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Stop the Illegitimate Anti-development Investment Facilitation Agreement Now!!

Tonight, a sub-group of WTO Members will celebrate the conclusion of a break-away agreement on investment facilitation and try to secure its adoption as a plurilateral agreement at this week's 13th ministerial conference. That can only be done by consensus.

The convenors – South Korea and Chile, backed by China – have announced that plan, in the face of sustained objections from India and South Africa that these negotiations have no legitimacy.

WTO Members have explicitly rejected attempts to get an investment agreement ever since 1996. A decision in 2004 said no discussion of investment negotiations in the WTO until the Doha round is over. It is not. In the 2015 Nairobi Ministerial Conference, WTO Members agreed that any such new issues will only be addressed if agreed by all Members.

“Not only is there no mandate for these negotiations, there is a negative mandate. Countries who are trying to push this through at the MC13 are breaching fundamental WTO rules”, says Deborah James, facilitator of the Our World is Not for Sale network.

How do they plan to get the agreement adopted against this backdrop?

First, shameful bullying, mainly by China, has brought the Investment Facilitation agreement to this point. In what New Zealand law professor Jane Kelsey said “we have heard hair-raising stories about pressure being brought at political levels in capital, often by-passing the trade officials who could analyse and provide informed advice on this”.

Second, the Director-General has gone far beyond her legitimate role as an international public official, who are legally required to be neutral. In what Professor Kelsey condemned as “an appalling abuse of D-G Ngozi's position and mandate”, D-G Ngozi attacked India and South Africa as depriving developing countries of the benefits of these agreements, when what they have been insisting is that WTO acts in accordance with its own rules.

Third, pretending this Investment Facilitation Agreement is for *development* is a sham” according to Simon Eppel of South African union centre COSATU. “There is no ‘development’ in this agreement.”

The main reasons that foreign investors don't come to many developing countries, LDCs and small island developing states – the stark realities of poverty, distance and geography, small scale, poor infrastructure, high costs. Foreign companies that do invest are mainly seeking to extract super-profits from exploiting natural resources.

“The long history of investment agreements shows this won't address any of those issues. What countries really need is a commitment to actively facilitate investment to strategic sectors countries need, and which is reponsible and genuinely advances their development”, said Lucia Barcena from Transnational Institute.

In addition, developing countries will carry the burden of implementing what most developed countries already do, but with no guarantee of funding. And to make repeated notifications of progress, when they already struggle to meet their existing WTO obligations.

Finally, “we fear these dirty tactics will continue in the ministerial itself”, Deborah James warned. “The IF agreement is not on the formal agenda, so how will they introduce it and block opposing Members from exposing the lack of consensus? Efforts to force it through will further undermine the WTO's already shaky legitimacy”.

This attempt to bypass all the WTO's own rules cannot be allowed to set a precedent, because it will open the door to a future free for all by more powerful WTO Members and because developing countries will carry the burden of the IF and other similar deals.

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