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High-level task force on the implementation  
of the right to development  
Fourth session  
Geneva, 7-15 January 2008

## **Report of the high-level task force on the implementation of the right to development on its fourth session**

**Chairperson-Rapporteur: Stephen Marks**

### **Summary**

This report, submitted pursuant to Human Rights Council resolution 4/4, contains the summary of the proceedings, as well as the conclusions and recommendations of the high-level task force on the implementation of the right to development for the consideration of the Working Group on the Right to Development.

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## **Introduction**

1. At its fifth session, in February 2004, the Working Group on the Right to Development recommended to the Commission on Human Rights that it establish a high-level task force on the implementation of the right to development, in order to assist it in fulfilling its mandate as reflected in paragraph 10 (a) of Commission resolution 1998/7. At its eighth session, in February 2007, the Working Group recommended to the Council to extend its own mandate and the mandate of the high-level task force for a further period of two years (see A/HRC/4/47 at para. 58).

2. In its resolution 4/4 of 30 March 2007, the Human Rights Council decided to renew the mandates of the Working Group and the high level task force for a period of two years, requested the Working Group to convene for an annual period of five days and to present its reports to the Council and requested the task force to convene for seven days annually and present its reports to the Working Group.

3. The high-level task force on the implementation of the right to development convened its fourth session in Geneva from 7 to 15 January 2008. As requested by the Working Group, the mandate of the task force was to consider the criteria for periodic evaluation of global development partnerships - as identified in Millennium Development Goal 8 (MDG 8) - from the perspective of the right to development (“the right to development criteria”), and in an initial phase covering the year of 2007, deepen its study on the three development partnerships considered at its third session, as well as take up an additional partnership, with a view to refining the right to development criteria and corresponding sub-criteria (A/HRC/4/47, para.54).

## **I. ORGANIZATION OF THE SESSION**

### **A. Opening of the session**

4. The high-level task force (“task force”) was opened by Ms. Maria Francisca Ize-Charrin, Director, Operations, Programmes and Research Division, Office of the United Nations High Commissioner for Human Rights (OHCHR), followed by H.E. Mr. Doru Costea (Romania), President of the Human Rights Council, who made a statement referring to the fact that the task force’s meeting is the first of the year marking the 60<sup>th</sup> anniversary of the Universal Declaration on Human Rights. He underlined the importance and universality of the right to development and called for a pragmatic and constructive engagement in addressing its realization. Dr. Arjun Sengupta (India), who was elected in September 2007 as Chairperson-Rapporteur of the Working Group on the Right to Development (“Working Group”), also made a statement highlighting the recent achievements of the task force and the Working Group and the need to make the right to development criteria applicable and widely acceptable, while defining obligations in a step-by-step process of consensus building. In conclusion, he introduced the expert and institutional members of the task force.

### **B. Election of the Chairperson-Rapporteur**

5. At its first meeting, on 7 January 2008, the task force elected by acclamation Stephen Marks (United States of America) as Chairperson-Rapporteur, who highlighted the importance

of the work of the task force in transforming the right to development agenda from aspiration to development practice, thereby transcending the political debate.

### **C. Adoption of the agenda**

6. At the same meeting, the task force adopted its agenda (A/HRC/8/WG.2/TF/1, see annex I) and programme of work.

### **D. Attendance**

7. The following expert members of the task force attended the session: Stephen Marks (United States of America), Nico Schrijver (Netherlands), Margaret Sekaggya (Uganda), and Jorge Vargas Gonzalez (Colombia). Solita Collas Monsod (Philippines) was unable to attend.

8. Representatives of the following trade, development and financial institutions and organizations participated as institutional members: United Nations Development Programme (UNDP), United Nations Conference on Trade and Development (UNCTAD), International Monetary Fund (IMF), World Bank and World Trade Organization (WTO).

9. The Chairperson-Rapporteur of the Working Group attended the meeting. The following experts contributed to the work of the task force as resource persons: Roberto Bissio (Instituto del Tercer Mundo and Social Watch), Bronwen Manby (AfriMap), Margot Salomon (London School of Economics) and Xigen Wang (Wuhan University).

