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**Human Rights Council**

**Working Group on the Right to Development**

**Fourteenth session**

13 – 17 May 2013

Item 4 of the provisional agenda

**Review of progress in the implementation of  
the right to development including consideration,  
revision and refinement of the right to development  
criteria and operational sub-criteria (A/HRC/15/WG.2/TF/2/Add.2)**

**Compilation of the conclusions and recommendations of the  
Open-ended Working Group on the Right to Development  
(1998- 2012)**

**Note by the Secretariat**

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## I. Introduction

1. The open-ended Working Group on the Right to Development was established by the Commission on Human Rights in its resolution 1998/72 and the Economic and Social Council in its decision 1998/269 with a mandate to monitor and review progress made in the promotion and implementation of the right to development, as elaborated in the Declaration on the Right to Development, at the national and international levels, providing recommendations thereon and further analysing obstacles to its full enjoyment, focusing each year on specific commitments in the Declaration; to review reports and any other information submitted by States, United Nations agencies, other relevant international organizations and non-governmental organizations on the relationship between their activities and the right to development; and to present for the consideration of the Human Rights Council a sessional report on its deliberations, including advice to the Office of the United Nations High Commissioner for Human Rights (OHCHR) with regard to the implementation of the right to development, and suggesting possible programmes of technical assistance at the request of interested countries with the aim of promoting the implementation of the right to development.

2. The Human Rights Council, in its resolution 21/32 endorsed the recommendation adopted by the Working Group on the Right to Development at its thirteenth session, in which it requested “the OHCHR to make available on its website and to the Working Group, at its 14th session, a consolidated document of all the conclusions and recommendations of the Working Group since its establishment in 1998”.

3. This document contains the conclusions and recommendations adopted by the Working Group on the Right to Development since its establishment in 1998. It also includes the summaries and views of the respective Chairperson when the Working Group did not adopt conclusions and recommendations.

## II. Sessions of the Open-ended Working Group on the Right to Development

### A. First and Second sessions

(18–22 September 2000 and 29 January– 2 February 2001)

**Chairperson-Rapporteur:** Mr. Mohammed-Salah Dembri (Algeria)

**Document:** E/CN.4/2001/26

### “G. Conclusions of the Chairperson

#### 1. Introduction

157. On 2 March 2001, the Working Group met in plenary session for the submission by the Chairperson of his conclusions. Following the Chairperson’s closing remarks, group coordinators made presentations expressing appreciation to the Chairperson and support for his efforts aimed at moving forward the process of the realization of the right to development, as well as for the efficient way that the deliberations of the Working Group had been conducted under his guidance. They also expressed the need for the continuation of the work of the Working Group in order to address the outstanding issues on its agenda. Some delegations expressed reservations to the Chairperson’s conclusions. These delegations were invited by the Chairperson to submit, in writing, their views. These views have been annexed to the report (annex III).

## **2. Chairperson's conclusions**

158. The Open-Ended Working Group on the Right to Development (Open-Ended Working Group) met in two sessions, from 18 to 22 September 2000 and 29 January to 2 February 2001.

159. The exchange of views that took place on the topics identified during the second session of the Open-Ended Working Group was conducted, as was the case at its first session, in a frank, interactive and positive manner.

160. In addition to the discussion of the Independent Expert's reports, several topics related to the actions that required to be taken both at national and international levels were debated in a focused fashion.

161. At the request of all regional groups, the Chairperson prepared draft elements for an agreed outcome of the session.

162. Subsequently, the majority of delegations accepted the Chairperson's text as a basis for reaching an agreed outcome. Five delegations (Australia, Canada, Japan, New Zealand and the United States of America), however, expressed difficulties with starting the negotiations, arguing that they were not able to receive instructions from their respective authorities.

163. Eager to preserve the cohesion of the Working Group, as well as the positive and fruitful exchange of views during the session, the Chairperson, in consultations with regional groups, decided to grant sufficient time (three weeks) to allow the five above-mentioned delegations to seek instructions from their capitals.

164. Consequently, the Working Group resumed its work in informal session for two days, 26 and 27 February 2001.

165. A number of amendments submitted by delegations were brought to the attention of the Working Group. A first reading of the Chairperson's paper was completed and a large portion of this text enjoyed support from a wide majority of delegations.

166. However, the five delegations listed above were not able to join the emerging consensus on some elements of the text.

167. With the objective of reaching the widest possible agreement, the Chairperson decided to draw his own conclusions based on the debate in the Working Group as well as in the informal consultations, as an integral balanced package proposal.

168. As stated at the second session of the Working Group, delegations with dissenting views are invited to submit their comments and observations to the Chairperson and these will be annexed to the report.

## **3. Report of the Independent Expert**

169. On the basis of the text of the Declaration on the Right to Development (1986), reaffirmations in several subsequent Commission on Human Rights and General Assembly resolutions, as well as declarations adopted at international conferences including the 1993 Vienna Declaration and Programme of Action which confirmed that the right to development is a universal and inalienable right, it should now be possible to consolidate and enhance action in a concerted manner towards the full implementation of the right to development, as established in the Declaration on the Right to Development.

170. There was a general appreciation of the reports of the Independent Expert and of his additional work and clarifications on the "development compact" proposal, which contributed to a better understanding of this proposal. However, it was generally felt that further clarifications were needed.

171. The proposed “development compact” would be of a voluntary nature for all parties involved. Its content would be defined on a case-by-case basis and be adapted to priorities and realities of any country willing to conclude such a compact which would need the adherence and the support of all international actors involved in its implementation.

172. In this context, the Independent Expert was requested to further clarify the proposed “development compact”, taking into consideration views expressed during the two sessions of the Working Group, and in broad consultations with the Office of the High Commissioner for Human Rights (OHCHR), relevant United Nations agencies, international and regional organizations, NGOs and, in particular, with those actors and States interested in developing pilot projects in this regard, keeping in mind:

- a) The ongoing bilateral and multilateral development cooperation programmes including national and regional programmes;
- b) The need to formulate an operational model for the “development compact”;
- c) The views of concerned international organizations, agencies and relevant regional institutions;
- d) The need to ensure its added value and complementarity to the existing relevant mechanisms;
- e) The need for country-specific studies both from national and international perspectives.

173. As per the Declaration on the Right to Development, States have the primary responsibility for the creation of national and international conditions favourable to the realization of the right to development and their commitment to cooperate with each other in ensuring development and eliminating obstacles to development is critical to the realization of the right to development and is a necessary complement to efforts at the national level.

174. According to the Declaration on the Right to Development, the human person is the central subject of development. The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.

175. The realization of the right to development is essential to fulfil the vision of the Vienna Declaration and Programme of Action which regards all human rights as universal, indivisible, interdependent and interrelated. The lack of development may not be invoked to justify abridgement of internationally recognized human rights.

176. To realize the right to development, national action and international cooperation must reinforce each other in a manner that goes beyond the measures for realizing each individual right. It was recognized that international cooperation for the realization of the right to development should be conducted in a spirit of a partnership, in full respect of all human rights which are universal, indivisible, interdependent and interrelated.

177. Although development deficits and needs vary from one country to another, for many developing countries, the realization of the rights, *inter alia*, to food, health and education may be important development entry points to the realization of the right to development. In this context, there was appreciation for the Independent Expert’s concept of a “development compact” with its intent to give expression to some basic tenets of the interdependence of all human rights and national ownership of development strategies and development programmes, as well as the importance of international cooperation.

178. Although the nature of the follow-up for the right to development has not been defined, there was a recognition of the need for discussion to consider a suitable follow-up in the future.

#### **4. National action for the realization of right to development**

179. The primary responsibility for adoption of policies, setting priorities, allocation of resources and follow-up for the right to development is that of national Governments.

180. The necessity of establishing, at the national level, an enabling legal, political, economic and social environment for the realization of right to development was underlined. In this context, the importance of democratic, participatory, transparent and accountable governance was stressed. The need for efficient national mechanisms such as national human rights commissions to ensure respect for civil, economic, cultural, political and social rights, without any distinction whatsoever, was also underlined.

181. The need to prevent, address and take effective action against corruption at the national level, including a firm legal structure for eradicating corruption, was emphasized and States were urged to take all necessary measures to that end.

182. The importance of the role of the State, civil society, free and independent media, national institutions, the private sector and other relevant institutions in the realization of the right to development was acknowledged. A need to continue discussions on this subject was also expressed.

183. The role of women in the process of the realization of right to development was fully recognized, including their role as active actors in and beneficiaries of development, and further actions in this context are needed to ensure the participation of women on equal terms with men in all fields in the realization of right to development.

184. The promotion of gender equality and the empowerment of women as an effective means to combat poverty, hunger and disease and to stimulate sustainable development were widely recognized. The importance of equal rights and opportunities for women and men, including property rights for women and access to bank loans, mortgages and other forms of financial credit, taking into account best practices of micro-credit in different part of the world, was also reaffirmed.

185. In the process of the realization of the right to development, special attention should be given to persons belonging to minorities, whether national, ethnic, religious or linguistic, as well as to persons belonging to vulnerable groups – for instance indigenous people, Roma, migrants, persons with disabilities, children and persons infected with HIV/AIDS . This attention should have a gender perspective.

#### **5. International action for the realization of the right to development**

186. The Working Group should translate through concrete recommendations the commitment made at the Millennium Summit to make the right to development a reality for everyone and the resolve to create an environment at the national and global levels which is conducive to development and to the elimination of poverty. Success in meeting these objectives depends on good governance at the international level and on transparency in the financial, monetary and trading systems as well as an open, equitable, rule-based, predictable and non-discriminatory multilateral trading and financial system.

187. The creation of an enabling international environment through a clear assessment of impediments existing at the international level was highlighted. In this context, the duty of international cooperation for realization of the right to development as stipulated in article 3 of the Declaration on the Right to Development was stressed.

188. Bearing in mind the existing efforts in this respect, it is necessary to enhance efforts at evaluating and addressing the impact of international economic issues such as international macro-economic decisions-making, debt burden, international trade, market access, functioning of international financial institutions, transfer of technology, bridging of the knowledge gap (digital divide), impact of intellectual property regimes, fulfilment of international development commitments and migration issues on the enjoyment of human rights.

189. In the above context, the Independent Expert should prepare, in consultation with all relevant United Nations agencies and the Bretton Woods institutions, a preliminary study on the impact of these issues on the enjoyment of human rights for consideration by the Working Group at its future sessions.

190. The need to prevent, address and take effective action against corruption at the international level was emphasized and States were urged to take all necessary measures to that end.

191. The need for international solidarity and cooperation for realization of the right to development was emphasized with particular mention of the achievement of the internationally agreed development commitments and targets including, inter alia, for food, health, primary education and poverty eradication.

## **6. Future work**

192. In view of the urgent need to make further progress towards the realization of the right to development as elaborated in the Declaration on the Right to Development, and based on the established practice of the Commission on Human Rights, the mandate of the Working Group on the Right to Development should be extended for one session of 10 working days between the fifty-seventh and fifty-eighth sessions of the Commission of Human Rights.

193. Extension of the mandate of the Independent Expert for one year is also required with sufficient technical and financial resources to be made available to him in fulfilment of his mandate.”

## **B. Third session**

(25 February– 8 March 2002)

**Chairperson-Rapporteur:** Mr. Mohammed-Salah Dembri (Algeria)

**Document:** E/CN.4/2002/28/Rev.1

### **“VIII. Conclusions and recommendations**

89. Participants in the Working Group negotiated and agreed upon the conclusions to the present report during the second week of the session. The Working Group reconvened for its final meeting in the afternoon of Friday, 8 March 2002, when it discussed four outstanding paragraphs of the conclusions. Those paragraphs were adopted by consensus. However, one delegation expressed difficulties in joining the consensus on one paragraph at that moment and asked to be allowed to consult its capital on that paragraph. After consultation with the members of the Working Group and with their agreement, the Chair acceded to the above-mentioned request, provided that the delegation concerned would advise the Chair on its final position regarding the paragraph before the presentation of the report of the Working Group to the Commission on Human Rights at its fifty-eighth session. Following this discussion, representatives of the regional groups made closing remarks.

90. The work programme of the third session of the Working Group was adopted by consensus following informal consultations conducted by the Chairperson-Rapporteur.

91. The third session of the Working Group took place following major international conferences and meetings relevant to the right to development. These included the Third United Nations Conference on the Least Developed Countries (Brussels, 14-20 May 2001), the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (Durban, South Africa, 31 August-7 September 2001) and the Fourth Ministerial Conference of the World Trade Organization (Doha, 9-14 November 2001). The Working Group was also cognizant of the forthcoming International Conference on Financing for Development to be held in Monterrey, Mexico, from 18 to 22 March 2002 and the World Summit on Sustainable Development to be held in Johannesburg, South Africa from 26 August to 4 September 2002.

92. Given the direct relevance of these meetings and international conferences to the Working Group, it was expected that relevant United Nations funds and agencies and other international organizations should have informed the Working Group of developments taking place in their sphere of activities with implications for the implementation of the right to development.

93. In the above context, the Working Group welcomed the deepening dialogue with international institutions such as the World Bank, IMF and FAO, as well as participation by UNESCO, UNAIDS, UNCTAD, ILO and UNDP. However, the absence of other important international organizations, relevant United Nations agencies, funds and programmes, despite the formal invitation extended to them, both by the Chairperson and OHCHR, was a source of concern to the Working Group. The Working Group looked forward to the meaningful contribution of all international organizations concerned and encouraged their participation and contribution. The Working Group also appreciated the participation of members of civil society through certain NGOs and encouraged their participation in larger numbers in future years.

