should be an assault on these measures also in a vigorous manner.

Thirdly, developing countries should insist on negotiations on service sectors of their interest. The movement of natural persons is one of them. There are many services where they have developed a certain degree of comparative advantage, like accountancy. There is a strong case for putting them on the agenda of any future negotiations on services.

Fourthly, I think that as a large number of developing countries are dependent on agriculture for their exports, they have a growing interest in ensuring agricultural trade liberalisation.

But above all, there is the "Implementation" issue. I think the greatest significance of the new Round lies in the fact that it gives the developing countries the opportunity of taking up the implementation issue seriously and systematically. The developing countries have already succeeded in compelling the developed countries to discuss these issues. Over the past five years it has been found that many of the Uruguay Round Agreements are unbalanced. They have worked inexorably to the disadvantage of the developing countries. As a result, they are not able to implement these agreements.

Moreover, many governments find it difficult to convince their people and Parliaments of the merits of implementing Agreements patently unfair. All this was not envisaged at the time of the Uruguay Round of negotiations. This came to light during the course of implementation. The next Round would be a good opportunity for the developing countries to seek the necessary changes in some of these agreements. These changes need not involve re-negotiation *de novo* of the entire agreements. They can be achieved in a variety of ways. There could be some new operational multilateral understandings reached on the implementation of certain specific commitments of specific agreements. For example, protocols on issues causing difficulties.

New approaches and new methods are needed to tackle these problems. Otherwise, the entire package of the measures that emerged from the UR and which constitute the very basis

of the WTO, would be discredited - simply because a large number of WTO members are finding it impossible to implement these agreements. This is an issue that is extremely important and must be addressed in the next Round.

The position adopted by some of the developed countries (particularly the European Union), that they would address these issues only on the basis of a *quid pro quo* must be resisted. What the developing countries are demanding under the implementation issue is a rectification of a wrong. For this, no matching concessions should be demanded of them.

SB: How would you characterise the fear-psychosis of going in to a new Round?

Prof. Dubey: I would say it is in the preparatory process that maximum vigilance is required. If in the preparatory process you are able to satisfy yourself that all items of your interest will be taken up, and that too in the right framework, you need not worry. Actually, the greater concern is one of items being sprung upon you in Ministerial meetings where you are totally unprepared. You don't even know how your interests are involved - and you are asked to take a decision then and there. But where the agenda is discussed, preparations duly made, and proposals advanced before the commencement of actual negotiations, the results are likely to be more predictable.

SB: Do you perceive a retreat from multilateralism to bilateral and regional trade deals?

Prof. Dubey: This is not something which has happened only in the last two to three years or so. The "new regionalism", as I would call it, is a phenomenon which started from the late 1980s and

early 1990s. And it is driven mainly by globalisation - by the desire to gain competitiveness, to have larger markets, larger resources at your disposal so as to be able to invest in R&D. I would say that at the macro level we are witnessing the phenomenon of merger of markets for the purpose of gaining competitive advantage, and at the micro level, we are witnessing the merger of firms for the same purpose.

Competitiveness is no longer simply the function of scale of production. It is now a function of a variety of other factors and R&D is perhaps the most important. And therefore, in most recent groupings, we have seen a great deal of emphasis on not merely exchanging tariff concessions but adopting other measures of co-operation which make for competitiveness. For instance, deeper integration in the fields of money, finance, pooling of resources for R&D and harmonising standards in different areas. These are all inevitable aspects of the process you are witnessing in the world in the broader economic field. And from that point of view, I don't think it has been at the cost of multilateralism. As a matter of fact, some of the regional movements are designed to provide an impetus to liberalisation at the multilateral level. At least, APEC was an example of that type. And Prof. Fred Bergstern, when he was the chairman of the eminent persons group of the APEC, had clearly this objective in view. He wanted APEC to be a launching pad for liberalisation on a world-wide, global basis. That has succeeded to some extent, but the process has not gone as far as Prof. Bergstern would have liked it to go.

Besides, so long as you have a weak Article XXIV in the WTO, you would continue to have discriminatory regionalism. This is also not a new phenomenon. This has

been going on since the early sixties with the Treaty of Rome, which was followed by a large number of other groupings. Apart from the mega-groupings which emerged as a result of the drive for regions and countries to become competitive, I don't think there is anything additional taking place in this area.

SB: How do you see the WTO evolving as an institution from the setbacks it has suffered recently?

Prof. Dubey: The WTO is at a cross-roads today. It has to take some very important decisions - basically in three to four areas. The first is whether it is going to be a forum for progressive liberalisation of trade or a forum for negotiations on all kinds of issues - whether or not trade-related. If the WTO is to survive, to remain manageable and effective, it will have to take a decision to concentrate on trade-related matters. The principal reason for the failure at Seattle, I think, was the attempt to include non-trade-related issues. Since you are unlikely to get consensus on such sensitive and complex issues which go beyond trade, you try to impose consensus by the force of economic power. The consequence will be the failure that occurred in Seattle. So this is a major issue before the WTO as an institution.