10. Representatives of the following States members of the Human Rights Council attended the meeting of the high-level task force as observers: Bangladesh, Bolivia, Bosnia and Herzegovina, Brazil, Canada, China, Cuba, Egypt, France, Germany, Ghana, Guatemala, India, Indonesia, Italy, Japan, Republic of Korea, Malaysia, Mauritius, Mexico, the Netherlands, Pakistan, Philippines, Qatar, Romania, Russian Federation, Senegal, Slovenia, Switzerland and United Kingdom.

11. The following States were also represented at the high-level task force as observers: Afghanistan, Algeria, Argentina, Barbados, Belgium, Bulgaria, Burkina Faso, Chile, Costa Rica, Cyprus, Ecuador, Haiti, Iran (Islamic Republic of), Iraq, Ireland, Israel, Lao People's Democratic Republic, Libyan Arab Jamahiriya, Mauretania (Islamic Republic of), Morocco, Nepal, Oman, Rwanda, Serbia, Sweden, Syrian Arab Republic, Thailand, Timor-Leste, Tunisia, Turkey, Yemen and Zimbabwe. The Holy See and Palestine were also represented.

12. The following United Nations bodies and intergovernmental organizations were represented: World Health Organization (WHO), the African Peer Review Mechanism Secretariat, the African Union, the European Commission (EC), the European Union (EU), Organization of the Islamic Conference, and League of Arab States, and Organisation for Economic Cooperation and Development (OECD).

13. The following non-governmental organizations in consultative status were represented by observers: the Arab Bureau for Human Rights, Association of World Citizens, Caritas Internationalis, Friedrich-Ebert-Stiftung, Franciscans International, Interfaith International, the

International Coordinating Committee of National Human Rights Institutions, Mouvement contre le Racisme et pour l'Amitié entre les Peuples (MRAP), New Humanity, and the Union des Juristes Arabes.

### **E. Documentation**

14. The task force had before it a number of pre-session and background documents to inform its deliberations (see annex III).

### **F. Statements by institutional members and observers**

15. The World Bank representative reiterated that while the Bank has no formal position on the right to development, it supports the right to development criteria, welcomes their progressive development into operational tools and endorses the principles underlying the Declaration on the Right to Development. She also provided examples of synergies between the criteria and World Bank activities, including a research project on Human Rights Indicators, the Bank's co-chairing of the Human Rights Task Team of the Organisation for Economic Cooperation and Development – Development Assistance Committee (OECD-DAC), the Human Rights Impact Assessment Tool developed by the International Finance Corporation (IFC) and the proposed Human Rights Trust Fund Initiative. The representative suggested that the further refinement of the right to development criteria focus on identifying their practical benefits and explaining in empirical terms how human rights benefit the development processes and outcomes.

16. The UNDP representative expressed interest in the efforts to include human rights, and specifically the right to development, more systematically within the partnerships set up to contribute to achieve the MDGs. UNDP's work in the area of MDG 8, included the co-chairing of the United Nations MDG Gap Task Force and a project with the Overseas Development Institute of the United Kingdom Department for International Development to map MDG 8 impact at a country level and define indicators for MDG 8. The right to development criteria have revealed many relevant insights, but need to be refined. The task force can explore whether it is relevant to assess the Doha Development Round of WTO negotiations, the Heavily Indebted Poor Countries initiative (HIPC) and the Multilateral Debt Relief Initiative.

17. The UNCTAD representative expressed support for the work of the task force in the refinement of the criteria, noting the importance of this task for the purpose of building on the consensus that had been achieved within the Working Group at its last session.

18. While noting that it does not have a human rights mandate, the IMF representative stated that the Fund's objectives of promoting high levels of employment and macroeconomic stability contribute to an agenda that fosters human rights.

19. The WTO representative referred to the challenges facing the Doha Round development agenda and debates within the WTO surrounding Aid for Trade and highlighted the WTO's intention to continue its dialogue with the task force and the Working Group.