94. Based on the discussions and a frank and interactive debate during the two-week session, the Working Group agreed to adopt the following conclusions and recommendations.

#### **A. Conclusions**

##### *International dimension*

95. The Working Group reaffirms the need for an international environment which is conducive to the realization of the right to development.

96. The Working Group reaffirms the critical importance of identifying and analysing obstacles impeding the full realization of the right to development at both the national and international levels. While recognizing that promotion and protection of human rights, including the right to development, rests with States, as established in article 3 of the Declaration on the Right to Development, the Working Group further reaffirms the inextricable link between the two.

97. In this regard, the Working Group recognizes the need for effective implementation and fulfilment of internationally agreed targets adopted by consensus at various international conferences and summits, with particular emphasis on those contained in the Millennium Declaration, within the agreed time frames.

98. The work programme for the current session of the Group, adopted by consensus and contained in document E/CN.4/2002/WG.18/4, reflected the international economic and financial issues that deserved particular attention by the Working Group, such as



international trade, access to technology, good governance and equity at the international level, and the debt burden, in order to consider and evaluate their impact on the enjoyment of human rights. In this regard, the Working Group had a useful exchange of views on these issues and looks forward to the preliminary study, as requested by the Commission on Human Rights in resolution 2001/9, for consideration by the Working Group at its next session.

99. While recognizing the importance of the aforementioned study to further the discussion of international issues, the Working Group was determined to move forward with a view to providing guidance to the independent expert in formulating the study and also to discussing major developments that have taken place since the last session of the Working Group.

100. On the basis of the interactive debate on these international issues and on the need for mainstreaming the right to development, the Working Group underlines that in relation to the international economic, commercial and financial spheres, core principles such as equality, equity, non-discrimination, transparency, accountability, participation and international cooperation, including partnership and commitments, are important for the realization of the right to development.

(a) Globalization offers opportunities and challenges. However, the process of globalization remains deficient in achieving the objective of integrating all countries in a globalized world. Many developing countries have been marginalized and others risk marginalization. If the process of globalization is to be made fully inclusive and equitable, there is a strong need for policies and measures, at the national and global levels alike, to respond to the challenges and the opportunities of globalization;

(b) The important link between international economic, commercial and financial spheres and the realization of the right to development. In this regard, the need for broadening the base of decision-making at the international level on issues of concern to development and to fill organizational gaps was highlighted, as was the strengthening of the United Nations system and the other multilateral institutions. The need to broaden and strengthen the participation of developing countries and economies in transition in international economic decision-making and norm-setting was also stressed;

(c) In the context of financing for development, and as already recognized in the relevant forums, there is value in exploring, in the appropriate forums, innovative sources of finance, provided that these sources do not unduly burden developing countries. In those forums, it was also agreed to study the results of the analysis requested from the Secretary-General, noting the proposal to use special drawings rights allocations for development purposes;

(d) Reaffirming the commitment to and urging developed countries that have not done so to make concrete efforts towards the targets of 0.7 per cent of their GNP for ODA to developing countries and 0.15-0.2 per cent of their GNP to LDCs, encouraging developing countries to build on progress achieved in ensuring that ODA is used effectively to help meet development goals and targets;

(e) The Working Group discussed developments that have taken place at the WTO and, in this context, took note of the results of the Fourth Ministerial Conference at Doha, and the Ministers' commitment to seek to place the needs and interests of developing countries at the heart of the Work Programme adopted in the Declaration. From the discussions on international trade issues in the Working Group there was a common understanding on the need to address market access for developing countries, including in agriculture, services and non-agricultural products, in particular those of interest to developing countries. In this regard, the Working Group also considers that a desirable pace of meaningful trade liberalization, including in areas under negotiations; implementation of commitments on

implementation-related issues and concerns; review of special and differential treatment provisions with a view to strengthening them and making them more precise, effective and operational; avoidance of new forms of protectionism, capacity-building and technical assistance for developing countries; are important issues in making progress towards the effective implementation of the right to development. The Working Group noted that the WTO is also committed to reviews of the TRIPS and TRIMS Agreements. The Working Group supports the relevant commitments made to take into account the development dimension.

(f) Debt burden and debt servicing were recognized as important constraints on the ability of indebted countries to promote the right to development. The Working Group underlines the need for enhanced initiatives by creditors to alleviate the debt burden as a contribution to the realization of the right to development. In this context, actions taken by creditors to provide faster, deeper and broader debt relief for heavily indebted poor countries as useful steps towards solving serious debt problems were welcomed. Developing countries should use resources released by debt relief as well as other sources of development finance in a manner that fully takes into account the interests of the poor and poverty reduction strategies;

(g) The need to make available to all the benefits of new technologies, especially information and communication technologies, and the need to bridge the digital divide were evident. The Working Group welcomes the convening in Geneva in December 2003 and in Tunis in 2005 of the World Summit on the Information Society which will be important in addressing the problem of the digital divide.

101. While the Working Group agreed that the above elements and those that are enumerated below in other sections shall also be a part of the basis for a future work programme of the Group, it is important to underline that the Group cannot and does not see itself as a substitute for multilateral negotiations in areas where other international organizations are mandated to act. However, taking into account the consensus achieved at the World Conference on Human Rights in Vienna and the two International Covenants on Human Rights, the Working Group considers itself competent to send out a strong message in all areas where the existing system impacts adversely on the realization of the right to development for all. In doing so, the Working Group hopes that the concerned organizations will take all necessary steps to remedy the existing situation.

102. International cooperation is one of the international commitments stated in the Declaration on the Right to Development. International cooperation has various aspects and modalities. Among them, the Working Group would like to stress the importance of multilateral cooperation; however, other forms of cooperation, such as partnership, commitment and solidarity, including South-South cooperation, should be encouraged. South-South cooperation was recognized as one of the approaches to be taken in promoting and expanding international cooperation. In this context, the Working Group took note of several existing examples of such cooperation.

#### *National dimension*

103. It is stressed that the basic responsibility for the realization of all human rights lies with the State. The Working Group underlines that the promotion of the right to development in the national context hinges on the application and observance of core principles such as equality, participation, accountability, non-discrimination and international cooperation.

104. The Working Group reaffirms that States have the primary responsibility for their own economic and social development, and the role of national policies and development strategies cannot be overemphasized. The Working Group further reaffirms the necessity of

establishing, at the national level, an enabling legal, political, economic and social environment for the realization of the right to development.

105. There is an increased understanding within the Working Group of possible approaches and elements for the promotion and realization of the right to development at the national level. These include:

(a) Poverty eradication

Eradication of poverty is a critical, though not the only, step in the promotion and realization of the right to development. The Working Group recognizes that poverty is a multifaceted problem which requires an equally multifaceted approach addressing economic, political, social, environmental and institutional dimensions on all levels, especially in the context of the Millennium Declaration goal of halving, by the year 2015, the proportion of the world's people whose income is less than one dollar a day and the proportion of people who suffer from hunger. The Working Group also recognizes the relevant role being played by the World Bank and the IMF in the context of PRSPs, where applicable, one of the useful tools to achieve poverty eradication and development. At the same time, the Working Group also underlines that the international community is far from meeting the target date of 2015 for halving the number of people living in poverty. Particular emphasis was laid on the principle of international cooperation, including partnership and commitment, between developed and developing countries.

(b) The role of women

The Working Group recognizes the importance of the role and the rights of women and the application of a gender perspective as a cross-cutting issue in the process of realizing the right to development. It notes in particular the positive relationship between women's education and their equal participation in civil, political, economic, social and cultural activities of the community, and the promotion of the right to development.

(c) The rights of the child

The Working Group stressed the need for the integration in all policies and programmes of the rights of children, boys and girls alike, and for ensuring the protection and promotion of those rights, especially in areas relating to health, education and the full development of their capacities.

(d) HIV/AIDS and other communicable diseases

The Working Group recognized that measures must be taken at the national and international levels to fight HIV/AIDS and other communicable diseases, taking into account ongoing efforts and programmes.

(e) Good governance

The Working Group also recognized that good governance and the rule of law at the national level will assist all States to promote and protect human rights, including the right to development. The value of ongoing efforts by States to identify and strengthen good governance practices, including transparent, responsible, accountable and participatory government, that are responsive and appropriate to their needs and aspirations, including in the context of agreed partnership approaches to development, capacity-building and technical assistance, was agreed.

(f) Civil society

The Working Group also recognized the need at the national level for strong partnerships with civil society organizations, including the private sector, in pursuit of poverty eradication and development, as well as for good corporate governance.

(g) Corruption

Considerable emphasis was laid on the need to encourage action against corruption at the national and international levels, including the need for genuine political commitment on the part of national Governments through a firm legal framework. In this regard, the Working Group encouraged adhering to existing instruments dealing with corruption and supporting other ongoing international legal efforts. The Working Group acknowledges the crucial duty of Governments to use, in a transparent and responsible manner, resources that may contribute to the realization of the right to development, whether from domestic or foreign sources.

(h) New Partnership for Africa's Development (NEPAD)

There was substantial discussion on the recently adopted NEPAD. The Working Group expresses support and appreciation for NEPAD as a development framework and a practical example which could be explored for the promotion of a rights-based approach to development. In this context, the Working Group encouraged future consideration by the Working Group of national initiatives and programmes in the framework of NEPAD and any other similar initiatives.

106. The Working Group made considerable progress in identifying additional components of the realization of the right to development. These additional components include: institutional infrastructure; coherence and cooperation in policy and programme development; human resource development; public finance and administration; financial regulation and supervision; basic education; social- and gender-sensitive budget policies; rule of law and the judicial system; appropriate technological development and crisis prevention. In this context, the Working Group also noted the importance of technical assistance, capacity-building and information-sharing to assist developing countries in their efforts.

*Consideration of the fourth report of the independent expert*

107. The Working Group appreciates the work done by the independent expert on the right to development and had a thorough discussion of his fourth report, which contained elements of an "operational model" of his "development compact" proposal, as requested by the Commission in resolution 2001/9.

108. The Working Group agrees that there are areas in which clarification, especially in the context of linkages with existing mechanisms and ongoing bilateral programmes, is still needed. In this regard, the independent expert should seek guidance from the discussions that took place at the present session in order to refine his proposed development compact, taking into account activities within existing mechanisms in order to avoid duplication.

109. One issue which stood out during the discussion relates to the need to identify actors and Governments willing to take part in a pilot development compact project.

*Strengthening the role of the Office of the High Commissioner for Human Rights in the promotion and protection of the right to development*

110. The Working Group recognizes the fundamental role of OHCHR in the promotion and realization of the right to development. The Working Group takes note of the

information on its activities provided by OHCHR in the course of the discussion on strengthening the role of the Office to promote the right to development.

111. Several questions were posed to representatives of OHCHR, such as clarification of the priorities in selecting its activities, the question of the human and financial resources, both for research and other activities, available for implementing its mandate regarding the right to development, assessment of and reporting on its activities (i.e. seminars and regional workshops) and their coordination, consultation and communication with other bodies of the United Nations system, such as the United Nations Development Group/United Nations Development Assistance Framework/Common Country Assessment and other United Nations funds and programmes, in the context of the right to development.

112. The Working Group recognizes that there is considerable scope for further improvement of the Office's activities in the area of the promotion and realization of the right to development, and to this end would encourage greater dialogue and cooperation between itself and OHCHR. This would assist the Working Group in formulating recommendations to the Commission on Human Rights on future work and activities, including research relating to the right to development.

*Consideration of a suitable permanent follow-up mechanism for the implementation of the right to development*

113. There is a divergence of views within the Working Group on a suitable permanent follow-up mechanism for the implementation of the right to development.

114. In that context, there is an understanding in the Working Group that all options, including those proposed at the current session of the Working Group and as contained in the Declaration on the Right to Development, remain open to further discussion at future sessions of the Working Group.

**B. Recommendations**

115. The Working Group should extend an open invitation, through the High Commissioner for Human Rights, to all specialized agencies, United Nations funds and programmes, the international financial institutions and other relevant actors in order to encourage their active participation and expert contributions to the work of the Working Group.

116. The Working Group commits itself to drafting the agenda for its next session as early as possible in order to contribute to the preparation of the work and to encourage meaningful participation by all.

117. The Working Group recommends that the Commission on Human Rights consider the renewal of the Working Group's mandate for another two years.

118. The Working Group agreed to discuss further the proposals for a suitable permanent follow-up mechanism for the implementation of the right to development.

119. The Working Group recommends that the independent expert conduct an appraisal of country-specific studies relevant to the proposed operational model of his development compact. The independent expert could consider taking into account different national, regional or international frameworks, including NEPAD.

120. The Working Group requests the independent expert to submit at the next sessions of the Working Group the preliminary study on the impact of international issues on the enjoyment of the right to development, as mandated by the Commission on Human Rights in resolution 2001/9. In this context, the United Nations Secretary-General, OHCHR, United Nations specialized agencies, funds and programmes and other international

organizations, including WTO and the Bretton Woods institutions, are requested to cooperate and extend all possible assistance to the independent expert.”