The second issue concerns the desire of developing countries to get from the WTO what they have not been able to get from the other forums of economic co-operation. That is, to bring to the forum of WTO issues like transfer of technology, flow of financial resources and the questions of social development and creation of export capacity etc. Now, the WTO is basically a contractual framework. It is not a forum for putting moral pressure on countries. If WTO was sought to be converted into the latter kind of forum, then there would be a re-

grettable overlap with established bodies, particularly the ECOSOC, the UNCTAD, and even the Fund and the Bank. This would lead to the essential character of the WTO being diluted and destroyed.

I get the impression that the WTO is moving headlong in this wrong direction. Discussions and debates are planned on development issues, on financial resources, on technology etc. I am sure they will be ineffective. For example, look at what happened to the question of compensation for least developed countries for "losses" in the Uruguay Round. There have been so many meetings, but ultimately the least developed have been directed to knock at the doors of the Fund and the Bank. The same thing will happen on other similar issues. In the process the mandate of other bodies will get compromised and there will be confusion all around.

SB: But what about addressing the very inequities that WTO Agreements have generated?

Prof. Dubey: That is something which must be addressed. But you can't get equity by putting pressure for getting things which an organisation like the WTO is not mandated to deal with. You must address the equity concerns within the parameters of WTO agreements and not go beyond them into areas like money, finance, technology etc. The inclusion in these agreements of provisions on broader developmental matters was, of course, nothing more than a sop. They were not accepted as contractual obligations. They were agreed on a "best-endeavour" basis. So now for the developing countries to think that these promises, which were on a best-endeavour basis, can be converted into contractual obligations is not only unrealistic but amounts to going against the very character and nature of the WTO.

The third institutional problem is the whole question of trade policy review and ensuring consistency in global policy. The issue here is to what extent the WTO is prepared to make itself part of the international surveillance system on development policies. There are mandates in the WTO Agreements to this effect. But there are also very strong qualifications laid down by the developing countries. One has to see how far the WTO slips

down this very dangerous path. That will be an institutional development with considerable implications for the future.

The last institutional aspect is the whole question of Dispute Settlement. This has become a major institutional issue because many of the judgements and the recommendation of, not so much the panels but the Appellate Body, are not just limited to trade issues or to

the articles of WTO agreements but go beyond. They wider issues which involve moral, environmental and human rights considerations, which the WTO is not equipped to handle. There have been judgements where such issues have been raised. If more judgements of this nature occur, the WTO will be clearly drifting into areas which do not lie within its jurisdiction. And that will be highly controversial.

TRIPS, PATENTS AND ACCESS TO ESSENTIAL DRUGS

The recognition of patent protection for pharmaceutical products, deemed necessary by Trade-Related Intellectual Property Rights (TRIPS) Agreement, is a sensitive issue for health policy. Patent on medicine means that patent owner can call the shots on price and, therefore, on access to medicine. In some countries, patents have already led to higher prices. In launching a new book by the South Centre on "Integrating Public Health Concerns into Patent Legislation in Developing countries," Prof. Carlos Correa, the author, spoke of the sovereign rights that countries still have to fine-tune TRIPS-consistent legislation to keep essential drugs within peoples' reach. Prof. Correa is a well-known expert on intellectual property issues and teaches at the University of Buenos Aires, Argentina. The Rockefeller Foundation supported the preparation of this study.

The TRIPS Agreement which was adopted in 1994, has obliged all member countries, including developing countries, to adopt new standards for protection of intellectual property. Among those standards, an important one is the recognition of patent protection for pharmaceutical products. The implementation of the TRIPS Agreement, particularly in this area, is already creating enough of a problem for developing countries.

In fact, the majority of the developing countries have not amended their laws in order to make them TRIPS-consistent. We are in an awkward situation because the transitional period for developing countries expired January 1, 2000. It was assumed that all (except the least developed countries) would have adapted their laws to the new framework. But this has not happened. There are a number of countries such as Brazil, Mexico, Argentina and some in

Asia, that have amended their laws. But these countries make up only a minority.

Many of them yet have not been able to fully implement the TRIPS Agreement because it is a difficult task. They have to change many laws, practices and administrative arrangements. The fact is that it is really foreseeable that the developing countries will, increasingly, face problems in ensuring access to drugs, and especially new drugs - on the basis of the legislation that they have to implement.

This book is addressing this tension - between the recognition of patent rights, an obligation that countries cannot escape from and how to ensure, as far as possible, access to these essential products. The book is analytical and practical.

Prior work done in this area, has already highlighted the room for

manoeuvre that developing countries have under the TRIPS Agreement. One of the outstanding document is the Red Book, now a Blue Book (*Globalisation and access to drugs. Perspectives on the WTO/TRIPS Agreement*) by the World Health Organisation, where the room that developing countries have in the framework of the TRIPS Agreement was specifically examined. It shows that countries can, without prejudice to providing the required protection, use a number of measures - such as exceptions, compulsory license and other types of instruments in order to enhance the access and affordability of these products.

