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FORWARD TO THE ANCIENT REGIME

Chakravarthi Raghavan

In issuing Monday a report by his Consultative Board of advisors on the future of the WTO, Director-General Supachai Panitchpakdi, said that the report is not meant to be approved by the membership and thus will not be submitted to the General Council or any other meeting, but introduced to the membership on 24 January, when they will have a chance to enter into initial discussions with the Chair and consultative board members.

A reading of the report, printed on glossy paper, suggests that it is a mixture of fundamentalism in trade theories, attempts to resuscitate past ambitions of the secretariat and restore the ancient regime of the old GATT and its decision-making processes - with a few commendable points about the gradual negation of the

basic most-favoured-nation principle, outweighed by a larger number of bad points. Overall, it is like the proverbial curate's egg - but with the bad and noxious parts overwhelming a few good parts and suggestions. Far from a viable multilateral trading system based on rules - ensuring transparency and predictability - it will bring down the system itself. If accepted and implemented, trade negotiations and arriving at agreements and rules, will be back to the bad old GATT days - of "green rooms" which are more often "black-rooms" or "black-boxes" - with secret talks and secret agreements arrived at among the powerful and advancing the interests of a few, and thrust on others.

Many straw-men are set up to be knocked down - such as in the report's discourse on sovereignty questions, almost arguing that in a globalizing world it is irrelevant. The real issues are matters of policy and political choices within countries which

are not conducive to all or nothing assertions. However, economic multilateralism cannot work or deliver results to the public, who are the final arbiters of any system, unless there is an effective State and a functioning government to balance various interests within a country, administer the affairs of a country, and be accountable in a democratic way to the public. On this matter, the wise men in the Consultative Board might have usefully browsed through Gerry Helleiner's 10th Prebisch lecture (Markets, Politics and Globalization: Can the Global Political Economy be Civilized?) given at the WTO's neighbouring trade institution, the UN Conference on Trade and Development.

In terms of "governance" - if the idea of an annual ministerial meeting, and capital-based senior officials coming to the quarterly General Council meetings, and the institutionalised mini-ministerial Green Rooms, are accepted and implemented - it will make redundant the entire system of diplomats and envoys and plenipotentiaries negotiating agreements in Geneva, representing their countries at the WTO (conceived in the treaty as a permanent negotiating forum) and presenting their government's considered views.

Even more, trade ministers and officials will be running around the world (with benefits to the civil aviation industry) without being able to attend to the affairs of their governments at home. When this is combined with the realities of politics and democratic governance in the large number of member countries, it would enable the US and EC to run the affairs of the WTO to suit their own mercantilist interests.

In the US, the trade representative is an appointed official, who does not even have to be confirmed like cabinet ministers by the Senate, but negotiates trade accords and works with the Congress; there are separate commerce and agriculture secretaries to run their affairs at home, and a separate Treasury Secretary too. In the

EC, similarly, the Trade Commissioner is only negotiating trade agreements, and it is member countries who run the affairs behind the scenes.

Developing countries can't afford this type of luxury.

The Marrakesh Treaty and the WTO as an institution was sold to the member countries in 1994 as a new era in the multilateral trading system - which will no longer be run (as in the bad old GATT) by a series of ad hoc ministerial meetings, decisions and methods of governance - but as a "rules-based" institution and an international treaty, in effect governed by international law.

At the time it was negotiated, and in the final stages - among a group of about 20-30 key countries - given the nature of the proposed new, almost self-executing, treaty provisions with rights and obligations and its vast economic and other implications for member countries - the negotiators unanimously decided on the role of the secretariat (as a servicing institution, where the membership from time to time will decide what it should or should not do), and the governance structures - the General Council and the once-in-two year Ministerial Conferences, and many checks and balances.

Peter Sutherland, the chairman of the Consultative Board (a high-sounding name for a body of consultants to advise Supachai, and not set up by the WTO), who was the then Director-General of the GATT (brought in to conclude the stalled Uruguay Round negotiations) twice went before the negotiators to convince them to give the Director-General of the new body powers similar to those of the UN Secretary-General (who incidentally, can only bring issues to the attention of the Security Council or the General Assembly, but can't act beyond that without specific mandates from them).

Sutherland, it should be noted, was brought in when both the US and the EC found themselves uncomfortable with GATT Director-General Arthur Dunkel

(who had put forward a compromise text on the lines that the two majors wanted, and had presented it as a text to be accepted as a whole, and subject to parts being reopened only by consensus).