### **C. Fourth session**

(3–14 February 2003)

**Chairperson-Rapporteur:** Mr. Bonaventure M. Bowa (Zambia)

**Document:** E/CN.4/2003/26

“48. The working group adopted the summary of the proceedings as reflected in paragraphs 12 to 47 above in its meeting on 24 March 2003 and it took note of the views and observation of the Chairperson-Rapporteur as reproduced in the annex I.

## **Annex I**

### **Views and observations of the Chairperson-Rapporteur**

1. Having concluded its general debate, the working group began to consult on conclusions and recommendations, on the basis of a list of proposals made by delegations. The working group was, however, not in the position to conclude this task within the time allotted to the formal session of the working group. Some delegations called for the continuation of negotiations so as to arrive at conclusions and recommendations by consensus. Other delegations however proposed that the working group should ask the Chairperson-Rapporteur to draw his own conclusions and recommendations and give delegations an opportunity to comment thereon. In an attempt to reconcile these two positions the Chairperson-Rapporteur held a number of informal consultations, including on a bilateral basis with delegations. As these consultations did not achieve any positive results, and to underscore the important contribution made by the debate in the working group, the Chairperson-Rapporteur presents in the following paragraphs his views and observations on the progress made. These were taken note of by the working group in its session on 24 March 2003.

#### **Principles and norms**

2. The working group recalled the consensus achieved at the World Conference on Human Rights in 1993, reaffirming that “the right to development, as established in the Declaration on the Right to Development, is a universal and inalienable right and an integral part of fundamental human rights”. It records the Millennium Declaration pledge to “make the right to development a reality for everyone” and reaffirmed the agreed conclusions of the third session of the Open-ended working group on the right to development, as contained in paragraphs 95 through 120 of document E/CN.4/2002/28/Rev.1. The working group agreed to take its work forward on the basis of consensus, conceptual clarity, concrete action, and a commitment to balance in addressing the national and international aspects of the right to development. It recognized the essential importance to the realization of the right to development of good national governance and effective international cooperation.

#### **The High Commissioner of Human Rights and his Office**

3. The working group welcomed the statement of the High Commissioner for Human Rights recognizing the working group as the only official global forum on human rights and development in which States, international agencies, financial institutions and NGOs participated annually. The working group reviewed the High Commissioner’s report and

appreciated its strengthened content and approach, including the information on the work of the OHCHR field offices in implementing the right to development. The working group expressed gratitude to the High Commissioner for his efforts in having secured a significant increase in the participation of international agencies and institutions. It also acknowledged the high level of secretariat support provided to the fourth session.

4. The High Commissioner was invited to consider supplementing future reports with additional analyses of the issues covered, including evaluation of follow-up activities of recent summits and conferences; and to ensure the availability of OHCHR representatives for substantive participation in the future deliberations of the working group, in particular, for reporting on the relevant initiatives in OHCHR field offices and its technical assistance projects. The working group requested the High Commissioner to strengthen the technical assistance programme, including capacity-building, offered to countries at their request, and to prioritize the right to development in the OHCHR programme.

5. The Chairperson-Rapporteur recommends that OHCHR consider collecting good practices related to the implementation of the right to development in development programmes and policies, including specific initiatives like those aimed at combating HIV/AIDS. He proposes that the Office undertake analytical studies of the role that could be played by national human rights institutions in the creation and implementation of development partnerships.

6. The working group recognized that while it had over the past four years covered extensive ground in identifying obstacles existing at the national and international levels impeding progress towards the realization of the right to development, its findings and conclusions had not been adequately followed. Therefore, the working group requested the High Commissioner to bring its conclusions to the attention of the major international institutions including WTO, the World Intellectual Property Organization (WIPO), IMF, the World Bank, UNCTAD and other United Nations agencies as well as other relevant regional organizations and actors, at the highest policy-making level.

#### **Participation of international agencies and financial institutions**

7. The working group noted that the fourth session had seen the participation of the largest number of international agencies and financial institutions of all sessions to date, with a significant increase over previous years, and hoped that this trend would continue in subsequent sessions. The working group encouraged all international agencies and financial institutions to participate actively in future sessions, to take due account of the reports and conclusions of the working group in their work, and to share their relevant experiences and expertise during the deliberations of the working group.

#### **Fifth report of the independent expert**

8. Having reviewed the fifth report of the independent expert containing a further elaboration of his development compact proposal, the working group expressed gratitude for his work. The group took note of the comments, questions and reservations of various delegations regarding the compact proposal, indicating the need for further clarification on a number of aspects of that proposal, including with regard to: the independent expert's conceptual approach to the right to development; the nature of obligations and responsibilities at the national and international levels; the notion of "mutuality of obligations" and its implications for the legal accountability of States and for domestic ownership of development; the question of the fulfilment by States of their human rights obligations and its relationship to conditionality; the operational feasibility of the compact model; the risk of duplication and the relative advantage of the compact over integration of the right to development into existing mechanisms and instruments; the need to pay explicit attention to women, indigenous populations and minorities; the proposal's resource

implications; the role of domestic resource mobilization in the compact model; the composition of the proposed compact support group and the role of civil society in that body and in the compact in general; corresponding redress mechanisms; the need for appropriate indicators to accompany the model; and the ways to advance the right to development while the compact model is being further clarified.

9. The Chairperson-Rapporteur suggests that the independent expert might like to pursue further the feasibility of implementing the proposed development compact in consultation with bilateral donors, multilateral agencies and other stakeholders.

#### **Preliminary study on the impact of international economic and financial issues**

10. The working group reviewed the preliminary study of the independent expert on the impact of international economic and financial issues on the enjoyment of human rights. It noted that a variety of views existed among delegations on those issues. The working group requested that the independent expert provide further analysis to the next session of the working group on the impact of issues such as international trade, access to technology, good governance and equity at the international level, and the debt burden on the right to development.

11. The working group agreed that while the globalization process and the corresponding liberalization of market forces, trade and investment flows offered new opportunities, they would not by themselves lead to the realization of the right to development or a reduction of poverty. Since globalization was not benefiting all States, there was an urgent need for measures to promote, both at the national and international levels, good governance which was essential for the realization of the right to development. The working group agreed that good governance at both the national and international levels implied equality, equity, non-discrimination, accountability, transparency and participation, as well as international cooperation and solidarity. The working group noted that negotiations were taking place in relevant forums addressing several of those issues. The working group urged participants to consider measures that would facilitate the realization of the right to development. In this context, the Chairperson-Rapporteur was of the view that States should, among other measures, endeavour to eliminate protectionist barriers against the exports from developing countries and to suppress subsidies in economic sectors that negatively affected exports from developing countries.

#### **Existing development instruments and mechanisms**

12. The working group discussed PRSP, CCA/UNDAF, NEPAD and South-South cooperation as potential mechanisms for the advancement of the right to development. It encouraged OHCHR, international agencies and financial institutions, and all relevant actors to enhance efforts to integrate all human rights in these and other existing development instruments and mechanisms and to use them to promote the right to development and to report on those efforts to the working group at its next session.

#### **Practical activities**

13. The working group, having considered the mission reports of the independent expert, identified the need for the collection and analysis of concrete examples and good practices in implementing the right to development, and encouraged the independent expert and OHCHR, in consultation and cooperation with international agencies and financial institutions, to develop country specific studies in the developed as well as the developing countries. Such studies were to be at the invitation and initiative of interested countries, examining in an integrated manner both national and international aspects and the role of all stakeholders in the right to development in those countries. In that context, it was also stressed that NEPAD could provide a suitable framework for the implementation of the



right to development. The working group expected that the independent expert and OHCHR would present information in that regard at the next session of the working group and hoped that the NEPAD secretariat would be able to participate in the discussions.

14. The working group discussed the question of holding an expert seminar on crucial aspects of the right to development. Some participants expressed the view that such a discussion could take place in the framework of an OHCHR convened expert seminar before the next session of the working group, while others considered the possibility of holding an expert discussion during the session of the working group. Still some other delegations made reservations as to the purpose of this proposal. It is the Chairperson-Rapporteur's view that the Commission on Human Rights should facilitate such a seminar, details of which can be worked out, in view of the importance that many delegations said they attached to the right to development.

#### **A suitable permanent follow-up mechanism**

15. The working group discussed the question of a suitable permanent follow-up mechanism and noted that the matter would be reconsidered by the working group in more depth at its next session, with a view to clarifying the range of options for such a mechanism.

#### **Next session of the working group**

16. The working group recommended that the mandate of the working group be extended for an additional year, and that an agenda and programme of work for the fifth session be agreed and distributed well in advance of that session."

### **D. Fifth session**

(11–20 February 2004)

**Chairperson-Rapporteur:** Mr. Ibrahim Salama (Egypt)

**Document:** E/CN.4/2004/23

### **“III. Conclusions and recommendations**

39. Based on the discussions in the Working Group, the Chairperson circulated a working document on the possible conclusions and recommendations of the fifth session of the Working Group. This document was negotiated, amended and agreed upon by the members. At its final meeting in the afternoon of 20 February 2004, the Working Group adopted by consensus the agreed conclusions and recommendations as reproduced in paragraphs 41 to 54 of this report. The Working Group also took note of its discussions during the eight-day session and decided to entrust the Chairperson-Rapporteur with the finalization of the present report.

40. Statements welcoming and endorsing the agreed conclusions and recommendations of the fifth session of the Working Group were made by delegations prior to and after their adoption. One delegation, expressing its support for the agreed conclusions and recommendations, stressed the importance of the rights of women and a gender perspective as a cross-cutting issue, as well as the rights of the child and the role of civil society and non-governmental organizations. Delegations supported the establishment of a high-level task force as a new and fresh basis for future deliberations of the Working Group, and hoped that the consensual approach, as demonstrated during the present session, would be carried forward to the forthcoming session of the Commission on Human Rights. The Chairperson-Rapporteur concluded the session by commending the work of the delegations

in reaching the agreed conclusions and recommendations through fruitful dialogue and compromises made by some delegations, which reflected a genuine political will to make progress. The Chairperson-Rapporteur and delegations commended the support provided by the secretariat for the high-level seminar and the Working Group.

**A. Conclusions and recommendations**

41. In relation and in addition to the agreed conclusions and recommendations of the third session of the Working Group on the Right to Development (E/CN.4/2002/28/Rev.1), and having due regard to the positive outcomes of the high-level seminar on “Global partnership for development” held on 9 and 10 February 2004, the fifth session of the Working Group agrees on the importance of establishing partnerships, within the framework of the Working Group, between the Commission on Human Rights and United Nations agencies, funds and programmes, multilateral financial and development institutions, and the World Trade Organization for the implementation of the right to development. To this end, the Working Group views as its priority the development of proposals for the implementation of right to development based on the agreed conclusions of the third session of the Working Group and in keeping with the consensus that has emerged from the interactive discussions at the present session.

42. The focus of the Working Group and its follow-up will be on mainstreaming and implementation of the right to development as established in the Declaration on the Right to Development. While recognizing that States have the primary responsibility for their own economic and social development, lasting progress towards the implementation of the right to development requires effective policies at the national level and a favourable economic environment at the international level. For this, States have the duty to cooperate with each other in ensuring development and eliminating obstacles to development. The international community should promote effective international cooperation for the realization of the right to development and the elimination of the obstacles to development.

43. The conclusions and recommendations of the fifth session of the Working Group on the right to development are as follows:

(a) There is an emerging consensus among the Member States, development agencies and the international development, financial and trade institutions on the need to strengthen the global partnership for development taking into account the principles of accountability, transparency, non-discrimination, equity participation, rule of law, good governance at all levels and international cooperation;

(b) For the right to development to be mainstreamed, it has to be global in its reach and integrated coherently in the operational activities, policies and programmes of all relevant development agencies and international financial and trade institutions and of

Governments at the national level;

(c) The changing global context requires a well-coordinated approach to development cooperation that ensures improved coordination, stronger partnerships, results-based approaches and greater coherence in implementing the consensus on development goals as a concrete step towards building partnerships for the realization of the right to development, as established in the Declaration on the Right to Development, keeping in view that the right to development is a universal and inalienable right and an integral part of fundamental rights. These partnerships, including the existing ones like PRSPs and UNDAF, need to be “nationally owned”;

(d) There is a need for structured action-oriented partnerships, within the mandate of the Working Group, with the United Nations agencies and multilateral financial institutions and relevant experts to implement the right to development; (e) In order to address the

challenges of globalization highlighted in paragraph 5 of the Millennium Declaration, in particular its impact on poverty and income inequalities, the current phase of globalization requires an integrated approach to the implementation of national and international dimensions of the right to development;

(f) There is a need to identify and implement complementary measures at the national and the international levels, in order for the globalization process to facilitate the realization of the right to development;

(g) Implementation of the Millennium Declaration and attainments of international development goals as identified in the outcomes of United Nations conferences and the Millennium Development Goals will contribute to the progressive realization of the right to development;

(h) Progressive realization of the right to development needs a clear vision, enhanced coherence, effective coordination of policies and programmes, a credible review process, constant assessment and political commitment at the national and international levels;

(i) Sustained economic growth is an indispensable component of the realization of the right to development;

(j) Appropriate measures are needed to enable developing countries to effectively participate in and benefit from an open, equitable, rules-based, predictable and non-discriminatory multilateral trading system that would contribute to the implementation of the right to development;

(k) There is a need to pursue social impact assessments in the areas of trade and development, at both the national and international levels, that would include the right to development; and

(l) In furthering the implementation of the right to development, the knowledge and best practices in implementing the right need to be shared and made more accessible to people and institutions, through the collection and dissemination of good practices and success stories.