The value-added by this book is that it is making concrete proposals on how to use the room for manoeuvre that exists in the TRIPS Agreement. There is no intention to provide model laws or model legislation but it does provide a number of guidelines in order to

develop certain clauses and principles in national laws, in order to make the medicines more affordable to the people.

The book's intention is not to suggest to the developing countries options that may lead to a conflict under the WTO and eventually to disputes. It seeks to offer options that may ensure that compliance with the Agreement is done. At the same time, it maximises the room for manoeuvre that the Agreement allows.

So the book provides concrete suggestions to developing countries - how to use the sovereign rights they still have - in the area of intellectual property, particularly in the area of patents, to enhance access to drugs. As is well-known, this is not a minor problem. Many developing countries, illustrated by the case of South Africa and other African countries, are facing very serious problems in this area, particularly because of the AIDS epidemic. So it is absolutely necessary for these countries to develop legislation in a way that allows them to pursue public health objectives.

TRIPS-PLUS Demands

Developing countries are being required not only to comply with TRIPS Agreement standards but in some cases, as also illustrated by the case of South Africa, some Industrialised countries have requested more than that. They have pushed for TRIPS-plus protection. They have used thresholds and the threat of application of trade sanctions in order not only to ensure the compliance with the standards which are set forth in the Agreement, but even higher standards of protection.

Despite the fact that the TRIPS agreement is there and it

establishes the minimum standards, some industrialised countries have continued to ask for higher standards of protection. So that has been the real history for most developing countries. After the adoption of this Agreement, these pressures have continued and in many cases, they have led to laws which are more protective than necessary to comply with the Agreement. Of course, these countries could change this because the TRIPS Agreement does not freeze forever any law. Changes could be done and we hope that to the extent that these countries realise that they have some room and that a new wave of legislation is adopted which use effectively that room - the policies which are public-health sensitive could be better reflected in legislation.

This book also provides some arguments in order to avoid this kind of action- showing as far as possible, what these options are - to what extent policies such as South Africa announced a couple of years ago, are legitimate under the Agreement.

Precise Problems

Despite the fact that a number of essential drugs, which are on the list of WHO, are off patents or the active ingredients are off patents - the fact is that in many cases, companies get patents on secondary inventions -- formulations, on different crystalline forms, on what are called isomers. Though the product as such is not patented any more, sometimes a large number of patents is developed around this secondary product. This may, in practice, prevent other - generic companies from entering that particular market .

There have been some cases recently showing this. For instance, in the case of Thailand - with a

product, DDI, which is off-patent. Though the product is free and in the public domain, a patent was obtained in relation to a formulation of this product - the way in which it is prepared in order to make a pill. Then, although the active ingredient is actually free, the secondary patent was used in order to block attempts by the local government, in this case Thailand, to enter into the production of this product, which is essential for the HIV-infected people. There are many examples in which you may have a product which is off-patent, but still a number of secondary patents can play this role of blocking or making more difficult the production or commercialisation of this drug.

Another specific problem relates to the development of new products. When a new product is developed and it complies with patent requirements, this product - even if it is essential in terms that the WHO list has been developed - will come under patent protection. There are many diseases, in particular AIDS, which will still call for new medicines. In these cases, given that all countries are obliged to provide patent protection, these products will necessarily be subject to monopoly rights. The essential nature of the product will not change this legal situation. Therefore, the fact that a large part of the essential medicines as listed by WHO today are off patents - does not mean that the introduction of patents in developing countries will have no effect. It already has effects. It will have more serious effects to the extent that new and essential products are developed.

Search for Solutions

Officially, there have been some meetings between the WHO and the WTO but there should be more integration. The interest of public health should be more fully taken into account in WTO Agreements.

Many Agreements, such as SPS (Sanitary and Phytosanitary Measures), TBT (Technical Barriers to Trade), TRIPS, and GATS (General Agreement on Trade in Services) - have implications for the health sector. These have been adopted - having as the main objective the trade interests. And there has been very little representation of the health interests. Even some people who have followed the UR negotiations, it was clear that those who negotiated came from trade and industry ministries. There was no representation from the health sector. And then the result has been that this point of view has been disregarded to a great extent.

But there will be some reviews of the Agreement. It is possible to enter into some reviews of the TRIPS Agreement, for instance. At that time, it will be very important that the views of the public health sector be represented. Already, there are initiatives, by some African countries, trying to involve the health people in teams that participate in these kind of negotiations in the future.

(Later, when asked about the WHO-WTO collaboration, a

spokesperson for the WTO said that only some "preliminary" contacts had been established but that substantive work remains to be done at the technical level, in the case of the WTO - with the TRIPS Division. The objective would be look for solutions to what people see as a problem of rising prices of essential drugs. Differential pricing, for instance.)

Alternatives

Many economists have argued and still argue that the patent system should be abolished because the monopolistic effects of the patent system are substantial. The patent system was even abolished by some European countries during the 19th century, as in Holland and it was very seriously questioned in other developed countries. But we are not going that far. We are just saying that you need to get a balance in the design and implementation of the patent law. We are not saying that the TRIPS Agreement itself should be abolished. The TRIPS Agreement is there. Developing countries have a right to implement the TRIPS Agreement in a way which is balanced and takes into account

the owners of the novelty and also of the users, the consumers.