20. In a statement on behalf of the Non-Aligned Movement (NAM) and China, the observer for Cuba reiterated NAM's call for the elevation of the right to development to the same level as all other human rights and its operationalization, including the elaboration of an internationally legally binding convention on the right to development. The observer noted that the criteria are a work in progress and that they should reflect the international dimension of the right to development, focus on implementation and cover broader issues within MDG 8.

21. In a statement on behalf of the European Union (EU) and associated countries, the observer for Slovenia noted the usefulness of evaluating global development partnerships, while indicating the need for improving the criteria, and called for more focus on MDG 8 issues and partnerships involving other regions. The observer concluded by expressing hope that the task force adopt a gradual approach based on rigorous empirical analysis and the constructive consolidation of its findings in a phased manner. She also referred to the importance of applying a gender perspective to the implementation of the right to development and a holistic human rights-based approach.

22. In a statement on behalf of the Organization of the Islamic Conference (OIC), the observer for Pakistan called for effective international cooperation, the creation of international enabling environment, including a fair trade regime, as well as broader participation of developing countries in international economic decision-making. He also noted the role of a rights-based approach to development in catalyzing the achievement of internationally agreed developmental objectives, including the MDGs, the importance of identifying innovative sources of financing for development in order to achieve sustainable development and the need to remove the constraints placed on development by certain aspects of Trade Related Aspects of Intellectual Property Rights (TRIPS) agreement and other technology control regimes.

23. In a statement on behalf of the African Group, the observer for Egypt highlighted key elements of Human Rights Council Resolution 4/4 referring to it as a strong vote of confidence in the task force. The representative expressed the Group's support for geographic and thematic expansion within MDG 8, particularly on technology transfer. He further noted that the process of progressively refining the criteria should better reflect the principles of the right to development and, at the end of phase III of the Work Plan mandated by the Working Group (A/HRC/4/47, paragraphs 52-54, "Work Plan"), the international community will be in a position to start the drafting process of a Convention on the Right to Development.

24. In associating himself with the statements by NAM and the OIC, the observer for Indonesia welcomed the recommendation made by the task force to expand the application of the criteria to assess global partnerships to other regions. Indonesia looks forward to more focused, tangible and concrete proposals from the task force to further accelerate the implementation of the criteria.

25. In response to the comments made on an international convention on the right to development, the Chairperson-Rapporteur of the task force stressed the importance of maintaining consensus in spite of the voting results of the General Assembly Resolution 62/161 on the right to development of 18 December 2007.

26. The observer for Friedrich-Ebert-Stiftung voiced civil society's interest in the advancement of the right to development and presented a study of a German-Kenyan development partnership within the framework of the proposed right to development criteria<sup>1</sup>. The task force also heard a presentation by Xigen Wang, resource person, who described an ongoing research project to assess the right to development within the People's Republic of China.

## II. SUMMARY OF THE PROCEEDINGS

27. The task force focused successively on each of the four partnerships reviewed in 2007, with presentations by task force members on missions undertaken and by the consultants on their studies on those partnerships, followed by discussions including observers. The three days of public deliberations concluded with a discussion on the assessments of the aforementioned partnerships, a preliminary presentation of partnerships to be reviewed in phase II of the Work Plan and a preliminary discussion of phase III of the Work Plan. The task force then met for four days in closed meetings to review and refine the criteria and to discuss and adopt its report.

28. The Chairperson-Rapporteur introduced the four partnerships to which the right to development criteria were applied: the African Peer Review Mechanism (APRM); the United Nations Economic Commission for Africa (ECA) and Organization for Economic Cooperation (OECD)-Development Assistance Committee (DAC) Mutual Review of Development Effectiveness in the context of the New Partnership for Africa's Development (NEPAD) ("Mutual Review" or "MRDE"); the Paris Declaration on Aid Effectiveness ("Paris Declaration"); and the Cotonou Partnership Agreement between EU and African, Caribbean and Pacific Countries (ACP) ("Cotonou Agreement").