#### **High-level task force**

44. In the above context, the Working Group recommends to the Commission on Human Rights the establishment of a high-level task force on the implementation of the right to development, within the framework of the Working Group, the details of which are described in the following paragraphs.

#### *Objective*

45. The objective of the high-level task force is to assist the Working Group on the Right to Development to fulfil its mandate as contained in paragraph 10 (a) of Commission on Human Rights resolution 1998/72, while ensuring that there is no duplication of other working groups and work in other forums. Its guiding principle should be the strengthening of the global partnership for development. The proposed follow-up will facilitate a collective approach to analysing progress, disseminating best practices and considering possible solutions for the implementation of the right to development on a continuing basis.

#### *Structure of the task force*

46. The task force should be limited in size and well defined. Participants would be those persons directly responsible for the implementation of the right to development. It should comprise high-level representatives from the identified trade, finance and development institutions/organizations. In addition, the Chair of the Working Group, in

consultation with the regional groups, would invite to serve on the task force five experts from diverse backgrounds with practical experience related to the implementation of the right to development to complement and contribute to the work of the task force. The participation of the Chair of the Working Group in the task force would ensure the linkage and continuity between the task force and the Working Group. Member States will participate in the working of the task force as observers.

47. The chairperson of the task force, in consultation with the Chair of the Working Group, may invite other relevant resource persons/experts/mechanisms to the meetings of the task force.

*Duration and meetings of the task force and the Working Group*

48. The task force will be created for an initial period of one year. It will meet for five days and submit a report of its findings and recommendations to the Working Group on the Right to Development well in advance of its session. The Working Group in turn would meet for a period of five working days, to consider the findings and the recommendations of the task force and any other matter that it decides to consider or is mandated by the Commission on Human Rights.

*Terms of reference of the task force*

49. The task force will function in accordance with the terms of reference defined by the Working Group on the Right to Development. The substantive issues to be addressed by the task force would come from the agreed conclusions of the third session of the Working Group, conclusions that emerged at the high-level seminar and at the fifth session of the Working Group or others that may emerge from future deliberations. For its first report, the task force would consider for its analysis and recommendations to the Working Group, the following issues reflecting both national and international perspectives:

- (a) Obstacles and challenges to the implementation of the Millennium Development Goals in relation to the right to development;
- (b) Social impact assessments in the areas of trade and development at the national and international levels; and
- (c) Best practices in the implementation of the right to development.

50. The Working Group will need progressively to refine its methodology and approach to identifying a limited number of issues to be addressed by the task force.

51. The Working Group recommends that the Commission on Human Rights consider the renewal of the mandate of the Working Group for one year.”

**E. Sixth session**

(14–18 February 2005)

**Chairperson-Rapporteur:** Mr. Ibrahim Salama (Egypt)

**Document:** E/CN.4/2005/25

**“III. Conclusions and recommendations**

32. Based on the discussions in the Working Group, the Chair prepared and circulated his draft text for the conclusions and recommendations of the sixth session of the Working Group. The draft text was subsequently discussed, negotiated and amended by delegations. At its final meeting, on 18 February 2005, the Working Group adopted the conclusions and recommendations. It also took note of the following positions of delegations, which were

not meant to block consensus by the Working Group: Japan reserved its position on trade and debt relief, but joined the consensus; Australia, Canada and the United States of America dissociated themselves from the consensus.

33. Several other delegations welcomed the final text proposed by the Chair, which, in their view, took into account different views and positions expressed by the participants. The Chair concluded the session by stating that the conclusions and recommendations adopted by the Working Group represented a genuine common ground of understanding among participants for moving forward towards the practical implementation of the right to development.

34. The Working Group also took note of the discussions during the session as reflected in the draft report prepared by the Chair and decided to entrust him with the finalization of the report of the Working Group.

#### **A. Conclusions**

35. The Working Group on the Right to Development, taking note of the agreed conclusions of its fifth session, the report of the high-level task force on the right to development submitted to its present session, and in keeping with the consensus that emerged from the interactive discussions at the present session, agrees on the importance of continued partnerships, within the framework of the Working Group, between the Commission on Human Rights and United Nations bodies, agencies, funds and programmes, multilateral financial and development institutions, and the World Trade Organization, with a view to benefiting from their experience and expertise in identifying concrete measures to implement the right to development and to mainstream it into their spheres of action, in order to progressively achieve a fuller realization of the right.

36. The Working Group recognizes that this process requires time, inclusiveness, dialogue and the constructive engagement of all concerned parties in implementation of their mutual commitments in line with the Declaration on the Right to Development. In this context, the Working Group considers that evolving, assessing and disseminating, through a broad-based collaborative effort by the various stakeholders, practical and specific measures, at the national and the international levels, for the progressive realization of the right to development is a matter of priority.

37. The Working Group recognizes with appreciation the efforts by the high-level task force leading to the adoption of its report on the implementation of the right to development and commends the collaborative approach of the experts in exploring ways of bridging the various perspectives and experiences in making constructive, operational suggestions for furthering the implementation of the right to development. The Working Group notes that in arriving at its conclusions and recommendations, it has reflected only those suggestions of the high-level task force that it would like to emphasize at present, without in any way undermining or ignoring others that have not been included at this stage. This would help in maintaining a deliberate focus in the future follow-up work emanating from the present session of the Working Group.

38. The Working Group takes note of the acknowledgement by the multilateral development and financial institutions and the expert members of the task force that a number of principles underlying the Declaration on the Right to Development guide the policies and programmes of these institutions. The Working Group encourages the continuation of this trend and considers that it serves progress in the realization of the right to development. In this context, the Working Group encourages all stakeholders -

39. Member States, experts, development practitioners, international institutions and the civil society - to move towards a common understanding of the substantive components of the right to development regardless of the possible nuances in the use of terminology in the

discussions on the right to development. The Working Group considers that such nuances have no bearing on the right to development as embodied in the Declaration on the Right to Development.

40. The Working Group emphasizes that the right to development, as defined in article 1 (1) of the Declaration on the Right to Development, is “an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized”.

41. It recognizes that “States should undertake, at the national level, all necessary measures for the realization of the right to development” (art. 8 (1)). It further recognizes that “States have the duty to take steps, individually and collectively, to formulate international development policies with a view to facilitating the full realization of the right to development” (art. 4 (1)).

42. The Working Group notes recent discussions in the United Nations Conference on Trade and Development (UNCTAD) on the concept of space for national economic policy and urges States, in pursuing that discussion, to bear in mind its relevance to the realization of the right to development. 42. The Working Group agrees that the implementation of the right to development requires growth with equity. Development has to be grounded in economic policies that foster growth with social justice. The Working Group recognizes that the need to build synergies between growth-oriented development strategies and human rights is a response to the growing call by people for more empowerment, more ownership and more sustainability in development efforts.

43. The Working Group agrees that the right to development enriches such strategies through systematically incorporating human rights and the principles of transparency, equality, participation, accountability and non-discrimination into the development processes, at both national and international levels. In this context, the right to development should guide in setting priorities and resolving trade-offs in resource allocations and policy frameworks.

44. The Working Group believes that mutual commitments, as part of the duty of international cooperation, can lead to specific binding arrangements between cooperating partners to meet the right to development requirements. Such arrangements can only be defined and agreed upon through genuine negotiations. The Working Group finds it useful and necessary to analyse and evaluate existing forms of agreements, arrangements and development partnerships. These partnerships should ensure national ownership of the development process.

45. The Working Group recognizes that development partnerships should go beyond relationships between Governments and multilateral institutions to include civil society organizations.

46. The Working Group recognizes the multifaceted nature of the right to development. It agrees that a rights-based approach to economic growth and development contributes to the realization of the right to development while it does not exhaust its implications and requirements at both national and international levels.

47. The Working Group reaffirms the importance of good governance and the rule of law at both national and international levels in the implementation of the right to development. It further recognizes the importance of States’ responsiveness to vulnerable and marginalized groups.

48. The Working Group reaffirms that the realization of civil, cultural, economic, political and social rights is fundamental for the achievement and full enjoyment of the right to development.

49. The Working Group welcomes the growing acceptance of the simultaneous levels of action required at the national and international levels in the implementation of the right to development. While the importance of the responsibility of States to implement the right to development cannot be overemphasized, this does not in any way reduce the importance of international cooperation in providing an enabling environment at the international level.

#### *Millennium Development Goals*

50. The Working Group recognizes that the Millennium Development Goals represent a measurable set of human development objectives the attainment of which is critical for building a more humane, inclusive, equitable and sustainable world, as envisaged in the United Nations Millennium Declaration. It agrees that a timely attainment of the Goals is critical for the progressive realization of the right to development. In this context, the Working Group looks forward to the deliberations at the Millennium Review Summit.

51. The Working Group emphasizes the need to employ a multipronged approach, at both national and international levels, to continuously address the constraints in the attainment of the Millennium Development Goals. In this context, the Working Group agrees that it is necessary to strengthen institutional capacities, bridge the information gaps and address the accountability failures to implement the Goals, and to give the Goals the necessary local content and national ownership.

#### *Impact assessment*

52. The Working Group agrees that it is necessary to consider introducing and strengthening human rights standards and principles in undertaking impact assessments of trade and development rules and policies at both national and international levels. Such an approach is critical for the implementation of the right to development. It is also necessary in identifying those complementary measures that may be required to address adverse consequences of both national and international trade and development policy interventions.

53. The Working Group recognizes the need to identify, develop and build a consensus on suitable objective tools to support an adequate approach and methodology in undertaking human rights impact assessments for the right to development. It also agrees that there is an urgent need to build national capacity, especially statistical capacities, through technical cooperation programmes to encourage the use of human rights impact assessments and other tools in guiding public policy at the national and international levels for the implementation of the right to development.

### **B. Recommendations**

54. In making the following recommendations, the Working Group recognizes that some of them relate to the activities of other international organizations and, therefore, agrees that its role, as a part of its mandate as a follow-up mechanism to contribute to making further progress towards the realization of the right to development, is to draw the attention of those organizations to the importance of including the right to development perspective in the following:

- (a) The Working Group recognizes that an unsustainable debt burden is a major obstacle for developing countries in achieving the Millennium Development Goals and in making progress in the realization of the right to development. It welcomes and encourages efforts by donor countries and the international financial institutions to consider additional ways, including appropriate debt swap measures, to promote debt sustainability for both HIPCs and non-HIPCs. It urges all concerned to recognize the importance from the perspective of the right to development of the need for HIPC initiatives and other forms of debt relief to be genuinely additional to bilateral ODA flows;
- (b) In this respect, the Working Group urges all concerned to recognize the importance from the perspective of the right to development considering an increase in net transfers to developing countries that encompasses all types of external financial assistance, such as ODA, multilateral and bilateral loans, grants and debt relief, as well as of improving market access for the developing countries;
- (c) The Working Group recognizes that donor countries should step up their efforts to realize the Millennium Development Goals, for which a considerable increase in ODA is essential. It reiterates that compliance with the agreed commitment of 0.7 per cent of gross national income for ODA should be a matter of priority for all donor countries;
- (d) The Working Group urges all States to recognize the importance of a successful and timely conclusion to the Doha Round of trade negotiations in enabling developing countries to meet their development objectives. In this context, it emphasizes, *inter alia*, the importance of special and differential treatment;
- (e) The Working Group recommends that States be encouraged to undertake independent impact assessments of trade agreements on the right to development, as a potentially useful instrument at the national and international levels, bearing in mind that the analysis and methods in this respect are still evolving. The Working Group encourages States to consider using these assessments in the context of all the relevant international trade forums, including the Trade Policy Review Mechanism and future trade negotiations. In this context, the Working Group emphasizes the urgent need to build appropriate capacity at national level;
- (f) The Working Group recognizes the critical importance of enhancing means for the active, full and meaningful participation of women in the process of formulating policies and strategies for attaining the Millennium Development Goals and the realization of the right to development. It recommends to Member States to apply a gender perspective to the implementation of the right to development. In this regard, it would seek to build and disseminate, through the work of the high-level task force and the Office of the High Commissioner for Human Rights, practical means, based on country experiences, to “ensure the participation of women on equal terms with men in all fields of the realization of the right to development”;
- (g) The Working Group recommends that the Commission on Human Rights consider the possibility of pursuing some of these recommendations through the other existing mechanisms of the Commission, including the Sub-Commission on the Promotion and Protection of Human Rights and special procedures, as appropriate;
- (h) The Working Group recommends to the Commission on Human Rights to extend the mandate of the high-level task force for a further period of one year, in keeping with the agreed conclusions of the fifth session of the Working Group on the right to development;
- (i) The task force is requested to examine Millennium Development Goal 8, on global partnership for development, and suggest criteria for its periodic evaluation with the aim of improving the effectiveness of global partnerships with regard to the realization of the right to development;



- (j) The Office of the High Commissioner for Human Rights is requested to undertake and make available to policy makers and development practitioners a mapping of the Millennium Development Goals against the provisions of the relevant international human rights instruments, as a means of mobilizing, strengthening and sustaining efforts to implement the Goals at the national and international levels, in a manner compatible with the right to development. Such a framework should draw upon the work of the treaty bodies and special procedures;
- (k) OHCHR, in consultation with the Chair of the Working Group on the Right to Development and taking account of his consultations with relevant partners, is requested to provide an outline for a compendium on partnerships for development cooperation and other multilateral and bilateral arrangements that contribute to the implementation of the right to development, and identify common elements and best practices emerging therefrom, for the consideration of the Working Group at its next session;
- (l) OHCHR is requested to provide all necessary assistance to the high-level task force in implementing the mandate given to it;
- (m) OHCHR is requested to bring the conclusions and the recommendations of the high-level task force and the Working Group to the attention of relevant international institutions, including the World Bank, IMF, WTO, UNCTAD, UNDP and other United Nations agencies and programmes, as well as other regional organizations and actors, at the highest policy-making level. OHCHR is further requested to solicit their participation, at a suitable level, in the deliberations of the high-level task force.