The two majors, when they wanted major revisions and got stuck with the Dunkel formula (that he had put forward at their instance), decided to get rid of their embarrassment, by bringing a new man. Sutherland left a very lucrative private sector job, to take over the job of GATT DG, on the basis that he wanted to complete the trade talks and would then go back to the private sector.

At that time (November-December 1993), Sutherland had also wanted the putative head of the WTO, when it came into being, to be put on the same footing and status as that of the IMF and the World Bank. The secretariat staff also wanted their status (salaries, terms and conditions etc) to be on the same footing as the IMF and World Bank. After a serious discussion among themselves, the Uruguay Round negotiators turned it down. The Sutherland report now resurrects the same ideas in a different form.

And post-Marrakesh, in the run-ups to the ministerials, the secretariat has exhibited its partisanship in such a way that many developing countries seek knowledge and help from civil society groups, who willy-nilly have been drawn into this activity. This has undoubtedly unnerved the WTO leadership and the secretariat and the majors, who find that the civil society groups (with considerable help from many academics) have brought to bear superior expertise to analysis.

Now all this is being sought to be negated - when there is increasing demands, and not merely from a few NGOs, the "well-meaning NGOs" (Oxfam and Action Aid), who have been singled out for sharp criticism by Prof. Jagdish Bhagwati in a Wall Street Journal article, comparing their budgets (spent on local community work to help people across the developing world) and calling them "big business".

Their budgets are compared to that of the WTO secretariat research staff - when in fact these NGOs have at best 2 or 3 individual trade experts that they have recruited, who have been seeking and getting help from academics and others, to produce studies and reports from the public perspective on these issues.

While undoubtedly the "trade agenda" and WTO have proved "sexy", many of the NGOs have been drawn into it primarily because when working at grass roots to assist local communities to survive, they found themselves running against the rules and obligations of the WTO system, and its rule-making (done among a small group of powerful countries and forced on others). The NGOs then have the option of accepting these commands, or like any sensible group trying to change them by highlighting its inadequacies and inequities.

Neither Bhagwati nor Sutherland have mentioned or inveigled about the enormous money and resources devoted by major corporations and their groups to lobby and influence the rule-making processes.

After the Marrakesh treaty was signed, and by the time the WTO was entering into force (with a short transition for both the old GATT and the new WTO to co-exist), Sutherland who had initially said he would take the job of the GATT Director-General only for a limited time - to re-start the stalled Uruguay Round negotiations and conclude it - had a change of mind and wanted to continue.

However, the EC which by then had agreed to the Italian Trade Minister, Renato Ruggiero, running for the job, would not nominate or back Sutherland, and he could not run even though many developing countries were willing to support him.

Similarly, at that time, Bhagwati, a US national of Indian origin (now a member of the "Consultative Board" and perhaps the one who wrote large parts of the report), also was sounding out the idea

broached to him by his friends that he should run for the WTO top job. India is known to have been approached for New Delhi to nominate him, but Indian officials said that as a US national, only the US government could nominate him.

And in the current race to succeed Supachai, when then EC Trade Commissioner, Pascal Lamy wanted to run, he found himself initially in difficulties - since the French President Jacques Chirac had been opposed to re-nominate him for the Commission or for any international job - for the top post at the IMF, or the European Central Bank. It was only at the last moment, after Lamy got the endorsement of the other EU members, that Chirac was persuaded to nominate him.

Now the Consultative Board broaches the idea that the nomination of a candidate should not be left to the country concerned, but any eminent individual could be nominated by anyone, and be appointed to the top job, and be enabled to propose initiatives in the trade area and go round the world to canvass support among ministers and get it through.

Initially, the Sutherland report was interpreted as promoting the candidacy of Lamy. However, Bhagwati's Wall Street Journal article, in one way appears to question Lamy's credentials for the job, given his forceful advocacy of new issues into the WTO, and also the preferential trade arrangements to split the developing countries. For, says Bhagwati (in drawing attention to the need to prevent PTAs and other such issues), "... at this critical juncture requiring leadership, the next director general be examined carefully on his views on these matters."