### A. The African Peer Review Mechanism

29. Margaret Sekaggaya, task force member, presented the report of the technical mission of the task force (A/HRC/8/WG.2/TF/CRP3) for the follow-up assessment of the APRM, which was undertaken from 12 to 16 October 2007, in Addis Ababa, Ethiopia, to meet with relevant actors and partners that facilitate, monitor and implement the APRM. The mission held multiple meetings with the ECA, as well as with African Union (AU) and the APRM Secretariat. Ms. Sekaggaya noted the warm reception of the mission and the officials' enthusiasm for and the commitment to the mechanism and the initial outcomes, while recognizing the challenges resulting from capacity constraints and the lengthy and cumbersome process. After elaborating on the background of APRM, she presented the concluding observations of the technical mission as well as the main follow up actions for the task force.

30. Ms. Bronwen Manby, consultant to the task force, presented her report (A/HRC/8/WG.2/TF/CRP5). The APRM emerged from the NEPAD programme of the African

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<sup>1</sup> Felix Kirchmeier, Monika Lüke, and Britt Kalla, *Toward the Implementation of the Right to Development. Field-testing and fine-tuning the UN Criteria on the Right to Development in the Kenyan-German Partnership*, Friedrich Ebert Stiftung and Deutsche Gesellschaft für Technische Zusammenarbeit, 2008.

Union as a specific tool to address governance concerns and, as a voluntary South-South review. The review process could be strengthened from a human rights perspective and the integration of sustainable development throughout its framework. Areas of weakness are access to information about its implementation, harmonization with other processes, such as Poverty Reduction Strategy Papers (PRSPs), and monitoring and enforcement of the implementation of the programmes of action. Proposed reforms of African Union structures would be an important opportunity to integrate more effectively the APRM work with other institutions of the African Union, in particular the African Commission on Human and Peoples' Rights.

31. The Executive Director of APRM Secretariat provided clarifications on APRM with respect to the comments in Ms. Manby's study. He highlighted the voluntary nature and independence of the APRM process, underlined that a country review mission is conducted by African experts, while UNDP, ECA and African Development Bank (ADB) contributed input as advisors. Even though it is not spelled out in the questionnaire, sustainability is one of the objectives of APRM. Furthermore, PRSPs are part of the review and marginalized groups are provided opportunities to voice their concerns. He explained reasons for not making a self assessment report public, referred to APRM interactions with the Pan-African Parliament and pointed out the clear distribution of functions between the African Union, NEPAD, and APRM.

#### **B. The ECA/OECD-DAC Mutual Review of Development Effectiveness**

32. Nico Schrijver, member of the task force, reported on the technical mission of the task force (A/HRC/8/WG.2/TF/CRP2) for the follow-up assessment of the Mutual Review which was undertaken in two steps, on 13 and 14 September 2007 in Paris, France, and from 12 to 16 October 2007 in Addis Ababa. He noted the constructive engagement of OECD and ECA with the task force and their willingness to have their policies reviewed at an international level. Mr. Schrijver highlighted the concluding observations of the technical mission and presented the main follow up actions for the task force.

33. Ms. Manby's study also addressed the Mutual Review. She noted that a strength of the first 2005 review was that it reported both the compliance of developing countries and OECD members, with their commitments in the same report. However, it suffered from lack of specificity, and as a consequence had not been made use of by the NEPAD Secretariat. The study highlighted the benefit of better provision of public information in the process, a more detailed focus on African human rights instruments, increased participation and attention to developed countries' compliance.

34. Noting that his views do not represent those of the OECD as a whole, the representative of OECD stressed that the work of the task force, including the right to development criteria was useful in OECD's approach to the Mutual Review and characterized Ms. Manby's report as a balanced and fair review which contained useful recommendations to be taken into account in the 2008 review process. A dialogue with the task force should be followed up and the mission and consultants' studies should be circulated to OECD and ECA during the next meeting of the partners in Addis Ababa in February.