*Issues for the future*

55. The Working Group, recognizing that many issues have been raised and proposed for the future follow-up work on the right to development, decides to prepare a list of issues to guide its future work. The Working Group believes that such an approach is important to retain a focus in the task force in order to make progress in specific areas relevant to the implementation of the right to development. In this context, it agrees to retain the following issues raised by Member States for future consideration, with a request to the interested States to provide, in due course, relevant information establishing the value added in considering the issues in this Working Group. The following list of issues is non-exhaustive and will be amended as necessary:

- (a) The issue of space for national economic policy in the implementation of the right to development;
- (b) Measures and good practices to promote a participatory approach, based on human rights norms and principles, including gender perspective, in the allocation of social sector expenditures in public budgets;
- (c) Examining the institutional experience, feasibility and sustainability of evolving social security nets and overall social development policies into entitlements consistent with the realization of the right to development;
- (d) Exploring means of enhancing elements such as special and differential treatment provisions in making the international trade environment more responsive to the needs of implementing the right to development.

56. The Working Group also decides to allocate time at its future sessions to periodically review its recommendations and, in light of topical issues, undertake a review of its future agenda.

### **Ongoing initiatives**

57. The Working Group takes note of General Assembly resolution 59/185 regarding the concept document establishing options for the implementation of the right to development and their feasibility, inter alia, an international legal standard of a binding nature, guidelines on the implementation of the right to development and principles for development partnership, based on the Declaration of the Right to Development, to be submitted to the Commission on Human Rights by the Sub-Commission on the Promotion and Protection of Human Rights, and takes further note that this document is to be submitted to the Commission at its sixty-second session.

58. The Working Group recommends that the Commission on Human Rights consider renewing the mandate of the Working Group for a further year.”

## **F. Seventh session**

(9–13 January 2006)

**Chairperson-Rapporteur:** Mr. Ibrahim Salama (Egypt)

**Document:** E/CN.4/2006/26

### **“III. Conclusions and recommendations**

28. Based on the discussions in the Working Group, the Chairperson prepared and circulated his draft text for the conclusions and recommendations of the seventh session of the Working Group. The draft text was subsequently discussed, negotiated and amended by delegations. At its final meeting, on 13 January 2006, the Working Group adopted, by consensus, its conclusions and recommendations. With regard to the WTO Ministerial Conference Declaration adopted in Hong Kong in December 2005, the delegation of Venezuela stated that it had been approved with reservations from their Government. Several States expressed their appreciation for the able and wise guidance by the Chairperson, for the spirit of cooperation that had characterized the session, and for the high quality of support provided by the secretariat.

29. The Chairperson concluded the session by underlining that the conclusions and recommendations adopted by the Working Group represented a historical turning point. The Working Group had translated the norms and principles stated in the Declaration on the Right to Development into concrete results-oriented criteria which gave guidance as to the practical implementation of the right to development. He thanked all actors who contributed to this achievement.

#### **A. Introduction**

30. The Working Group on the Right to Development emphasizes that the right to development, as defined in article 1, paragraph 1, of the Declaration on the Right to Development is “an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized”.

31. The Working Group reiterates that the implementation of the right to development requires growth with equity, with the human person as the central subject of development, and that a rights-based approach to economic growth and development contributes to the realization of the right to development.

32. The Working Group reiterates its view that there is growing acceptance of the simultaneous levels of action required at the national, regional and international levels in the implementation of the right to development. While the importance of the implementation of the right to development by States cannot be overemphasized, this does not in any way reduce the importance of international cooperation in providing an enabling environment at the international level.

33. The Working Group recognizes the importance of a future collaboration, within the framework of the Working Group, between the future Human Rights Council and United Nations bodies, agencies, funds and programmes, multilateral financial and development institutions, and the World Trade Organization, with a view to benefiting from their experience and expertise in identifying concrete measures to implement the right to development and to mainstream it into their spheres of action, in order to progressively achieve a fuller realization of the right.

34. The Working Group welcomes the fact that the second meeting of the high-level task force further highlighted the importance of the partnership between the human rights community and international financial institutions and other participating actors, and contributed to a further enhanced understanding of the substantive components of the right to development.

35. The Working Group considered the report of the high-level task force on the implementation of the right to development, which constituted a good basis for its deliberations and agreed conclusions and recommendations on Goal 8, on a global partnership for development, and on criteria for its periodic evaluation with the aim of improving the effectiveness of global partnerships with regard to the realization of the right to development.

## **B. Conclusions**

36. The Working Group recognizes the importance of genuine partnerships in realizing the right to development as part of the implementation of article 4, paragraph 1, of the Declaration, which states that “States have the duty to take steps, individually and collectively, to formulate international development policies with a view to facilitating the full realization of the right to development”. The Millennium Development Goal 8, with its focus on international cooperation, is a framework compatible with international responsibilities contained in the Declaration.

37. This duty of international cooperation is further entrenched in the Charter of the United Nations. It is manifested in mutual commitments, which translate the general duty of international cooperation into specific binding arrangements between cooperating partners. Such arrangements are defined and agreed upon through genuine negotiations, which ensure national ownership of the development process.

38. The Working Group is aware that the commitments made with respect to the right to development at the highest State level, including the commitment in the Millennium Declaration “to making the right to development a reality for all”, are not always referred to and acted upon at the level of daily responsibility for policymaking action in relation to development partnerships. Under these circumstances, it is not surprising that the formulation of the Goals and the process of monitoring progress in realizing them have been silent - or not sufficiently explicit - on human rights and the right to development.

39. The Working Group also recognizes occurrences of gaps and incoherencies between the implementation of the right to development, on the one hand, and the practices of development partnerships on the other. The Working Group therefore agrees that in enhancing the effectiveness of global partnerships with regard to the realization of the right

to development, it is necessary to identify all its dimensions that should guide and complement such partnerships.

40. The Working Group recalls the principles that underlie the right to development, namely, equality, non-discrimination, participation, transparency and accountability, as well as international cooperation. It also attaches particular importance to the principle of equity, as stressed by the independent expert on the right to development in his fifth report (E/CN.4/2002/WG.18/6), and the rule of law and good governance, at all levels, as being central to the realization of the right to development.

41. The Working Group agrees that States, while adopting agreements and making commitments at international forums, such as in the context of WTO, as well as in the implementation of Goal 8, remain accountable for their human rights obligations. Ensuring policy coherence between a State's international human rights obligations and all its multilateral and bilateral trade and development engagements is, therefore, a central prerequisite of the right to development. In negotiating such engagements, Governments should comply with and ensure respect for their human rights obligations, by applying a coherent and coordinated approach. The Working Group also recognizes that States should implement the resolve to integrate the right to development into national policies,<sup>1</sup> including development strategies, at the national and international levels.

42. The Working Group again notes the discussions in UNCTAD on the concept of space for national economic policy and urges States, in pursuing that discussion, to bear in mind its relevance to the realization of the right to development.

43. The Working Group further recognizes that Goal 8 implies significant international roles not only for developed and developing States, but also for other relevant global entities, notably international financial institutions, business corporations, the media and NGO networks. Similarly, relevant international human rights institutions, such as human rights treaty bodies, the special procedures of the Commission on Human Rights and the High Commissioner for Human Rights, have a responsibility, within their respective mandates, to work with Governments and their international trade, finance and development partners in order to ensure coherence between their undertakings in these areas and States' human rights obligations in general, particularly with regard to the right to development.

44. In approaching the criteria relevant to assessing the effectiveness of global partnerships for development with regard to the realization of the right to development, the Working Group recognized that other aspects not mentioned in Goal 8 (such as private sector and global governance) were also relevant to the realization of Goal 8.

#### *Aid*

45. The Working Group is aware that aid is not an end in itself and that it is a necessary instrument for reaching the Millennium Development Goals where they cannot be met by national means alone. While recognizing the vital importance of substantially raising the volume of ODA, the Working Group highlights the following issues as relevant to the periodic evaluation of aid, from the perspective of the right to development:

- (a) Ensuring that ODA policies are guided by human rights in general, and the right to development in particular, and poverty reduction objectives;
- (b) ODA following guidelines for aid effectiveness applicable to both donor and partner countries, such as the Paris Declaration on Aid Effectiveness, and particularly of ODA being more predictable and harmonized;

- (c) Identifying, formulating, establishing accountability for and ownership by each party of their respective commitments within the framework of a partnership, and in the context of good governance and respect for human rights;
- (d) National ownership of State commitments in partnerships for development, requiring the implementation of effective anti-corruption programmes at all levels that eliminate misuse of aid and meet human development objectives;
- (e) Achieving positive net levels of ODA, irrespective of requirements of emergency aid and aid for purposes of national security;
- (f) Effective progress by many developed countries in their commitments to achieve the target of 0.7 per cent of their GNP to ODA by 2015, and the need to explore other sources of financing as recommended in the Monterrey Consensus.

#### *Trade*

46. The Working Group welcomes the commitment in the 2005 World Summit Outcome “to governance, equity and transparency in the financial, monetary and trading systems” and “to open, equitable, rule-based, predictable and non-discriminatory multilateral trading and financial systems”.<sup>2</sup> This commitment is consistent with Goal 8, which added “a commitment to good governance, development and poverty reduction - nationally and internationally”. The Working Group recognizes the importance of fair trade. In this respect, the Working Group further recognizes the need to enlarge the opportunities for developing countries in the global economy. The necessity to further develop a rule-based, open and non-discriminatory trading system is a vital step for the implementation of the right to development.

47. The Working Group agrees that incorporating the underlying principles of the right to development, mentioned in paragraph 45 above, into trade relations contributes to fulfilling the commitments of the 2005 World Summit. In this context, the Working Group reaffirms the central importance of the development dimension in every aspect of the Doha Work Programme within the WTO negotiations and welcomes the commitment of all States to making it a meaningful reality, in terms both of the results of the negotiations on market access and rule-making, and of the specific development-related issues set out in the Ministerial Declaration adopted in Hong Kong on 18 December 2005.

48. The Working Group recognizes the importance of successful completion of the Doha round of trade negotiations, for building an environment conducive to the realization of the right to development. In this regard, substantial progress in the Doha round with respect to agriculture, intellectual property and public health, liberalizing trade in services, special and differential treatment, and trade-related capacity-building would be positive steps towards making the global trade regime more compatible with the right to development. Overcoming supply-side constraints on capacity to trade, such as those relating to physical infrastructure, education and skills training, is a major challenge facing developing countries, especially the least developed, which requires support targeted on aid for trade reform.

#### *Debt*

49. As recognized in the report of the Working Group on its sixth session (see E/CN.4/2005/25, para. 54 (a)), an unsustainable debt burden is a major obstacle for developing countries in achieving the Millennium Development Goals and in meeting their obligations under the International Covenant on Economic, Social and Cultural Rights. In this regard, the Working Group is of the view that debt servicing should not negatively impact on a State’s capacity to achieve those Goals.

50. The Working Group agreed that poverty reduction and promotion and protection of human rights should be taken into consideration in finding solutions for debt sustainability. Moreover, arrangements to service national debt should take into account national priorities of human development and poverty reduction, consistent with its human rights obligations.

*Technology transfer*

51. The Working Group considers that knowledge is a global public good and a key instrument for development and that transfer of technology in development partnerships should respect the right of everyone to benefit from scientific progress and its applications.

52. It also recognizes that protection of intellectual property should serve the valuable purpose of stimulating innovation through research and development, while minimizing its negative impact on individual or national access to such research and development. With respect to essential medicines in particular, the Working Group considers that intellectual property protections should not result in the weakening of the enjoyment of the human right to the highest attainable standard of health, or in limiting access to essential medicines, as stated in general comment No. 14 of the Committee on Economic, Social and Cultural Rights.

53. In the light of target 17 of Goal 8 on providing, in cooperation with pharmaceutical companies, access to affordable essential drugs in developing countries, the Working Group highlights the importance of the Doha Ministerial Declaration on TRIPS Agreement and Public Health. It further welcomes the decision in December 2005 to make permanent the WTO decision of 2003, which allows for the exportation of pharmaceutical products under compulsory licence to address the public health problems afflicting many developing and least developed countries, especially those resulting from HIV/AIDS, malaria, tuberculosis and other epidemics. The Working Group supports other WTO decisions to extend the transition period for least developed countries to provide protection for trademarks, copyright, patents and other intellectual property under TRIPS.