In terms of trade and economic theory, and the benefits of trade and open economies, the problem with liberal "mainstream" economists is that they often cite each other, and ignore the contrary views in other studies. The Sutherland report cites Bhagwati (for his "extensive review" of evidence of benefits of open economies and trade and in defence of Globalization).

The substantial work on benefits of trade on growth and poverty is the oft cited work of Dollar and Kraay (following up on an earlier Sachs-Warner study). But when these studies are looked at over a long enough time period and applying the same yard stick. A different picture emerged.

Some of these more critical studies including that by Francisco Rodriguez and Dani Rodrik (Trade Policy and Economic Growth: A skeptic's guide to the cross-national evidence) bring out the methodological problems with the neo-liberal studies, and find that when the same yardsticks were applied over a long enough period to a large group of countries there was "little evidence that open trade policies - in the sense of lower tariff and non-tariff barriers to trade - are significantly associated with economic growth."

Other academic studies by Greenaway, Helleiner, Panic, Stiglitz, Taylor and many others back up Rodrik's call for a more balanced and nuanced perspective. And it is not that Rodrik and his associates are advocating closed economies or trade protection, but called for a mix of policies and policy-measures tailored to specific circumstances. Such a conclusion has been upheld, with extensive empirical research, by multilateral bodies, such as the ILO, UNCTAD and the UN's regional Commissions.

Despite all this, the Sutherland report insists on the view that economies with "open trade policies" grew faster and that faster growth in China and India is due to this. And for the view that trade and globalization has diminished inequality in the world, the Sutherland report cites the study by Sala-i-Martin.

However, several other studies that went into the Sala-i-Martin's study and the World Bank studies, found methodological problems with both, and on basis of some contrary evidence reached opposite conclusions. For example Sanjay G Reddy and Thomas W

Pogge (#SUNS 5180, 13 August 2002) looked at the World Bank studies and in particular that by Martin Ravallion (the Research Manager for Poverty in the World Bank's Development Research Group). The Reddy and Pogge study, and further comments and exchanges with Ravallion can be found at (www.socialanalysis.org).

Also, Branko Milanovic, of the World Bank's Research Department, in a paper "The Ricardian Vice: Why Sala-i-Martin's calculations of world economic inequality cannot be right" (a simple google web search enables downloading a pdf document), notes that Sala-i-Martin had succumbed to the temptation of piling one assumption upon another for his Ricardian building blocs for his calculations.

Milanovic points out that in the Sala-i-Martin study (a) data on countries with disturbing rises in inequality have been eliminated; (b) five data points have been used to approximate entire distributions; (c) when the five data points are not available (84% of the time), there has been extrapolation forwards and backwards in time; when only one observation is available it is assumed that distribution remains the same and when no observation is available, everyone in the country is assumed to have the same income; (d) distribution of household income across households is treated as if they were distributions of household per capita income across individuals; (e) there has been a mixing of national account data or GDP per capita and household survey data; and (f) mixing of expenditure and income data.

"All these produce world income distributions across individuals of the world for the last 30 years. To paraphrase, "never was so much calculated with so little"," observes Milanovic. Bhagwati, one of the important members of the Sutherland group, and according to WTO insiders a major author, in his Wall Street Journal article, attacking the NGOs and their campaigns against the domestic agriculture support of the rich countries, says "perhaps the greatest damage they

have done is in their energetic campaign against agricultural subsidies in the rich countries." He then cites a study by Alberto Vales and Alex McCalla that removal of these subsidies would hit the net importers of food and agricultural products among LDCs.

"As prices rise with the removal of subsidies, surely importers will be harmed, not helped, except in the singular cases where the importers switch to becoming significant exporters." And in effect, Bhagwati blames the developing countries for their neglect of agriculture and pursuit of industrialisation for the Faustian bargain of industrial countries" agricultural protectionist rules of the old GATT and the WTO. In fact however, it is the erroneous interpretations of the GATT rules on primary products in the 1950s by a GATT working party and panel rulings (on subsidies for using local content in making wheat flour, and the Italian pasta dispute), that enabled the EC, and also the US and other rich countries, to launch their massive agricultural subsidy programs. All that the developing countries and NGOs like Oxfam etc are seeking is to create a level playing field - since the developing countries cannot match the treasuries of the rich countries to provide domestic subsidy and support.

These are just some of the samples of faulty analysis that lead to faultier conclusions, and WTO members, particularly from developing countries, would do well to consign the report and its recommendations to a well-known basket.