There are many economists who think the patent system is not the best solution. There are other options in order to encourage innovation which are not so restrictive and with lower social costs. For instance, you could subsidise research and development instead of just providing an *ex-post* incentive for patents, which leads to a lack of proportionality because you may invest a little money and get from patents a lot of money. There is no necessary relationship between the investments made and the returns that you get. In some cases, you may even lose money. So there is no precise logic in the system. Some economists are arguing in favour of different rights, for instance, that would allow the innovator to get the compensation but without the monopolistic rights. So, different solutions are there, theoretically available but politically very difficult.

(The South-Centre publication will be translated into French, Arabic and Spanish.)

COCOA WOES

Geneva, 24 Nov (South Development News) – With the cocoa economy in the midst of its worst crisis ever, a ten-day UN conference to negotiate the sixth international cocoa agreement ended with a decision to hammer out remaining obstacles in 2001 (26 Feb-2 Mar).

Over the years, this commodity agreement has gradually shed its production quotas after the first two agreements, and then its buffer stocks arrangement after the following two. So the fifth Agreement (1993), saw both quotas and buffer stocks out. And the new Agreement

seeks to bring in the private sector as equal partners, along with governments.

While the producers (mainly developing countries) lament low prices, the consumers side (led by industrialised countries) says there are "no quick and easy solutions."

While raw cocoa trade is estimated at \$3 billion, the sales of chocolates, which uses cocoa, are placed at about \$20 billion.

World cocoa bean production was 2.760 million tonnes in 1998-

1999, while imports totalled 2.145 million tonnes. Côte d'Ivoire, with 43% of world production in 1998-1999, remains the number-one producer, followed by Ghana (14%), Indonesia (13%), Nigeria (6%), Brazil (5%), Cameroun (5%) and Malaysia (4%).

The United States led on imports side, accounting for 20%, followed by the Netherlands (16%), United Kingdom (11%), Germany (10%) and France (6%). Italy, Belgium/Luxembourg, Malaysia, Spain and Brazil together represent some 3% of the import market.

THE OPEC SUMMIT AND THE FUTURE OF OIL

*The second OPEC Summit was a political success, but fell short in substantive achievements. A new paradigm is unfolding, in a similar vein to the great historical transitions in energy use from wood to coal and later from coal to oil, says the author of this article, **Frank Bracho**, who is an advisor to the Venezuelan Centre for OPEC studies and took part in the Summit. Mr Bracho, a former Ambassador of Venezuela to India, has written several books, the most recent being: *Petróleo y Globalización, Salvación o Perdicción?* (Petroleum and Globalization: Salvation or Ruin?), published in 1998. The present article is an abridged version of the original in Spanish.*

On the political side, it was an enormous achievement to merely bring together the leaders of the oil-producing nations under the umbrella of OPEC. The 11 member countries of the Organization agreed to make a joint statement in favor of a stable oil market. The valuable informal and personal contacts the leaders had during the Summit could pay dividends in improved bilateral and multilateral relations in the future.

But substantively, it was another story. The leaders agreed on a declaration preserving unity and consensus. The importance of some new issues such as the environment, where OPEC was in debt to the world, was at last admitted. A Venezuelan official went to the extent of saying that "to discuss the issue of the environment at the Summit would be *hara-kiri*"!. But in the end, despite the best efforts of progressive elements within OPEC, the Caracas Declaration erred on the side of dangerous self-complacency. No serious attempt was made to address the mistakes of the "oil model". The profound contemporary changes that are destined to have a decisive impact on the future of oil received only cursory mention.

All this resulted in some flagrant contradictions. For example, while a prominent paragraph of the Preamble reads: "Taking into consideration the rapid pace of change in economic, political, technological and environmental developments ..."*(the imperative of change)*, another paragraph at the start of the operative section

calls for "the preservation and the enhancement of the role oil would play in meeting future world energy demand"*(favouring the status quo)*.

These changes include an increasing awareness of the environmental problems caused by fossil fuel use and the growth of policies to restrict their use and promote other sources of energy; technological advances in the area of more efficient energy and production, handling and storage of alternative sources of energy; new social values; and the will of major governments and corporations to shift to new energy patterns. A **new paradigm** is unfolding, in a similar vein to the great historical transitions in energy use from wood to coal and later from coal to oil. These immensely significant changes are not about to go away because of a conservative inclination in an organization like OPEC; especially considering its now more limited role in the increasingly diverse and complex oil and energy market. The sensible course for OPEC is not to shut itself off and resist change, but to understand and embrace it to avoid being sidelined in disadvantageous conditions.

As the experience with oil has shown, its abundant income has not necessarily brought social, economic and political sustainability to the countries of OPEC. On the contrary, many blame its easy wealth for moral and social deterioration and for creating a mono-productive economic distortion that has suffocated more sustainable productive activities. Despite their high levels of income

per capita, the OPEC countries have not performed too well on the United Nations scale of Human Development. Moreover, almost all the oil countries have accumulated colossal levels of debt. The case of Saudi Arabia, the largest producer, is particularly dramatic: its domestic debt totals \$160 billion or 60% of its gross domestic product.