54. The Working Group emphasizes that bilateral or regional trade agreements should be consistent with TRIPS and other WTO agreements, and that they should not impede the ability of States to make use of flexibilities and safeguards provided in TRIPS and other WTO agreements. In this regard, the Working Group takes note of general comment No. 17 (2005) of the Committee on Economic, Social and Cultural Rights, on the right of everyone to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author (art. 15, para. 1 (c), International Covenant on Economic, Social and Cultural Rights), and recognizes that further reflection is needed on the complex relationship between intellectual property and human rights, with a view to identifying criteria for the periodic evaluation of this aspect of Goal 8.

55. In addition to the areas mentioned explicitly in Goal 8, the Working Group considers that the following other areas of development partnerships are relevant to the effective implementation of the right to development, and which should be covered by criteria for periodic evaluation of Goal 8.

*Role of the private sector*

- Transnational corporations and corporate responsibility

56. The Working Group is aware that the activities of transnational corporations (TNCs) and other business enterprises can have positive effects on the development efforts of host countries. They can contribute to the enjoyment of human rights, inter alia, through investment, employment creation, transfer of technology, just and equitable working

conditions and stimulation of economic growth and community development. However, the practices of TNCs may negatively impact on the enjoyment of human rights and degrade basic social, economic and environmental standards. TNCs should operate in a manner consistent with the domestic and international human rights obligations of the host countries and the countries of origin. The Working Group, therefore, considers that the elaboration of criteria should be considered for periodic evaluation of the effects of TNC activities. Such criteria may contribute to ensure their compliance with human rights laws and regulations, and the effectiveness of the enforcement of these laws and regulations, taking into account the degree of influence exercised by many TNCs.

57. The Working Group recognizes the merit of recent efforts to introduce human rights standards into the conduct of local and foreign enterprises, such as the voluntary codes of conduct, the Global Compact and the “Draft norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights” (E/CN.4/Sub.2/2003/12/Rev.1).<sup>3</sup> The Working Group particularly notes a sharpening focus by the International Finance Corporation (IFC) on ensuring that its own policies and guidance to its private sector clients are supportive of and respect all human rights, as well as on assisting them in the development of tools and practical guidance on how to assess human rights risks.

58. Monitoring of progress at all levels of action will be needed on the basis of criteria of corporate responsibility and accountability to be developed from a human rights perspective. The Working Group is of the view that such criteria could be developed by United Nations procedures that incorporate human rights standards, especially the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, taking into account the positions of all stakeholders.

- Foreign direct investment

59. The right to development implies that foreign direct investment (FDI) should contribute to local and national development in a responsible manner, that is, in ways that are conducive to social development, protect the environment, and respect the rule of law and fiscal obligations in the host countries. The principles underlying the right to development, as mentioned above, further imply that all parties involved, i.e. investors and recipient countries, have responsibilities to ensure that profit considerations do not result in crowding out human rights protection. The impact of FDI should, therefore, be taken into account when evaluating progress in Goal 8 in the context of the right to development.

#### *Global governance*

60. With regard to institutional asymmetries in global governance, the Working Group identifies at least two widely acknowledged types of problems which should be addressed in the context of periodic evaluation of Goal 8. The first concerns the growing imbalances in the monetary and financial systems that expose the global economy to shocks that are beyond any national capacity to control. The second is asymmetry in decision-making and norm-setting in international trade and finance. The voting structures of the World Bank and the International Monetary Fund are heavily weighted towards developed countries, based on their relative economic strength.

#### *Migration*

61. The Working Group acknowledges the important nexus between international migration and development, as well as its relevance to Goal 8, and the need to deal with the challenges and opportunities that migration presents to countries of origin, destination and transit. The Working Group recognizes that international migration requires a holistic and

coherent approach based on shared responsibility, which also and concurrently addresses the root causes and consequences of migration. The Working Group also recognizes that international migration presents benefits, as well as challenges, to the global community. The Working Group looks forward to the high-level dialogue of the General Assembly on international migration and development to be held in 2006, which will offer, as well, an opportunity to discuss the multidimensional aspects of international migration and development. In order to identify appropriate ways and means to maximize their development benefits and minimize their negative impacts, the Working Group reaffirms the importance of ensuring respect for and protection of the human rights of migrants, migrant workers and members of their families.

#### *Regional initiatives*

62. The Working Group attaches particular importance to regional initiatives for monitoring the realization of human rights, including the right to development. The Working Group stresses the potential value of such partnerships as a development compact, which provides for the institutionalization of an inclusive participatory process and transparent public scrutiny, which are conducive to the right to development.

63. The Working Group emphasizes the importance of meeting the international community's commitment to address the special needs of Africa, as recognized, *inter alia*, in the 2005 World Summit Outcome Document (para. 65). The Working Group concludes that the NEPAD African Peer Review Mechanism (APRM) could be an appropriate reporting mechanism for measuring progress towards Goal 8, with a view to implementing the right to development. Nevertheless, to reach its right to development potential, States would need to incorporate in the National Programmes of Action that emerge from APRM explicit criteria for capacity-building, resource allocation, monitoring and evaluation that are more directly aligned with the principles of the right to development. The Working Group also recognizes the significance of the OECD/ECA Mutual Accountability Review in this context.

64. The Working Group further acknowledges the work of the African Partnership Forum and notes the importance of linking benchmarks for progress and performance against the commitments contained in the G-8 Africa Action Plan adopted at the 2002 Kananaskis, Canada, Summit, and supported by the African Charter on Human and Peoples' Rights and other regional instruments. The Working Group also considers that article 22 of the African Charter, the only legally binding provision on the right to development, could provide a basis for African countries to assess periodically the realization of the right to development in the African context. In other regions, a genuine peer review process, assessing the extent to which human rights have been part of the development process, would contribute significantly to the periodic evaluation of the right to development.

65. The Working Group also welcomes the recent adoption, within the framework of the Iberoamerican Summit process, of the Salamanca Declaration and its Additional Statement on the achievement of the Millennium Development Goals, as a contribution to a strategic partnership for poverty reduction and the implementation of the right to development.

#### **C. Recommendations**

66. In formulating its recommendations, the Working Group wishes to stress that they are based on its previous numerous recommendations regarding measures supporting the right to development, particularly during its fifth and sixth sessions. The following recommendations aim to identify specific actions to be taken by development practitioners and other relevant entities already engaged in periodic monitoring of progress on the Goals. In proposing these steps, the Working Group wishes to avoid creating new monitoring and



reporting entities. Criteria for assessing global partnership from the perspective of the right to development

67. The Working Group recommends that the following criteria be applied to the periodic evaluation of global partnerships as identified in Goal 8 from the perspective of the right to development:

- (a) The extent to which a partnership contributes to creating an environment and supports a process in which all human rights are realized;
- (b) The extent to which a partnership respects the right of each State to determine its own development policies, in accordance with its international obligations;
- (c) The extent to which partnerships for development promote the incorporation by all parties concerned of all human rights, and particularly the right to development, into their national and international development strategies, and the extent to which partner countries receive support from international donors and other development actors for these efforts;
- (d) The extent to which policies supported by a partnership ensure the constant improvement of the well-being of the entire population and of all individuals, on the basis of their active, free and meaningful participation in development and in the fair distribution of the benefits resulting therefrom, as required by article 2, paragraph 3, of the Declaration on the Right to Development;
- (e) The extent to which a partnership values and promotes good governance, democracy and the rule of law at the national and international levels;
- (f) The extent to which a partnership values and promotes gender equality and the rights of women;
- (g) The extent to which a partnership reflects a rights-based approach to development, and promotes the principles of equality, non-discrimination, participation, transparency and accountability;
- (h) The extent to which the priorities set by a partnership are sensitive to the concerns and needs of the most vulnerable and marginalized segments of the population, and include positive measures in their favour;
- (i) The extent to which a partnership applies human rights impact assessments and provides, as needed, for social safety nets;
- (j) The extent to which a partnership recognizes mutual and reciprocal responsibilities between the partners, based on an assessment of their respective capacities and limitations;
- (k) The extent to which a partnership includes fair institutionalized mechanisms of mutual accountability and review;
- (l) The extent to which a partnership ensures that adequate information is available to the general public for the purpose of public scrutiny of its working methods and outcomes;
- (m) The extent to which a partnership provides for the meaningful participation of the concerned populations in processes of elaborating, implementing and evaluating related policies, programmes and projects;
- (n) The extent to which, in applying the preceding criteria, statistical and empirically developed data are used, and, in particular, whether the data are disaggregated as appropriate, updated periodically, and presented impartially and in a timely fashion;
- (o) The extent to which a partnership contributes to a development process that is sustainable and equitable, with a view to ensuring continually increasing opportunities for all.

68. The preceding criteria are primarily to be applied by the parties to a partnership.

These criteria would have to be applied on a continuing basis in order to achieve coherence and accountability. The Working Group further recognizes that additional criteria could be developed for specific issues on which partnerships exist and operate.

69. Additional recommendations are addressed to the following actors having responsibility for monitoring certain aspects of global partnerships of particular relevance for advancing the right to development.

*Parliaments, national institutions and civil society*

70. The Working Group encourages States to strengthen national parliamentary mechanisms and legislative bodies, as well as civil society organizations and national human rights institutions, in order to play a more prominent role in the evaluation of Goal 8 from the perspective of the right to development, drawing, as appropriate, on the criteria listed above.

*States*

71. In order to build the capacity within each developing country to collect, analyse and interpret relevant statistical information, and to utilize the results for policy improvements, the Working Group endorses its conclusion at its sixth session (see E/CN.4/2005/25, paras. 53 and 54 (e)) and strongly encourages development partners to provide the necessary training and other facilities for such capacity-building.

72. The Working Group proposes that all Millennium Development Goals country reports include information on Goal 8 from the perspective of the right to development, drawing on the criteria suggested above.

*Entities monitoring TNC activities*

73. Host States, States of origin, NGOs, IFC, the Special Representative of the Secretary-General and others that monitor the effects of TNC activities on global partnerships for development should be attentive to the need for policy coherence, as mentioned above. The Working Group recommends that periodic evaluation of TNC activities by those already engaged in monitoring such activities should include a human rights perspective and that the criteria above be applied, as appropriate.

*United Nations agencies, funds and programmes*

74. The Working Group recommends that the support by United Nations development-related agencies, funds and programmes to national development strategies to achieve MDGs, within their respective mandates and in the context of the United Nations Development Assistance Framework, give equal attention to Goal 8 from a right to development perspective, particularly in the preparation of MDG country reports, with due regard to the criteria enumerated above.

*International financial institutions*

75. The Working Group encourages the international financial institutions to apply the above-mentioned criteria to their partnerships. The Working Group reaffirms the commitment to broaden and strengthen the participation of developing countries and countries with economies in transition in international economic decision-making and norm-setting and to that end stresses the importance of the continuing efforts to reform the international financial architecture. In this context, the Working Group notes that these

efforts could also contribute to the realization of Goal 8, from the perspective of the right to development.

*The way forward for the Working Group*

76. The Working Group recommends that the Commission on Human Rights consider renewing the mandate of the Working Group for a further year.

182. The Working Group recommends that the mandate of the high-level task force be renewed for a further period of one year to enable it to apply the criteria enumerated in paragraph 38 above, on a pilot basis, to selected partnerships, with a view to operationalizing and progressively developing these criteria, and thus contributing to mainstreaming the right to development in the policies and operational activities of relevant actors at the national, regional and international levels, including multilateral financial, trade and development institutions.

77. The Working Group also discussed additional options for the future, namely:

- (a) Continuing to consider the broader topic of Goal 8, which has not been exhausted, thereby focusing on other issues covered by this Goal, as identified but not elaborated upon by the task force (e.g. youth employment, landlocked and small island developing States);
- (b) Focusing on topics identified by the task force as pertinent to Goal 8, but not covered by the targets enumerated therein (e.g. migration, role of private sector, global governance and regional initiatives);
- (c) Selecting a new topic, which is not related to Goal 8.

78. In conformity with paragraph 55 of its agreed conclusions at its sixth session on issues for the future, and with the need to retain focus without losing comprehensiveness of the Working Group's approach, it decides to revisit these options after its consideration of the next report of the task force. In the same spirit of focus and comprehensiveness, the Working Group recalls the issues listed in that paragraph. The request is reiterated to interested States to provide, in due course, relevant information establishing the value-added and right-to-development perspective of these issues.

79. The Working Group decides to consider the draft outline for a compendium on partnerships for development cooperation and other multilateral and bilateral arrangements that contribute to the implementation of the right to development, and identify common elements and best practices emerging therefrom at its next session, in the light of the next report of the high-level task force, as it did not have the time to do so at the current session."

## **G. Eighth session**

(26 February– 2 March 2007)

**Chairperson-Rapporteur:** Mr. Ibrahim Salama (Egypt)

**Document:** A/HRC/4/47

### **“III. Conclusions and recommendations**

“46. Based on the discussions in the Working Group, the Chairperson prepared and circulated his draft text for the conclusions and recommendations of the eighth session of the Working Group. The draft text was subsequently discussed, negotiated and amended by delegations. At its final meeting on 2 March 2007, the Working Group adopted, by

consensus, its conclusions and recommendations. All regional groups and several States expressed their appreciation for the outcome of the Working Group, the able guidance by the Chairperson, the high quality of support provided by the secretariat, and the quality of work of the task force.