This is an article written by Chakravarthi Raghavan in SUNS Number 5724

THE NORDIC AFRICA INITIATIVE ON AID AND TRADE¹

¹ This is not a full report of the meeting, but reflections on the role such a meeting can have in international trade and aid negotiations. The minutes as written by the Danish Ministry of Foreign Affairs and the Nordic designed statement of the Nordic-Tanzanian co-hosts will be issued at the web-page of the initiative: <http://www.ud.se/na1>. The initiative comprised of one 2 days experts meeting convened Nov. 2004 and 1 ½ day Ministerial meeting, January 2005. There is no planned follow up of the initiative.

Ignorance, paternalism, or divide and rule towards Africa in trade negotiations?

Helene Bank

***The Nordic Paternalism has betrayed itself* was the statement of an African diplomat after the end of the Ministerial meeting between Nordic Countries and African Government recipients of Nordic aid, Jan. 20. 2005. The proceedings of the meeting, intended or unintended, linking aid with trade negotiations can contribute to undermine the WTO unity of the African countries. African unity is strongly needed in the WTO negotiations.**

The final statement of the two chairpersons was presented by the Swedish Minister of development Ms Carin Jämtin and Minister for Industry and Trade of Tanzania, Dr. Juma Ngasongwa. The Danish co-host and its Nordic counterparts wrote the statement. The Swedish Minister was not prepared to accept any changes to the statement, not even the inclusion of the special efforts on cotton that is already agreed in the WTO. *-Is this a Nordic Africa Initiative, or a Nordic – Tanzanian Initiative?* The Zambian Minister of Commerce, Trade and Industry, Dr. Dipak Patel asked. The meeting ended without a broad acceptance of the chairmen's statement, and with the Danish ministry alone responsible for the minutes. None of the outputs will be binding on any participants to the meeting. The Nordic delegations expressed their satisfaction with the outcome of the meeting – also informally.

At the WTO ministerial 2003 in Cancun, Mexico, the Western world was amazed by the fact that the weakest developing countries had turned the agenda around and demanded development issues, as they understood it, to be put on top of the agenda. Once again the undemocratic negotiation method of the WTO had betrayed itself, and once again, like in the WTO, the meeting had ended with no consensus.

The Cancun collapse was the stated background for the so-called Nordic Africa initiative. The Nordic countries found that there was a need for a dialogue between western countries and Africa on the issues of development and Trade.

Paternalism or Ignorance?

So far everything fine. But what is dialogue, and who does the Nordic countries *dialogue* with? The Nordics started the dialogue with the African countries, as they are among those most losing out in the current trading and financial system. Against the background of Cancun, it would have been proper for the dialogue to start with the issues and the groupings that had left dissatisfied at Cancun. It would have been easy to identify these through reading proposals and statements from the groupings in question, and of course through asking the spokespersons of the groupings themselves. That could have guided the agenda of the Nordic initiative, the setting and the choice of experts.

But this was not what the Nordic countries did. They decided to invite to the *dialogue* only those African countries that receive Nordic aid. This, probably inadvertently, divide Africa. At the preparatory meeting in November 2004, the Kenyan delegation asked what configuration the Nordics had in mind when they invited and who had decided whom to invite. The Nordic configuration of Africa seemed not very relevant in a trade and development context for African countries. The Nordics had chosen the participant countries unilaterally².

The Nordics stated that as donors they would not influence the political debate of the meeting. African receivers of aid could speak freely. Whether this was reality or naivety remains to be seen.

Pre-designed Answers?

² Participating countries were Benin, Botswana, Burkina Faso; Egypt, Ethiopia, Ghana, Kenya, Malawi, Mali, Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria, Tanzania, Senegal, South Africa (only at experts meeting), Uganda and Zambia

The issues that were chosen were very legitimate. They were 1) How can development in Africa best be promoted through multilateral trade? And 2) How to make the most out of Africa's trade potential?

But the questions were not open ended. Implicit in the questions were some pre-designed answers. Thus, the means of development were already chosen – “through multilateral trade”. Had the Nordics wanted, they would have found a second perspective – one that provided some policy space for African states, free from binding rules and supporting opening up first to regional markets. The real deal-breakers in the Cancun Ministerial were on the policy space issues – such as the Singapore issues. The weakest WTO members (the G90) had presented their agenda and priorities to the WTO leadership. This had happened in Cancun right after the big powers had ended another closed session of green room negotiations. Why were the Nordics not curious and interested in that perspective and in that dialogue?