35. The discussion that ensued touched upon the objectives of the task force's assessment of selected partnerships in relation to the criteria; the nature of the criteria; the need to follow up on

the technical missions and their methods. Some observers commented positively on the consultants' proposals for the refinement of the criteria. Reference was also made to the importance of using the criteria to bring out policy coherence regarding commitments to both the human rights and economic objectives of the participating governments and institutions.

### **C. The Paris Declaration on Aid Effectiveness**

36. The Chairperson-Rapporteur, presented the report of the technical mission of the task force (A/HRC/8/TF/CRP.1), undertaken from 13 and 14 September 2007, in Paris, France, to enter into a dialogue with the OECD. The mission met senior officials and also participated in a seminar on the right to development. The Chairperson-Rapporteur further highlighted the principal conclusions of the report and referred to the conclusions from the Workshop on Development Effectiveness in Practice: Applying the Paris Declaration to Advancing Gender Equality, Environmental Sustainability and Human Rights, held in Dublin, Ireland, between 26-27 April 2007, and stated that 2008 presents itself as an opportunity for dialogue, especially with the forthcoming 3<sup>rd</sup> High Level Forum on Aid Effectiveness, in Accra, September 2008.

37. In his presentation of the study (A/HRC/8/WG.2/TF/CRP.7), Roberto Bissio, consultant to the task force, argued that the Paris Declaration is not a global partnership in itself, but it can contribute to the MDGs indirectly when it deals with aid efficiency. The consultant commented on asymmetries and imbalances in this process, in favour of developed countries. The Paris Declaration principles are conducive to the right to development criteria; however the corresponding indicators do not strictly relate to the principles. In this context, he commented on indicators on ownership, procurement, financial management, aid predictability and untied aid. In conclusion, he suggested that a mutual accountability mechanism be established at the international level in order to assess the performance of donor countries.

38. The representative of OECD acknowledged that the consultant raised valid points, including risks associated with a narrow focus on aid management and limitations of Paris Declaration indicators. The consultant's study in certain areas presented a simplistic dichotomy between donor and developing countries which did not reflect all the nuances in the context of the Paris Declaration. Participation of developing countries and civil society organizations within the Paris Declaration process has been evolving and is well institutionalized.

39. The representative of the World Bank pointed out that the consultant's study did not take note of the extensive work of the Human Rights Task Team of the OECD-DAC on human rights and aid effectiveness and stated that even though human rights are not referred to explicitly in the Paris Declaration, there are synergies between the Paris Declaration principles and human rights which highlight their mutually reinforcing potential. The representative also emphasized the importance of clarifying the value added of human rights in empirical and practical terms.

40. During the discussions observers referred to need for a cost-benefit analysis of the harmonization and alignment principles of the Paris Declaration, the implications for the poorest of a decision to withhold health-related aid due to lack of absorbing capacity in a recipient country, and the significance of the power imbalances for realizing the right to development.

**D. Cotonou Partnership Agreement between European Union (EU) and African, Caribbean and Pacific (ACP) countries**

41. Nico Schrijver, member of the task force, presented a report of the technical mission of the task force (A/HRC/8/WG.2/TF/CRP.4) for the preliminary assessment of the Cotonou Agreement undertaken from 19 to 21 September, 2007, in Brussels, Belgium, to interact and promote dialogue with relevant actors, including the European Commission (EC), the ACP Secretariat and civil society organizations and experts. The Cotonou Agreement has unique, far-reaching and multilateral features, covering a wide range of regions and topics, including development, political dialogue, trade, migration, investment, and participation of civil society. Although the Agreement contains provisions on human rights, the right to development is not mentioned expressly. Nevertheless, both the Agreement and the practice based thereon contain various relevant elements. Mr. Schrijver reviewed examples of both positive measures ('incentives', additional assistance) and negative measures (sanctions, suspending aid) of EU-ACP human rights policies. He also gave an overview of the Economic Partnership Agreements (EPAs), which are being negotiated between the EU and regional groupings of ACP countries, referring to concerns raised regarding the extent to which the agreements respect the ownership of ACP countries, as well as the extent of stakeholders' participation and information sharing in the process of conclusion of EPAs. Mr Schrijver presented the preliminary observations and conclusions of the mission.