47. In conclusion, the Chairperson stated that the conclusions and recommendations adopted by consensus by the Working Group represented a major breakthrough in the right to development process, and he thanked all delegations for their contributions to this achievement. After adoption by consensus of the conclusions and recommendations, several States and groups presented explanations of their positions with regard to the conclusions and recommendations, namely the NAM, Canada, the EU, and Australia (see annex III).

#### **A. Conclusions**

48. The Working Group takes note with appreciation of the report of the high-level task force on the implementation of the right to development, as well as the general approach that the high-level task force has outlined in applying the criteria based on the right-to-development framework to selected development partnerships, consistent with the objective to move the right to development from conceptual debates and general principles to its operationalization.

49. The Working Group recognizes the value-added of developing concrete implementation criteria based on the Declaration on the Right to Development and the work undertaken by the follow-up mechanism established by the Commission on Human Rights resolution 1998/72, including the current Open-ended Working Group, and applying them to the global partnership for development, as defined in Millennium Development Goal 8. The application of these criteria facilitates the incorporation by current and future partnerships of essential elements of the right to development into their respective operational frameworks, thereby furthering the implementation of the right to development and, at the same time, providing the empirical basis for progressively developing and refining these criteria.

50. The Working Group agrees that there is a need to take this work forward through both a deeper dialogue with the three partnerships examined by the high-level task force at its third session and the evaluation of additional partnerships dealing with other aspects of international cooperation, including trade, aid, debt, technology transfers, migration, and other issues identified under Goal 8, in a step-by-step and an analytically rigorous manner.

51. The Working Group recognizes that the right-to-development criteria would benefit from further review of their structure, coverage of aspects of international cooperation identified under the MDG 8 and of the methodology for their application. The current objective of such elaboration should be to enhance the criteria as a practical tool for evaluating global development partnerships from the perspective of the right to development, including by actors in the relevant partnerships themselves. In this regard, the Working Group encourages the task force to provide a consistent mapping of the criteria and relevant checklists, viewing the latter as operational sub-criteria, for the consideration of the Working Group.

52. The Working Group agrees that the ongoing work of the task force constitutes a process of progressively identifying and refining right-to-development standards. The experience gained from further work of the task force in applying, refining and developing the criteria would be conducive to the elaboration and implementation of a comprehensive and coherent set of standards. These standards could take various forms, including guidelines on the implementation of the right to development, and evolve into a basis for

consideration of an international legal standard of a binding nature, through a collaborative process of engagement.

## **B. Recommendations**

53. The Working Group recommends that the right-to-development implementation criteria, as adopted by the Working Group at its seventh session, be further applied to identified global development partnerships, progressively developed and refined, using the approach outlined by the task force in its report (A/HRC/4/WG.2/TF/2) and in light of the specific suggestions made at the eighth session of the Working Group.

54. In this context, the Working Group recommends that the task force adopt a gradual approach based on rigorous empirical analysis and constructive consolidation of its findings in a phased manner. In phase I, covering work in 2007, the task force is requested to deepen its study on the three development partnerships considered in its third session, and take up an additional partnership (mentioned in paragraph 56 below) with a view to refining the right to development criteria and corresponding sub-criteria. In phase II, covering work in 2008, the task force is requested to study additional partnerships with a view to broaden its coverage of the regions implementing development partnerships, as well as its analysis of thematic issues of international cooperation identified under MDG 8 and as agreed by the Working Group at its ninth session. Finally in phase III, covering work in 2009, the task force is requested to consolidate its findings and present a revised list of right to development criteria along with corresponding operational sub-criteria and outline suggestions for further work, including aspects of international cooperation not covered until then, for the consideration of the Working Group.

55. The Working Group recommends that the current dialogue concerning the APRM, the ECA/OECD-DAC Mutual Review of Development Effectiveness and the Paris Declaration on Aid Effectiveness be continued to elaborate on areas of potential congruence and synergy of each of these partnerships with the right to development, identify existing gaps in light of the criteria, as they exist now, as well as appropriate additional means to bridge them, and in the process progressively develop and further refine the criteria, based on actual practice. In this regard, the Working Group encourages the task force to undertake technical missions, as required, to the respective institutions involved in the implementation of these partnerships, with a view to continuing the dialogue and to further refining the criteria.

56. The Working Group recognizes the need to explore additional strategic and representative partnerships in the context of MDG 8. In this regard, the Working Group decides that priority be given initially to the Cotonou Partnership Agreement between ACP countries and the EU. Thereafter, in accordance with the work in the phases mentioned in paragraph 54 above, the Working Group recommends that further additional partnerships be examined in light of the criteria.

57. In implementing the follow-up work on operationalizing the right-to-development criteria, the Working Group recommends the continuing active participation of international financial, trade and development institutions, including the World Bank, UNDP, IMF, UNCTAD and WTO, other specialized agencies, funds and programmes of the United Nations, and relevant civil society organizations. The task force is encouraged in its engagement with the World Bank on Africa Action Plan, as well as UNDP with regard to its work on inclusive globalization.

58. In order to implement the work programme outlined above, the Working Group recommends that the Human Rights Council renew the mandate of the Working Group and the high-level task force on the implementation of the right to development for a further period of two years. During this period, it is recommended that the Working Group will

continue to meet annually for five working days, as at present, and that the high-level task force will meet annually for a total of seven working days instead of the five days at present.

59. The Working Group appreciates the support extended by the Office of the High Commissioner for Human Rights to the Working Group and the high-level task force and requests that the Office continues to provide all necessary assistance to these bodies in implementing the work programme outlined above.”

## **H. Ninth session**

(18–22 August 2008)

**Chairperson-Rapporteur:** Mr. Arjun Sengupta (India)

**Document:** A/HRC/9/17

### **“III. Conclusions and recommendations**

36. On the basis of the discussions in the Working Group, the Chairperson-Rapporteur prepared and circulated a draft text for the conclusions and recommendations of the Working Group at its ninth session. The draft text was subsequently discussed, negotiated and amended by delegations. At its final meeting, on 22 August 2008, the Working Group adopted, by consensus, its conclusions and recommendations.

37. After the adoption of the conclusions and recommendations, several States and groups presented explanations of their positions with regard to the conclusions and recommendations. France (on behalf of the European Union) and Canada clarified that “other aspects” (para. 38) also included good governance, democracy and the rule of law at the domestic level. Cuba (on behalf of the Non-Aligned Movement) stated that “relevant provisions” in Council resolution 4/4 (para. 41) referred to those leading to an “internationally legally binding convention”. In addition, it emphasized that “other aspects” referred to an ODA commitment of 0.7 per cent of gross national product, establishing a new international economic order and a fair economic system, as well as good governance and democracy at the international level, including in the functioning of international trade, financial and monetary institutions. Egypt, aligned with the Non-Aligned Movement, added that “other aspects”, such as good governance, democracy and the rule of law, should apply at both the national and international levels, and that “other instruments” also included the African Charter on Human and Peoples’ Rights. Canada interpreted Council resolution 4/4 as in no way predetermining that the outcome of the Working Group’s efforts would be an international instrument on the right to development. In addition, Canada specified that the phrase “transfer of technology” should be interpreted as set out in Millennium Development Goal 8. Japan referred to the workplan as recommended by the Working Group and indicated that, as resources were not inexhaustible, they earnestly hoped that the task force would carry out its work in an appropriate manner, without any additional budgetary implications.

#### **A. Conclusions**

38. The Working Group expresses its appreciation to the high-level task force on the implementation of the right to development for the work it has carried out in accordance with its mandate. The Working Group takes note of the report of the high-level task force and of its observations regarding the three development partnerships considered at its third session, and the preliminary assessment of the Cotonou Agreement between European Union and African, Caribbean and Pacific countries. The Working Group agrees that the

next phase should cover further dialogue and follow-up with the four identified global development partnerships and pilot applications of the criteria. Phases II and III should also allow the task force to examine additional thematic and regional areas under Millennium Development Goal 8, including technology transfer, debt relief, international cooperation and other aspects.

39. The Working Group finds that the ongoing application of the criteria through a dialogue with the institutions responsible for the identified partnerships contributes to the improvement of the criteria and to promoting the implementation of the right to development.

40. The Working Group regards the present reordering of the criteria, in annex II to the task force report, as an intermediate stage and anticipates a significant refinement in phase III, including providing operational sub-criteria.

## **B. Recommendations**

41. The Working Group recommends that the task force give priority to improving the criteria in the light of the lessons learned from their application and taking into account the Declaration on the Right to Development and other relevant international instruments as well as the views expressed by States at the current session, with a view to submitting, at the end of phase III, a revised list of criteria that serve the purposes set out in all relevant provisions of Council resolution 4/4.

42. In order to achieve the desired level of quality of the criteria, the Working Group requests the task force to draw on the necessary expertise to (a) make the criteria analytically and methodologically rigorous; (b) provide empirically-oriented tools to those involved in implementing development partnerships; and (c) ensure that they cover Millennium Development Goal 8, including target 8.A and other aspects not covered to date by the task force.

43. The Working Group recommends the following workplan for the task force for the period 2008-2010:

In phase II (2008) the task force will:

(a) Continue dialogue with the African Peer Review Mechanism, the ECA/OECD-DAC Mutual Review of Development Effectiveness, the Paris Declaration on Aid Effectiveness and the Cotonou Agreement between African, Caribbean and Pacific countries and the European Union, including through technical missions, if necessary, subject to prior consultation;

(b) Give priority to the issue of access to essential medicines in developing countries (target 8.E). For this purpose, the Working Group recommends that the task force conduct a desk review of the work of the Intergovernmental Working Group on Public Health, Innovation and Intellectual Property, and apply the criteria to the Global Fund on HIV/AIDS, Tuberculosis and Malaria and the Special Programme for Research and Training in Tropical Diseases. Dialogue with these partnerships would focus on health systems, technology transfer and other dimensions of access to affordable essential drugs relevant to the right to development;

(c) Send, through OHCHR, a formal invitation to MERCOSUR to consider entering into a dialogue with the task force on the contributions of MERCOSUR to the realization of the right to development and to the development of the criteria, subject to an agreement between MERCOSUR and the high-level task force on the scope of the dialogue;

In phase III (2009) the task force will:

(d) Study the thematic issues of debt relief (targets 8.B and 8.D) and transfer of technology (target 8.F). With respect to the issue of debt relief, the Working Group recommends that the task force engage in a dialogue with the institutions responsible or the Heavily Indebted Poor Countries Initiative and the Multilateral Debt Relief Initiative, subject to their agreement, and learning from the experience of these institutions how the criteria can be improved. Regarding technology transfer, the Working Group recommends that the task force examine the Clean Development Mechanism and the Development Agenda of WIPO;

(e) Consolidate its findings and present a revised list of right to development criteria along with corresponding operational sub-criteria and outline suggestions for further work, including aspects of international cooperation not covered until then, for the consideration of the Working Group.

44. In view of their essential role and valuable contribution, the Working Group urges the institutional members of the task force representing international financial and development institutions, including the World Bank, UNDP, IMF, UNCTAD, WTO and WHO, as well as other relevant specialized agencies, funds and programmes of the United Nations, to participate actively in the work of the task force.

45. In order to implement the work programme outlined above and keeping the time frame in mind, the Working Group recommends that the Human Rights Council extend the mandate of the task force on the implementation of the right to development until the eleventh session of the Working Group in 2010. The Working Group also recommends that the Council extend its mandate until it completes the tasks entrusted to it by the Council in its resolution 4/4.

46. The Working Group appreciates the support rendered by OHCHR to the Working Group and the high-level task force and requests that it continue to provide all necessary assistance to these bodies in implementing the work programme outlined above.”

## **I. Tenth session**

(22–26 June 2009)

**Chairperson-Rapporteur:** Mr. Arjun Sengupta (India)

**Document:** A/HRC/12/28

### **“IV. Conclusions and recommendations**

38. On the basis of the discussions in the Working Group, the Chairperson-Rapporteur prepared and circulated a draft text for the conclusions and recommendations of the Working Group at its tenth session. The draft text was subsequently discussed, negotiated and amended by delegations. At its final meeting, on 26 June 2009, the Working Group adopted, by consensus, its conclusions and recommendations.

39. After the adoption of the conclusions and recommendations, the representative of Cuba on behalf of the Non-Aligned Movement) explained its position that: (a) the reference to the relevant provisions of Human Rights Council resolution 9/3 (para. 45) refers to those leading to the adoption of an international legal standard of a binding nature, which in the view of the Non-Aligned Movement, constitutes a convention; (b) “being mindful of the need to ensure efficient use of budgeted resources” (para. 46) does not imply any constraints or conditionalities on the work of the task force; (c) “procedures” (para. 46 (c)) relate to the special procedures of the Human Rights Council, in particular the independent expert on the question of human rights and extreme poverty and the independent expert on



the effects of foreign debt and other related international financial obligations of States on the full enjoyment of human rights, particularly economic, social and cultural rights; and (d) in relation to paragraph 46 (d), the Movement looks forward to the task force providing criteria related to hunger, poverty, unemployment and financial assistance to developing countries. The representative of the Czech Republic (on behalf of the European Union) explained its understanding of paragraph 44 as its expectation that the task force at its next session would provide suggestions on further work, including possible further prolongation of its mandate; and that the activities of the task force under paragraph 46 (e) should be undertaken within the framework of the existing criteria.