The rapid substitution of oil by some technological revolution or other mega-change, a possibility that cannot not be lightly dismissed, would be a hecatomb for the countries that currently depend on this commodity for up to 90% of their foreign exchange earnings. Chile and Brazil ignored this kind of warning in relation to saltpeter and rubber, respectively. They had to pay a very high price in social and political dislocation following the rapid structural collapse of their massive exports of these products. In contrast, Mexico, which 15 years ago depended on oil for 90% of its export income, adopted a policy of economic diversification: today oil accounts for less than 10% of its foreign exchange earnings. Chile, learning from its painful experience with saltpeter, has taken a similar path in recent years with copper. Even the city of Houston, the fourth largest in the US and epicenter of a state as much oil-based as Texas, has undertaken to protect itself from its oil vulnerability and diversify its economy. In 1980, nearly 80% of its revenues came from oil, today the figure is less than 50%.

Above all, there has to be a cost-benefit analysis of remaining in oil in relation to the preservation of other more valuable natural

resources. For example, in the Middle East, decades of production of enormous quantities of oil have severely polluted the limited water sources. This is very serious, bearing in mind that disputes over water underlie the conflicts in the Middle East. Nearer home, who could possibly disregard the great ecocide committed in Lake Maracaibo, in Venezuela; as a result of its of "crucifixion" by oil with at least 6,000 wells and 30,000 kilometers of pipelines in its waters, the accompanying impact of oil-driven urban industrial growth and the environmental and social debt that oil has left?

In 1989 the tanker *Exxon Valdez* spilled 250,000 barrels of oil into the sea off Alaska. For this tragedy, Exxon was sentenced to pay a bill totaling \$6 billion in fines and damages (only surpassed in the legal history of the United States by the recent award of \$140 billion against the tobacco companies). In stark contrast, the blowout at "Barrosos No. 2" in 1922, which was celebrated with euphoria as the entry of Venezuela into the "big time" oil industry, spilled 900,000 barrels into the environment (almost four times the volume of the *Exxon Valdez* spill). Much of this oil made its way into Lake Maracaibo, causing panic among the inhabitants of coastal town Cabimas.

No one ever took responsibility for this disaster. Now, nearly 80 years and hundreds of millions of barrels later, concessions are still being awarded in the same place as the lake shoreline sinks dangerously due to the suction caused by the cumulative action of oil extraction. !. Was it too much to hope that the OPEC Summit, in an elemental exercise of responsibility, would at least mention the full real final impact of oil, and engage in some healthy and constructive self-criticism? We believe this would have raised the credibility of the

Summit and its leaders with their peoples and the world.

The governments of the North have an extensive arsenal, such as lowering taxes on other items, subsidies, etc, rather than giving up their policy of high gasoline taxes. The OPEC argument that emphasizes the high tax burden in the final price of gasoline is a brilliant tactic for countering the attempt to unjustly brand the organization as the "villain" of the piece, but it is strategically unsustainable and could even be counterproductive. (OPEC cannot question the fiscal sovereignty of the countries of the North while asking them to respect its own sovereignty in the management of crude production.)

The Millennium Summit in New York was the largest meeting of Heads of State in the history of international relations. One of the most transcendental statements in the final declaration was that "present patterns of unsustainable production and consumption have to be changed in the interests of our own well-being and that of our descendants." Even the Summit for Peace of Religious and Spiritual Leaders from all over the world, reaffirmed the sacred value of life and called for efforts to "combat the commercial practices and technological applications that degrade the environment and the quality of human life."

In tune with the changing times, oil corporations like BP-Amoco and Shell have declared themselves to be "poly-energetic and green". They have backed up these statements with major investment plans in alternative sources of energy such as gas (a relative progress over oil), solar, wind and hydrogen. BP-Amoco's present intense worldwide advertising campaign, seen in Venezuela, is based on the slogan "Beyond Petroleum." These companies have realized that change and social responsibility

are good business. With their varied natural, technological, financial resources, and the possibility of joint ventures with progressive factors in the North, there is no reason why the OPEC countries should not vigorously enter the field of clean air and sustainable sources of energy for the benefit of their peoples and the world.

Fuel cell technology, which heralds the replacement of the combustion engine, is continuing to make significant advances. By 2015, conservative forecasts anticipate that at least 15% of the vehicle fleet could be propelled by fuel cells; a serious prospect considering that transport, the principal market for oil, has absorbed 80% of incremental demand in recent times.

All these issues were analyzed in two multi-disciplinary international seminars, one in Caracas last June sponsored by the OPEC Center, and another in Vancouver sponsored by Venture Resources and Blue Energy. The principal findings, detailed in the report "The Future of Oil and Energy," put forward the thesis that **all gravitating factors -including environmental, technological, economic and business, social and political ones – are leading us to a change of paradigm or mega-change in the energy field. Instead of resisting change, it would be wiser to channel it, safeguarding the legitimate interests of the principal actors involved, in the context of the highest interests of humanity and the planet.** The Vancouver document considers that the oil and energy issue is now too important to be left to specialists and calls for a much broader and more participative discussion at the national and international levels. Interestingly, the new forms of energies also tend to favor economic and political decentralization.