The Nordics had set the agenda for the Dar es Salaam meeting. The background papers for the expert meeting were not produced either by African or third world experts. Only one out of the four speakers each day was African. The spokesperson for the African group in the WTO was not amongst them. At the ministerial meeting in January international institutions, such as the World Bank and the WTO, were invited to speak; but not the intergovernmental South Centre that was founded by Tanzania's first President Julius Nyerere, a great supporter of African capacity building.

Aid not a Power Factor?

The Nordics also decided the agenda of the Ministerial meeting. The three issues at the Ministerial were: 1) The role of trade as catalyst for economic growth in Africa; 2) how can trade contribute to Africa reaching the Millennium Development Goals? And 3) Partnerships for meeting the challenges of trade liberalisations – opportunities and

constraints seen from an African perspective.

The third panel had two sub-issues: a) Requirements for efficient trade related assistance – demand drive, ownership, coherence and harmonization; and b) In what way are the Nordic countries and international institutions prepared to meet the challenges?

The partnership requested by, for example, the Moroccan Ambassador Mimoun Mehdi was: Will Nordic countries sit with us in Geneva and defend our interests? Similarly the Kenyan Minister for Trade and Industry Dr. Mukhisa Kituyi asked for support so that the 88 implementation issues in the WTO Doha negotiations, of which only 28 are completed, could be completed before the Hong Kong WTO Ministerial.

These questions were never answered. Not even the Nordic EU members explained that only the European Commission was able to decide whom to support in trade negotiations. Iceland and Norway are the only non-EU Nordic countries that could have opened up to a political partnership, not an aid dominated-partnership. Unfortunately they chose to keep quiet.

From that event, the partnership dialogue of the meeting was set: Aid for capacity building. Aid recipients got subordinated to the agenda of the donors. As the World Bank Vice President Danny Leipziger stated: It is difficult to separate trade from aid and finance. The World Bank and PRSPs contained trade export and import strategies as a prerequisite for any aid contribution. The Zambian minister made the observation that the PRSPs are no different from the Structural Adjustment Programmes of the 1980-90s, with a one size fits all strategy that suits the interests of the donors rather than of African countries.

The Senegalese delegation stated that the trade related capacity building funds came via the World Bank in a package designed “Integrated Framework” programme. As long as the proposals for funds were not a

part of the PRSP, no funds come, was the consensus answer from the officials of the World Bank, the IF secretariat, the International Trade Centre (ITC), and the Nordic donors.

The Nordic countries had earlier stated that although all the invited African ministers were from aid receiving countries this should not influence the debate. However, few Nordic trade ministers showed any inclination to have the dialogue with the 12 African Ministers, and the 8 ministers of State, Deputy Ministers and Ambassadors from Africa.

The Minister from Denmark as co-host of the Dar es Salaam failed to come. He excused himself by stating that he had to stay in Denmark on account of the newly declared date for referendum. Instead Denmark was represented by the State Secretary of Foreign Affairs. From Sweden came the Minister of Development Aid. Only Finland sent its Minister for foreign trade and Development. Iceland sent its Minister for Finance, and Norway its Deputy Minister of Trade and Industry. If so few Ministers of Trade from the Nordic countries came to the meeting, it is necessary ask why then did they call the trade and industry, finance and planning ministers from the 20 African countries?

Intervening trade negotiations!

The statement of the official from World Bank supported the US position that of the four Singapore issues, Trade Facilitation was the one that should be negotiated in the WTO immediately.

The African and G90 delegations have made their position clear on the issue of Trade Facilitation, namely, that the negotiations should clarify who should pay the costs for the future demands on infrastructure due to such an agreement. But the World Bank had already decided this should be on the basis of loan funds. It has deviated funds to direct lending towards ports and transport, modernizations of customs including IT facilities. Loan funds would imply that at

the end of the day it is the third world countries themselves that would have to bear the brunt of the financial cost of complying with the Trade Facilitation measures.

Even though it can be argued that efficient infrastructure and customs systems can benefit in the long run, it is far from a situation where this would have first priorities in countries with low production capacities. The Minister of Industry, Trade and Employment from Benin Dr. Fatiou Akplogan, posed the timely question: Would trade facilitation simply improve conditions for imports to our countries?