#### **A. Conclusions**

40. The Working Group expresses its appreciation to the high-level task force on the implementation of the right to development, as defined in the Declaration on the Right to Development, for the work it has carried out in accordance with its mandate. The Working Group takes note of the report of the high-level task force and of its observations regarding the development partnerships considered at its fifth session, as well as the interim draft version of the criteria, submitted as work in progress.

41. The Working Group notes the contribution that the application of the criteria through dialogue with the institutions responsible for the identified partnerships has made to the improvement of the criteria and to promoting the implementation of the right to development.

42. The Working Group agrees that, in accordance with its workplan endorsed in Human Rights Council resolution 9/3, in phase III (2009), the task force should focus on consolidating its findings and presenting a revised list of right-to-development criteria along with corresponding operational sub-criteria. The task force should continue its study of the ongoing development partnerships on the thematic issues of technology transfer and debt relief with a view to further refinement of the criteria. The task force should also ensure that due attention is given to other issues relevant to the right to development, including, *inter alia*, poverty and hunger, including in the context of climate change and the current global economic and financial crisis.

43. The Working Group agrees that the scope of the criteria should go beyond Millennium Development Goal 8 and aim at the implementation of the right to development, taking into account the evolving priorities of the international community.

#### **B. Recommendations**

44. The Working Group recommends that the task force on the implementation of the right to development focus on consolidating its findings and presenting a revised list of right-to-development criteria along with corresponding operational sub-criteria and outline suggestions for further work, including aspects of international cooperation not covered until then, for the consideration of the Working Group at its eleventh session.

45. The revised criteria and sub-criteria should address the essential features of the right to development, as defined in the Declaration on the Right to Development, in a comprehensive and coherent way, including priority concerns of the international community beyond those enumerated in Millennium Development Goal 8, and serve the purposes set out in all relevant provisions of Human Rights Council resolution 9/3.

46. In further refining the list of criteria and preparing the corresponding operational sub-criteria, the Working Group recommends that the task force, being mindful of the need to ensure efficient use of budgeted resources, undertake the following activities:

- (a) It should draw on specialized expertise, including from academic and research institutions and relevant United Nations agencies and other relevant global organizations and the experience of countries in relation to the promotion of the realization of the right to development. It should also give due attention to the experience gained from the application of the provisional criteria to development partnerships and to the views expressed by Member States;
- (b) Regarding target 8.E on access to essential medicines and 8.F on technology transfer of the Millennium Development Goals, the task force should draw on its dialogue with the Intergovernmental Working Group on Public Health, Innovation and Intellectual Property, the Global Fund to Fight HIV/AIDS, Tuberculosis and Malaria and the Special Programme for Research and Training in Tropical Diseases;
- (c) In order to address the concerns of targets 8.B and 8.D on debt relief, the task force should devote time during its next session to an examination, from the perspective of the right to development, of the experience of the institutions responsible for the Heavily Indebted Poor Countries Initiative and the Multilateral Debt Relief Initiative, and other institutions and procedures that address the issue of debt relief;
- (d) Taking into account the importance of the fight against poverty, hunger and unemployment and the continued need for financial assistance to developing countries, the task force should draw on the expertise and lessons learned from relevant international institutions, including the Bretton Woods institutions, from the manner in which ongoing development initiatives are working in that regard;
- (e) In relation to target 8.F on technology transfer, the task force should:
  - (i) Attend the Conference on Intellectual Property and Public Policy organized by the World Intellectual Property Organization in Geneva in July 2009, and hold consultations to gather information on the Development Agenda of WIPO in relation to the realization of the right to development;
  - (ii) Continue to draw on the necessary expertise from examining the Clean Development Mechanism, including in connection with mitigation of and adaptation to climate change, from the perspective of the right to development and, subject to an invitation, attend the Climate Change Conference in Copenhagen in December 2009.

47. Finally, in view of their essential role and valuable contribution, the Working Group urges the institutional members of the task force representing international financial and development institutions, including the World Bank, the United Nations Development Programme, the International Monetary Fund, the United Nations Conference on Trade and Development, the World Trade Organization and the United Nations Educational, Scientific and Cultural Organization, as well as the World Health Organization and other relevant specialized agencies, funds and programmes of the United Nations, to participate actively in the work of the task force.

48. The Working Group appreciates the support rendered by OHCHR to the Working Group and the high-level task force and requests that it continue to provide all necessary assistance to these bodies in implementing the activities mentioned above.”

## **J. Eleventh session**

(26–30 April 2010)

**Chairperson-Rapporteur:** Mr. Arjun Sengupta (India)

**Document:** A/HRC/15/23

## “IV. Conclusions and recommendations

41. On the basis of the discussions in the Working Group, the Chairperson - Rapporteur prepared and circulated a draft text for the conclusions and recommendations of the Working Group at its eleventh session. The draft text was subsequently discussed, negotiated and amended by delegations. At its final meeting, on 30 April 2010, the Working Group adopted, by consensus, its conclusions and recommendations.

### A. Conclusions

42. The Working Group expressed its appreciation to the Chairperson-Rapporteur and the members of the high-level task force for their efforts in completing the three phases of the workplan, and noted that work had been undertaken by the task force on criteria and sub-criteria for the implementation of the right to development, as reflected in the reports of the task force (A/HRC/15/WG.2/TF/2/Add.1 and Add.2).

43. The Working Group considered that further work should be undertaken at the intergovernmental level to adequately reflect both the national and international dimensions.

44. The Working Group considered that additional time was necessary, at this stage, for consideration and pronouncement by Governments on the substance of the work of the high-level task force, including the above-mentioned reports, and on the way forward, using as reference the Declaration on the Right to Development as well as Human Rights Council and General Assembly resolutions on the right to development.

### B. Recommendations

45. The Working Group invited Member States and other stakeholders to share their views on the work of the task force (A/HRC/15/WG.2/TF/2/Add.1 and Add.2) and on the way forward.

46. In order to facilitate the consideration of the report of the high-level task force, it would be translated into all official languages of the United Nations. Furthermore, all written contributions by Member States and other stakeholders would be made available on the website of OHCHR.

47. The Working Group requested the Chairperson-Rapporteur, assisted by OHCHR, to prepare two compilations of the submissions received from Governments, group of Governments and regional groups, as well as the inputs received from other stakeholders.”

### K. Twelfth session

(14–18 November 2011)

**Chairperson-Rapporteur:** Tamara Kunanayakam (Sri Lanka)

**Document:** A/HRC/19/52

## “IV. Conclusions and recommendations

31. At its final meeting, on 18 November 2011, the Working Group adopted, by consensus, the following conclusions and recommendations, in accordance with its mandate:

**A. Conclusions**

- (a) The Working Group took note of the reports of the Chairperson-Rapporteur (A/HRC/WG.2/12/2 and 12/3) submitted pursuant to Human Rights Council resolution 15/25;
- (b) The Working Group expressed appreciation to all those who contributed with their submissions and inputs, and to the Chairperson-Rapporteur for her presentation of the two reports mentioned in the preceding paragraph;
- (c) The Working Group welcomed the participation of the High Commissioner for Human Rights at its opening session, which attested to her commitment to the promotion and protection of the realization of the right to development and to enhancing support from relevant bodies of the UN system for this purpose, consistent with General Assembly resolution 48/141;
- (d) The Working Group acknowledged the efforts of OHCHR in commemorating the twenty-fifth anniversary of the adoption of the United Nations Declaration on the Right to Development, which aimed at mainstreaming and raising awareness about the right to development;
- (e) Having considered documents A/HRC/WG.2/12/2 and 12/3, as mandated by resolution 15/25, the Working Group acknowledged the need to further consider, revise and refine the right-to-development criteria and operational sub-criteria contained in document A/HRC/15/WG.2/TF/2/Add.2.
- (f) The Working Group also acknowledged the need to have experts' contributions and, in this context, emphasized the importance of engaging further the relevant United Nations agencies, funds and programmes and institutions as well as other multilateral institutions and forums, and relevant stakeholders;

**B. Recommendations**

- (a) The Working Group invited Governments, groups of Governments, regional groups and other relevant stakeholders, including United Nations agencies, funds and programmes and institutions, as well as other relevant multilateral institutions and forums to submit further detailed comments and proposals on the right-to-development criteria and operational sub-criteria as per conclusion (v);
- (b) The Working Group requested OHCHR to make available on its website, and to make available to the next session of the Working Group in the format of two conference room papers, all written submissions by Governments, groups of Governments and regional groups, as well as inputs by other stakeholders;
- (c) The Working Group invited the Chairperson/Rapporteur to hold informal consultations with Governments, groups of Governments, regional groups and relevant stakeholders and report accordingly to the next session of the Working Group.

32. Following adoption of the conclusions and recommendations, Egypt (on behalf of the Non-Aligned Movement), expressed regret that the Working Group was unable to agree on language which would have referred to the mandate of the Working Group and the Declaration on the Right to Development as a basis for assessing the right to development criteria and operational sub-criteria. The Non-Aligned Movement was committed to move this process forward and underlined the importance of mutual responsibility and accountability in a time of multiple crises. The Non-Aligned Movement recalled that the right to development criteria and operational sub-criteria, once revised and endorsed, should be used in the elaboration of a comprehensive and coherent set of standards for the implementation of the right to development, as a basis for a legally binding instrument, in

line with the road-map adopted by the Human Rights Council in its resolution 4/4 and subsequent resolutions, most recently Council resolution 18/26. The Non-Aligned Movement expressed support for a call for the full integration of the multidimensional aspects of the right to development as elaborated in the Declaration on the Right to Development into all areas of the work of the United Nations system and international financial and trade institutions as well as in its major processes such as the follow-up to the Fourth United Nations Conference on the Least Developed Countries (LDC IV), UNCTAD-XIII, the United Nations Conference on Sustainable Development, to be held in Rio de Janeiro, Brazil, on June 20-22, 2012 (Rio+20), the Quadrennial Comprehensive Policy Review and United Nations development agenda beyond 2015.

33. The European Union expressed the view that it was important that the process of refining and revising the right to development criteria and sub-criteria should continue to take into consideration all relevant documents, not be limited to the Declaration on the Right to Development.

34. Senegal (on behalf of the African Group), while extending its thanks to the delegations for the consensus reached on the conclusions and the recommendations, considered however that such conclusions and recommendations were weak and expressed its hope that they would nevertheless help to move forward the process on the criteria and operational sub-criteria, with the ultimate outcome being the implementation of the right to development.”

## **L. Thirteenth session**

(7–11 May 2012)

**Chairperson-Rapporteur:** Tamara Kunanayakam (Sri Lanka)

**Document :** A/HRC/21/19

## **“V. Conclusions and recommendations**

39. At the final meeting of its thirteenth session, on 11 May 2012, the Working Group on the Right to Development adopted, by consensus, its conclusions and recommendations, in accordance with its mandate established by Commission on Human Rights resolution 1998/72.

### **A. Conclusions**

40. The Working Group took note of documents A/HRC/WG.2/13/CRP.1 and CRP.2 containing detailed views and comments submitted by Governments, groups of governments, regional groups and other relevant stakeholders, including United Nations agencies, funds and programmes and institutions, as well as other relevant multilateral institutions and forums, in fulfillment of the conclusions and recommendations agreed at its twelfth session.

41. The Working Group expressed appreciation to all those who contributed with their submissions and inputs.

42. The Working Group welcomed the presentation made by the Chairperson-Rapporteur of the Working Group and commended her for the able stewardship in guiding the deliberations of the Working Group.

43. The Working Group welcomed the participation of the High Commissioner for Human Rights at its opening session, which attested to her commitment and that of her Office to promoting and protecting the realization of the right to development and to

enhancing support from relevant bodies of the United Nations system for that purpose, consistent with General Assembly resolution 48/141.

44. The Working Group welcomed the launching of the process of considering, revising and refining the draft criteria and the corresponding operational sub-criteria contained in document A/HRC/15/WG.2/TF/2/Add.2, with the first reading of the draft criteria.

45. The Working Group acknowledged the need to further consider, revise and refine the aforementioned draft criteria and corresponding operational sub-criteria, as mandated by the Human Rights Council in its resolution 19/34.

46. The Working Group also acknowledged the need to have experts' contributions and, in this context, re-emphasized the importance of engaging further the relevant United Nations agencies, funds and programmes and institutions as well as other multilateral institutions and forums, and international organizations and other relevant stakeholders.

## **B. Recommendations**

47. The Working Group recommended the following:

(a) To pursue, at its fourteenth session, its work on the consideration of the draft operational sub-criteria;

(b) To request the Office of the United Nations High Commissioner (OHCHR) to make available on its website and to the Working Group two conference room papers reflecting comments and views submitted during the session by Governments, groups of Governments and regional groups, as well as by other relevant stakeholders, respectively;

(c) To also request OHCHR to make available on its website and to the next session of the Working Group, in the format of two conference room papers, all further submissions by Governments, groups of Governments and regional groups, as well as inputs by other stakeholders;

(d) To further request OHCHR to make available on its website and to the Working Group, at its fourteenth session, a consolidated document of all the conclusions and recommendations of the Working Group since its establishment in 1998;

(e) To invite the Chairperson-Rapporteur to hold informal consultations with Governments, groups of Governments, regional groups and relevant stakeholders in preparation for the fourteenth session of the Working Group;

(f) To invite the High Commissioner and to request the Chairperson-Rapporteur, with the support of OHCHR, to further their efforts to encourage the active participation in the work of the Working Group of all relevant stakeholders, consistent with paragraph 46 above.”

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