Juan Pablo Pérez Alfonso and Abdulah Al Tariki, the two founders of OPEC, never saw oil as an end in itself but as an instrument for human well-being and national reaffirmation. Because of differences with an official world that was not sufficiently sensitive to these concerns, they both soon broke their formal links with OPEC: Tariki only two years after its creation, and Pérez Alfonso, after four years. Pérez Alfonso dedicated the rest of his life until his death in 1979 to untiringly warning the oil countries of the troubles in store for them if they did not moderate their excessive consumerism and evolve toward a true paradigm of well-being. His dream before he died was to start an ecological farm in eastern Venezuela.

Manuel Pérez Guerrero, who is known as “the grandfather of OPEC” because of the way he complemented and supported the founding work of Pérez Alfonso, anticipated, 20 years ago, the need for a well timed move away from oil into renewable and cleaner sources of energy, to the benefit of both the whole world and Venezuela.

It is well to recall the integrated thinking of the creators of OPEC, in answer to those who would like to relegate them to the past or to insincere rhetoric. Moreover, “obscure interests” in the oil business are still scheming in our country and others, often in connivance with multinational interests, to preserve the dependence and distortions of the oil model, even at the cost of continuing to inflict damage on the health of our people and the valuable ecosystems and natural resources that are still left to us. All this, while the North prepares to abandon oil, in a situation that seems to be a deplorable replay of the colonialist past. Once again, backwardness is being reserved for the South, while real progress and ‘final product of exploitation’ for the North.

While it was our servant, oil served Venezuela and the world efficiently in a number of modernizing aspects. But when we became **petro-addicts** and oil our master, it became counter-productive as costs exceeded benefits, and we learned about

alternatives. The human imperative is to evolve not to regress. Oil will have an important role in the **transition toward a more rational and sustainable energy order** through measured production and high prices that do justice to its true cost and allow the development of new and cleaner sources of energy. OPEC can and must play a key role in this transition, with pro-active rather than reactive leadership. Cooperation between consumers and producers also has a key role to play in this important task, including recognition by the industrialized North of its “technological, social and economic debt” to the oil producer countries, which have supplied the North for so long with the fuel which has driven their economies.

The post-oil era is knocking on our doors and, along with it, the possibility of a better future, towards a more sustainable and healthier world, real economic diversification, a new energy paradigm, and, in short, a new concept of well-being.

AGRICULTURAL LIBERALISATION INCREASING RURAL POVERTY

*Developing countries have been opening up and liberalising their agricultural sector even as terms of trade for their products have been drastically declining, with devastating impacts on real income. More and more countries are becoming net food importers. Agricultural liberalisation either through structural adjustment or WTO has not had a positive impact on small farmers, food security livelihood security and rural employment. The following extracts have been taken from a presentation made by **Aileen Kwa** of the Focus on the Global South at a recent South Centre seminar in Geneva on WTO's Agreement on Agriculture. She makes some radical suggestions for the sake of poor, small farmers who form the backbone of many developing countries - who, in turn, form the bulk of the WTO membership.*

For the majority of the developing countries, the Agricultural sector is different from other sectors and requires particular care when formulating policies - especially those oriented towards liberalisation because it is the main source of employment. For low income countries, (which make up the majority of the WTO members), it accounts for 70-80 per cent of the

labour force. That figure is about 30-40 per cent for the middle income countries, and only 4 per cent for high income countries.

The crux of the matter is that it would be impossible for governments to provide stable jobs and income to the rural masses, if agriculture, as a source of livelihood and food security is destroyed. In

other words, if governments are to implement import policies to replace local production, there must be alternative employment. The reality is that for the majority of the rural population in developing countries, access to food is secure only if they have the means to produce their own food.

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Local food production is crucial for most developing countries because food import aggravates the already tight budgets of developing countries, and in the long run, can lead to worsening debt problems. Besides, in the face of tight budgets, countries become very vulnerable to price fluctuations (over which they have no control). Slight fluctuation in prices can lead to food shortages.

Food security is linked to national security itself and to political sovereignty. There is no surer way for the UN or EU to keep a developing country under their thumb, than when that country has neglected its own food production capacity and is directly dependent on them for food. This is why the EU's CAP came into being. And the same goes for Japan and US. Japan continues to support its rice farmers even when their production costs are many times the cost of rice from Thailand. Yes, they are concerned about their small farmers. But the crux is political sovereignty.

Moreover, there is no better way to get an internal conflict started or to have political instability than when there is a shortage of food. Under GATT Article XXI, national security issues are exempted from the WTO trade disciplines. Food security is inextricably linked to national security and, for developing countries, should also be treated in the same manner.