Issues recognized and not recognized

The establishment of the WTO constituted a paradigm shift from the former GATT. GATT acknowledged the role of infant industry protection. The Norwegian minister of State of Trade and Industry, Ms. Tone Skogen had recognized the importance of such policy space. Since Norway can speak independently, as it is not a EU member, this may be worth taking note of.

Several African countries mentioned the issue of Tariff Peaks and Tariff Escalations. These were issues not recognized by any of the Nordics. The Kenyan request for speeding up conclusions on implementation issues before the Hong Kong WTO ministerial December 2005 was also not recognized, indicating that the partnership mainly involved aid, not trade and policy support.

The UNCTAD Officer in Charge, Carlos Fortin Cabezas, raised several major concerns, although this did not seem to affect discussion amongst the participants. One issue he raised was to draw attention to the fact that global concentration of production of goods, especially in food industry, had a severe effect on trade and resource distribution. It contributed, he said, to raise the market prices, but not for commodity producers.

He also raised the point that traditional national government policies had become internationalised under new international

disciplines. These implied limited space to develop national strategies and policies.

Divide and Rule?

One needs to ask why a meeting such as this was so important to secure the attendance of the DG-WTO, the World Bank Vice President, the EC Trade Commissioner, and the Executive Director of ITC. There were two dinners and one day with three panel sessions. At the panels the Ministers were allowed to speak for only five minutes each. The institutions were given prominent space, as both keynote speakers and in panels. No African institutions apart from COMESA were given space.

Clearly the presence of institutions such as the World Bank and the ITC were linked to the whole aid perspective of the Nordic countries. Or was the presence of these institutions to watch that the Nordic countries did not deviate from the economic paradigm these institutions promote for Africa? Was the entire meeting an effort by Sweden and Denmark to try to be more relevant in the international debate given that they have very limited influence in the trade and development discussions under the EC?

Or could there be a coherent strategy to try to link donors with trade negotiations to undermine the WTO unity of the African countries in a soft way?

The Nordic countries did not seem to want a true dialogue. The entire format of the meeting and the initiative was more as if they believed that the Cancun collapse happened because the West had not made their points clear.

It is difficult to assess if the methodology of the Nordic Africa Initiative was intended or a product of simply ignorance or naivete. The donor/recipient form of partnerships is difficult at the best of times. This is why extra sensitivity is needed. Do the foreign ministries in the Nordic countries lack this sensitivity, or do they deliberately seek to export their own crisis of unemployment and overproduction to Africa by deliberately

designed divide and rule tactics? For African countries it does not really matter. For Nordic constituency, however, it matters. What is important is the effect of what the Nordic countries are doing. They will need to have a thorough debate on their relationships with Africa on aid and trade issues.

Trade negotiations, in the WTO as in the EPAs are not about development; they are about mercantilist barter for market access and protection. There is no need for African countries to regard Nordic countries as softer counterparts because, like Denmark, Sweden and Finland, they are either EU members, or like Norway and Iceland are close allies of the US and have interests of their own.

TRADE: GUARDED RESPONSE TO SUTHERLAND REPORT FROM WTO MEMBERS - the discussion at the General Council meeting on 27 January 2004

Martin Khor

The report on the Future of the WTO produced by a "consultative board" (established by the WTO director general Supachai Panitchpakdi and chaired by former GATT director general Peter Sutherland) received some cautious and guarded response from many WTO members at an informal meeting at the WTO on Tuesday afternoon.

While welcoming the report and the initiative that led to it, most members said that it should not distract the WTO from focusing on the Doha programme's negotiations. Representatives of many countries also said they needed more time especially for their officials in capital to study the report, since its proposals had significant implications.

The members were divided over several issues raised in the report – some supporting and others raising concerns. In particular, there was praise for the report's criticism of bilateral and preferential trade agreements for detracting from

multilateral trade arrangements, but many developing countries also stated that preferential trade schemes were important instruments to meet their development needs. Supachai will take up a proposal by Australia, that the report be further discussed at an informal" retreat for heads of delegation, in consultation with the Chair of the General Council.

Several members indicated they did not mind holding more discussion, for example at a "retreat" as a one-off event, but were against initiating a process involving a follow-up of the report.

