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|  | EUROPEAN UNIONPermanent Delegation to the United Nations Officeand other international organisations in Geneva   |

**Written contribution in preparation of the 22nd session of the Intergovernmental Working Group on the Right to Development (22-26 November 2021)**

The European Union and its Member States remain strongly committed to eradicating poverty and achieving sustainable and inclusive development, to promoting the full and equal enjoyment of all human rights by all individuals without discrimination on any ground; working towards ensuring peace, security and stability; strengthening the rule of law, good governance and democratic processes; and promoting human development and equitable globalisation.

The European Union and its member States are proud to lead global efforts as the world's largest development actor to eradicate poverty and achieve sustainable and inclusive development in its economic, social and environmental dimensions by 2030. The EU is determined to retain this leadership and is committed to collectively achieving the target of providing 0.7% of collective GNI as ODA by 2030, guided by a human rights-based approach to development.

As in previous years, we will continue to engage in the Working Group. We must however note that divergent views in the understanding of the right to development persist. We reiterate our support for the Right to Development, as based on the indivisibility and interdependence of all human rights, the multidimensional nature of development strategies and the individuals as the central subjects of the development process. The EU promotes the reinforcement of a human rights-based approach to development recognising that human rights are a pre-condition for the achievement of inclusive and sustainable development.

The Right to Development requires the full and non-discriminatory realisation of all human rights, be they civil, political, economic, social or cultural, and requires a mix of policies to create an enabling environment for individuals as rights-holders, at different levels. States have a duty to ensure that development efforts are aimed at the constant improvement of their citizens’ well-being and that development policies and programs are based on their active, free and meaningful participation. Indeed, any development policy should make the human being the main actor and beneficiary of development. Democracy at all levels and in all spheres is therefore essential for development. The need to ensure that human rights are an integral element of development-related activities further implies that clear responsibilities and accountability structures need to be outlined with respect to these rights. Individual States bear primary responsibility to respect, protect and fulfil those rights and seek cooperation with others when required.

We have to re-state our position that we are not in favour of the elaboration of an international legal standard of a binding nature as we do not believe that this is an appropriate or efficient mechanism to realise sustainable development.

Moreover, we view critically the proposed draft, including the following aspects:

* The text does not reflect our understanding of the right to development as outlined at the outset of this intervention, as based on the indivisibility and interdependence of all human rights, the multidimensional nature of development strategies, and the individuals as the central actors and beneficiaries of the development processes.
* There should be clarity that human rights are central to all efforts to pursue development and that States need to adhere to their human rights obligations in doing so.
* It should also be clearly stated that human rights are inherent to all human beings, with no discrimination or distinction of any kind.
* For the EU, it has to be made clear that the rights-holders of the right to development are individual human beings, whereas the role of states is to fulfil, respect and protect human rights. To the contrary, in the present text, focus is placed on international cooperation, and obligations of industrialised countries towards developing countries. It promotes the narrative of international solidarity and economic and social development as prerequisites for the realization of human rights. Therefore, the text as it stands now distorts the framework of international human rights law as enshrined i.a. in the UN Charter, Universal Declaration and the human rights covenants.

Furthermore, the draft text triggers several questions:

* It uses concepts of which the meaning is unclear in the context of IHRL, such as common concern of humankind or the right to regulate.
* It introduces vague notions of extraterritorial obligations for the States.
* It attributes unclear obligations and responsibilities in the matter of human rights to third parties, including businesses and international organisations such as UN agencies, and fails to articulate clearly what exactly the obligations to respect, protect and fulfil entail for the primary duty-bearer, the individual State.
* Neither does it not make sufficiently clear that measures taken by States in advancing development may not be used as a justification for violating human rights.
* The draft hints at possibilities of limitations of the right to development, but without specifying the basis for it.
* And last but not least, it falsely equates coercive measures with violations of the right to development.

While we stand ready to engage constructively with the Working Group on the Right to Development, we wish to reiterate that we see consensus as the only way to move the deliberations forward, and we express our willingness to pursue a consensual approach. We will, however, not support the non-consensual work to elaborate a draft legally binding instrument.

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