Improving the welfare of the rural masses is important for the overall development of a country because it stimulates the broader economy. When the rural masses are so poor that they do not have purchasing power, they do not constitute an important market for domestic industry. This in turn means that domestic markets are too small to stimulate economic activity, so that production is largely directed toward foreign markets and urban elites. When this

A PROPOSED AGRICULTURE DEVELOPMENT BOX

- Firstly, without the single undertaking, countries should be able to opt out of the Agricultural Agreement altogether. This would be suitable for countries which have no capacity to compete but are predominantly agricultural.
- Use the positive list approach. List and liberalise only those products which we are competitive in, or which we export.
- Use tariffs to counter the exporters' subsidies. We do not need to open our markets to dumping.
- Much greater flexibility for products which are consumed locally (we can exclude them from being imported and also should be allowed to provide subsidies). Similarly, protection should be given to products produced by small farmers. The local markets should first be the right of the local producers.
- All forms of subsidies in developed countries should be collapsed into a single box and reduced.
- Transnational corporations receive the bulk of subsidies from OECD countries. Because they are already anti-competitive, make it WTO illegal that they receive government supports of any form.

happens, there is a lack of structural incentives at the national level, to provide better living standards for the poor. Poverty then becomes a vicious cycle that in itself is an obstacle to development.

In many cases, it benefits a very small group of the bigger exporting farmers. Small farmers have tended to become increasingly disenfranchised.

Developing countries on the whole are not benefiting economically from the agricultural liberalisation. Their balance of payments situation has worsened. From a socio-economic perspective, the levels of food insecurity, unemployment and poverty have deteriorated.

For most developing countries, small farmers require support, not to produce for the export market, but to convert to agroecological, organic or sustainable agricultural methods and produce for themselves and the local market. It may come as a surprise, but this type of small-scale farming is in fact more productive and therefore more efficient than industrial

farming. In contrast to the industrial, chemical and mechanical-intensive model of food production, small-scale food production in developing countries makes: intensive use of local resources such as biodiversity, labour, organic fertilisers and relies on intercropping and polycultural methods rather than monocultural production.

Perhaps the most important dimension of small-scale, environmentally sustainable food production is that it can provide a decent livelihood for small farmers, with fair returns to their labour - *if* there is a supportive larger policy environment. These systems have the potential to offer economically favourable rates of return since the costs of inputs are not exorbitant.

Moreover, small-holder, environmentally sustainable production methods in fact conserve the soils as well as ensure better water management and harvesting. These methods also enhance biodiversity. Genetic diversity in turn increases resistance to pests and diseases.

What has been taking place here in Geneva since Seattle has been wearing down of the fighting spirit of the South. Since Seattle, the WTO has been telling the public that negotiations are under way, things have been moving along. We know that in terms of texts or concrete positions, there hasn't been much movement in positions....In the process, we are being tired out and worn down. It has diminished our fighting spirit, so that increasingly, we narrow down our vision of what might be possible. When before we might have had a bigger vision of what we wanted, that vision through this type of process, gets slowly but surely strangled.

The outlook for developing countries today at the WTO is extremely bleak. More of the same of these current policies will mean

plunging millions, even billions into severe poverty - even killing millions. My recommendations are:

- 1) For developing countries - Dismantle the Single Undertaking structure of the WTO. This has bound developing countries to take on commitments that have been destructive to their economies. It is only a five year old structure. Have instead a multilateral system that has separate trade agreements which countries chose from - to be signatories or not to be signatories. Developing countries do not need TRIPS, nor TRIMs, and for many, not agriculture. Trade can still take place. But we can do so on our own terms. Ideas lead to institutions. New ideas can bring about new forms of institutions.

- 2) We need to look at the rule of consensus. Amongst players that are unequal, consensus is in fact domination. Consensus does not allow us to propose. We do not get listened to. Our proposals, if not supported by the US or EU, fall on deaf ears. It only allows us to oppose, and even then, with great difficulty. We know that less than a handful of developing countries in fact have the ability to oppose the US, for example. Voting is already in the rules. We need to categorise decisions and bring the vote back for important decisions. Voting that is confidential is more likely to give us back our voice.

(The seminar was jointly organised by the South Centre Project on WTO, Institute for Agriculture and Trade Policy, Focus on the Global South and Action Aid).

NEWS ROUND-UP

BASMATI PATENT - SOWING THE SEEDS OF REVOLT IN TRIPS?

Geneva, Nov 21 (South Development News) – An international coalition of NGOs has urged the industrialized countries, particularly the United States, to stop "biopiracy" through use of patents on genetic resource for food and agriculture. At issue is the patent awarded to the Texas-based Rice Tec Inc. on basmati rice, a centuries-old prized variety being grown on the Himalayan foothills of India and Pakistan.

Granted in 1997, the American patent allows RiceTec to grow and sell a 'new' variety. A challenge by the Indian government managed to get RiceTec to withdraw claims related to the rice grains, which are not novel and are well within accepted standards for basmati grown in traditional regions. While

RiceTec withdrew four of the claims in its patent application, it still retains 16 other claims, with exclusive rights grow basmati in the Americas and the Caribbean.