At Tuesday's meeting, members gave their reactions after a presentation of the report by Sutherland. Several other members of the 'consultative board', including Columbia University economist Jagdish Bhagwati, former Brazilian foreign minister Celso Lafer and Georgetown University law professor John Jackson were also present.

Several developing country diplomats, speaking privately outside, were of the view that they need not make extensive or detailed remarks on the report, since the idea of producing the report had come from the Director General, who commissioned it, and not the WTO membership.

Many of them were disappointed by some of the report's proposals, including proposals to establish a 30-member "consultative group" of Ministers, which they saw as in effect creating an executive board dominated by major countries. They also did not favour many of the proposals for increasing the powers of the Director General and the Secretariat, or the suggestions to raise the political profile of the WTO through greater involvement of political leaders in the negotiating process.

In his presentation, Sutherland said the report took an approach to come up with proposals that was possible to implement. Also, the report did not deal with the Doha agenda. He highlighted the danger posed by preferential trade arrangements being

pursued at the expense of the WTO.

The report, he said, views the consensus principle as being needed at the WTO, but ways should be found to better reach consensus. There should also be more political will from governments. There should be reasonable openness to the public, and more dialogue with NGOs - with a distinction should be made between NGOs with which the WTO should dialogue, and those it should not.

Some observers and critics have seen this as a case of "we will dialogue with those who agree with us and not those opposed" - the very antithesis of 'democratic governance'.

Australia, in welcoming the report, suggested an informal retreat for heads of delegation be held to discuss it further. It agreed with the report's concerns about preferential trade agreements, and these agreements should be consistent with WTO's rules.

The EU made a short statement welcoming the report. It said however that focus should be on concluding the Doha negotiations. The US also welcomed the report and said it had to consult with its Congress on it. It welcomed the proposal that dispute cases be opened to public groups to attend.

Several developing countries said they needed more time to study it and to get feedback from their capitals. They also stressed that the priority now was to focus on the Doha agenda, and the report, which focused on organizational issues, should not distract from that.

There were differences of views on the report's criticisms on bilateral, regional and preferential trade agreements. Several members stressed the importance to ensure that such agreements whilst benefiting its members should not harm other countries that were not members. They agreed with the report that these agreements can harm the multilateral system of the WTO, as the practice of the most favoured nation principle was now the exception.

However, several countries said that bilateral and regional agreements were moving ahead because movement in the WTO was slow.

Some countries defended the use of preferences. Kenya said preferences had been used as instruments for development and their use should not be denied on the ground that they are barriers to development. Jamaica also raised concern with the report's remark that GSP beneficiaries become over-reliant on preferences at the expense of diversification, commenting that developing countries face handicaps when they try to diversify.

Several developing countries raised concern or reservation about other aspects of the report. Brazil questioned the controversial proposal to set up a "consultative body" of 30 members, said there should be clear definition of the role of the Secretariat, which needed more lengthy reflection, and that the WTO should deal with all NGOs and not discriminate between those who relate with the WTO and those who do not.

China also said the "consultative body" proposal had to be further studied.

India believed it was more important to focus on the Doha negotiations and thus it would be premature to start any process on the report. It also raised concerns with the plurilateral approach to negotiations (which the report referred to) as it could be used to bring through the side door non-trade issues which had already been rejected.

Kenya said more time was needed to study the report as there could be far reaching effects from its proposals on WTO practices, for example, the proposed annual Ministerial meetings, the new role of the secretariat, the process of selecting future Directors General and the decision making process. It added that the report proposes changes in the WTO constitution, and WTO members should reflect seriously whether the experience

gained so far warrants these changes or whether certain practices could be changed without amending the constitution. Also, any "retreat" to discuss the report further should be a one-off event and not part of a process.

Responding to the comments, Sutherland said the report had put forward a minimum programme that was not ambitious, and if the modest recommendations could not be acted on, he wondered how the multilateral trade system would be protected.

At the end of the meeting, Supachai said he would hold consultations with the Chair of the General Council, on the idea of a retreat for heads of delegation to further discuss the report.

This is an article written by Martin Khor in SUNS 5727

Editorial

WTOs 'Eight Wise Men' on a Trading System in need of intensive care.

Chandrakant Patel

A report commissioned by WTOs Director General (*The Future of the WTO: Addressing institutional challenges in the new millennium, January 2005*) to advise him on the "state of the World Trade Organization as an institution, to study and clarify the institutional challenges that the system faced and to consider how the WTO could be reinforced and equipped to meet them." has predictably produced a document largely defensive in tone, containing laboured justification of globalization (and of perils of the notions of sovereignty in a globalising world), the net long-term "gains to all" from a loss of policy space and the benefits (theoretical, to be sure) of trade liberalisation and so-called 'free trade'. Given the composition of the Group (several of its members have been regular paid consultants and/or employees of GATT/WTO system), it is not surprising to read that they favor a 'stronger' WTO, a strengthened secretariat with greater freedom and flexibility to service the new WTO, and institutional changes that, in reality, are likely to result in an

even bigger accountability deficit in the functioning of the institution.

C.Raghavan examines several of these issues in his article "Forward to the Ancien Regime" (Third world Network, 20 January, 2005) and concludes that the Report is like the proverbial curate's egg, with the bad and noxious parts overwhelming a few good suggestions. The Report rightly draws attention to the virtual disappearance of the MFN concept on account of the proliferation of Northern inspired "spaghetti bowl" of discriminatory trading blocks, customs unions, FTAs, EPAS and a host of preferential and bilateral arrangements. If MFN principle has become the exception rather than the rule, as the Report rightly suggests, then its resuscitation at the center of a genuinely multilateral trading system calls for more than the cosmetic reforms advocated by the report. First and foremost, it would require the major trade weights to become more accountable and therefore subject to democratic decision-making and multilateral disciplines. If many in the South as well as in the North have lost faith in WTO--a phenomenon the authors of the report curiously find hard to understand—it is because WTO has arrogated supra-national authority underpinned by a seriously flawed dispute settlement system. In conflating WTO with multilateralism, the authors appear to be defending an institution based on agenda setting and decision and rules making that serve the interests of the major trade weights and their global corporate interests.

The report's main institutional recommendation is to further examine how plurilateral arrangements can be made part of the WTOs decision-making apparatus. The authors raise the possibility of what they call "variable geometry" in WTO commitments, whereby some members may choose to take on more or less obligations, depending on their circumstance and on the issue concerned. This, a variant of the 'opt-in and opt-out' approach, has already been rejected by a large number of developing countries, fearing that it will

become a backdoor for the introduction of new issues such as national governance and labour standards in WTO. Likewise, several other institutional innovations advocated by the report including an annual Ministerial meeting, a five-year Summit on WTO, a consultative board with limited membership and an enhanced role for the secretariat in Ministerial meetings. Most, if not all, of these proposals have also been rejected by developing countries, rightly seeing them as further institutionalizing the present undemocratic system centered on the green room and an OECD dominated and controlled secretariat.

In drawing attention to the need for global policy coordination and coherence, the report fails to address the more egregious features of such coherence between trade, development policy and aid on the one hand and cross conditionality applied by multilateral institutions such as IMF and the World Bank on the other. In calling upon the Director General to 'expand and intensify WTO activities in this area....' the report minimizes the very considerable degree of coordination and leverage already exercised in pursuit of donor designed trade and development policies. In this connection, **Helene Bank** draws attention, in her analysis: "The Nordic Africa Initiative and Trade" to the extent to which donors—even those with a 'good' aid image—exert leverage to secure the acquiescence of aid recipients for trade negotiations designed and conceived by them. These types of influences on multilateral trade negotiations are a matter of serious concern for many aid recipients—as noted by her -- and yet remain outside the scope of the WTOs report.

A report by **Martin Khor** on the discussion at the General Council meeting on 27 January, "Trade: Guarded response to Sutherland report from WTO members" (SUNS 5727) and attended by Peter Sutherland, the Chairman of the Consultative Board further confirm, if it was needed, the considerable unease among developing countries that the report distracts from the immediate challenges

facing them on account of the malfunctioning of the trading system. The discussions also suggest that many developing countries are wary of the largely self-serving secretariat driven initiatives.

Finally, the report supports the main safeguard developing countries have at their disposal in the WTO system, namely the consensus principle. However, the report makes two recommendations: that the problems related to the consensus principle be further studied with possible distinctions made for certain types of decisions; and that a Declaration be made

at the General Council that a member wanting to block a measure that has very broad support shall only block the consensus if it declares in writing (with reasons) that the matter is of vital national interest to it. Developing countries will need to be alert to any threats to dilute this principle and one, which they can use, at least in theory, to protect their core interests.

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