"The company is still holding on to the seed-related patent claims, which have serious implications for Third World Agriculture," said Vandana Shiva of India's Research Foundation for Science, Technology and Ecology. "The basmati case is a test for US-style IPR regimes and the TRIPS review. If all claims to basmati by RiceTec are not withdrawn, the USPTO and the WTO will establish themselves to be protectors of biopiracy - not or innovation and creativity."

"More than 80 per cent of the basmati rice growers are small farmers," said Aftab Alam, of ActionAid Pakistan.. "It is not just a high-value crop but part of our culture, food security and livelihood." A woman farmer from

Bahawalnagar in Pakistan, Ghulam Medina, said farmers were still ignorant of the patent on basmati. "But if someone tries to snatch away our basic value and need, and our property, then this could lead to civil unrest," she added.

A representative of the US Coalition Against the RiceTec Patent (CARTP), Sharon Bridgforth said the campaign against RiceTec in Texas was growing. "It is a new development in exploitation. We don't want our government to do this. We need a review of the whole TRIPS Agreement."

Recent cases of biopiracy only highlight the ease with which companies, using the WTO TRIPS agreement, can now own genetic diversity and traditional knowledge from developing countries, the NGOs pointed out.

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Worldwide, 1.4 billion farmers depend on farm-saved seed as their primary seed source. They save a portion of their produce as seed for planting in the next season. Over centuries, they have exchanged freely within communities and provided the basis for selective breeding to encourage positive traits.

This free flow of exchange is what RiceTec benefited from when it cross-bred Indian basmati rice with semi-dwarf varieties to produce their version of 'US basmati' – over which they are now claiming patented ownership. These varieties and the knowledge have been developed over centuries jointly by the community as a whole and not subject to individual ownership.

Meanwhile, the "American Basmati" continues to make inroads into the European market, threatening exports from the India and Pakistan.

RAUL PREBISCH LECTURES

The Tenth Prebisch Lecture will be held on Monday, 11 December 2000 at 10 am in Room XX, at the Palais des Nations, Geneva. The lecture entitled "Markets, Politics And Globalization: Can The Global Economy Be Civilized?" will be delivered by Gerald Karl Helleiner, Professor Emeritus, Department of Economics and Distinguished Research Fellow, Centre for International Studies, University of Toronto, Canada .

The Raul Prebisch Lectures were instituted in 1982 by Mr.

Gamani Corea, then Secretary-General of the United Nations Conference on Trade and Development, to honour Dr. Raul Prebisch, UNCTAD's founding father and first Secretary-General. More information can be found on UNCTAD website at the address <http://www.unctad.org>

NEW STRATEGY NEEDED FOR ENERGY SERVICES

Geneva, 14 Nov (South Development News) - The Developing countries will need to devise strategies to maximise the benefits of liberalisation of services in the energy sector as also to contain the risks, according to Mr. Rubens Ricupero, Secretary General of the United Nations Conference on Trade and Development (UNCTAD).

Releasing an UNCTAD report "Trade Agreements, Petroleum and Energy Policies," Mr Ricupero said that in the on-going negotiations on services in the WTO, the largest energy services trading partners, the European Union and the United States, are likely to pursue further liberalisation in this sector, in order to open new markets for their firms.

The energy services sector includes pipeline, and maritime transport, investment in oilfields services, distribution of gasoline, and the entry of foreigners to provide exploration.

Mr Ricupero said countries rich in natural resources such as oil should be allowed to take

advantage of the resource for their development. However, some GATT Agreements, and the Agreements on Subsidies and Countervailing duties might restrain that freedom, he said. On the other hand, the Dispute Settlement Body in the WTO could be used against any discrimination in imports, he added.

Bernardo Alvarez, Vice-Minister of Energy of Venezuela, spoke of the need to stabilise oil prices. The problem today, he said, was not a shortage of oil in the market - in fact, there was an over-production of 1.4 million barrels per day by OPEC. Augmenting supply further could lead to a collapse in oil prices and that could destroy production capacities in developing countries.

A major problem, Mr Alvarez said, was that oil prices today were being determined more by the "virtual" or futures market than the real market of demand and supply. Good profits are being made in the financial and futures market, where about 140 million barrels are traded. The OPEC is studying the idea of creating a new benchmark by a sort of price reference which better reflects the real market, he added.

Other structural problems, said Mr. Alvarez, related to the shutting down in the US of 170 refineries due to environmental restrictions, and again, due to environmental regulations, 85 big tankers being taken out of circulation, forcing transport costs higher. In Europe, taxation was a major problem, he added.



AN INTERGOVERNMENTAL INSTITUTION
OF THE DEVELOPING COUNTRIES

PO Box 228, 1211 Geneva 19,
Switzerland
Tel. (+4122) 791 80 50
Fax. (+4122) 798 85 31
E-mail: south@southcentre.org
Web page: www.southcentre.org

SOUTH BULLETIN
Executive Director: Vicente Sanchez
Senior Editor: Someshwar Singh
Design and Layout: Paul Morejon
Web Co-ordinator: Avita Dodoo

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