42. On behalf of James Thuo Gathii, consultant to the task force who had been unable to travel to Geneva, the Chairperson-Rapporteur of the task force read out the summary and conclusions of the consultant's study (A/HRC/8/WG.2/TF/CRP.6). EPAs are being negotiated under conditions that undermine the full participation of ACP countries in determining their development objectives and may result, at least in the short run, in revenue losses and restricted access to the EU market, making it highly likely that the social and economic human rights of millions will be adversely affected. Other human rights concerns include expanding negotiations into new areas such as competition and government procurement, imposing a heavy cost burden on ACP countries that far outweighs the potential dynamic benefits that the new commitments will require. EPA negotiations on trade need to take into account the special needs of developing and least developed countries, particularly the need for preferential treatment in trade relations which are increasingly becoming the dominant pillar of EU-ACP relations. Human rights, in particular, the right to development ought to take centre stage in EPA negotiations as well as in EU development cooperation. The right to development criteria could play a crucial role in the measurement of the partnership in general and the EPAs in particular.

43. The representatives of the EC provided background information on the Cotonou Agreement and the EPAs and clarified a number of issues raised in the consultant's study. The EC representative stressed that at the conclusion of the Agreement in 2000 all parties had accepted the expiration of the waiver of WTO-compatibility at the end of 2007 and that EPAs were needed to replace that waiver, which has not had the desired effect, especially on investment in sub-Saharan Africa. He also explained why it was not feasible to request new exemptions from WTO obligations and why a region-by-region approach had been taken in concluding EPAs. The EC representative responded to the criticism of the EPAs based on the lost tariff income and lost policy space of the ACP countries by referring to the actions that States can take to address these issues. The EC maintained that any additional resources to cover

adjustment costs would be met by initiatives such as Aid for Trade, which amounts to about Euro 2 billion for ACP countries and about Euro 1 billion by 2010 in bilateral assistance. A number of points in the consultant's study were misleading and led to wrong conclusions, including the strong criticism of the European Common Agricultural Policy, indicating that EPAs completely opened the European markets to ACP products. It was also pointed out that a number of provisions in EPAs contribute to increased transparency and better governance and that overall the agreements will have a positive economic impact, while recognizing that the process could have benefitted from broader consultations and civil society participation. The representatives of the EC also provided further clarifications on technical questions which had been raised, including those related to rules of origin reforms, and outlined the measures taken by the EC to address the disparities between negotiating partners.

44. The representative of the UNDP noted the importance of support for trade capacity development and especially support targeted at productive sectors and referred to bottlenecks in areas like technology and technology transfer, and market access. He also referred to monitoring and evaluation as one area of weakness of aid for trade arrangements, which is mainly based on self-assessment. In UNDP's view, trade and trade liberalization are not ends in themselves but can lead to poverty reduction and development.

45. During the ensuing discussion, the absence of ACP Secretariat representatives to present their perspective was regretted. Reference was made to the economic vulnerabilities of many ACP countries. Comments and discussion focused on whether the Agreement promotes a human rights-based approach to development, the place of intellectual property protection in negotiations, and the impact of the work of transnational corporations involved in extractive industries on natural resources and the environment in Africa. Particular attention was paid to the usefulness of development benchmarks and the need for a consistent review and assessment of the implications and the impact of the EPAs as well as the need to have measures in place to confront any possible developmental shortfalls. It was noted that it is too early to judge the impact of EPAs, but that the task force should undertake an analysis of their developmental aspects.

#### **E. Preliminary discussion of phase II of the Work Plan: Additional partnerships in the context of MDG 8**

46. As mandated by the Working Group the task force discussed additional partnerships in the context of MDG 8 to be considered in phase II. The Chairperson-Rapporteur suggested the task force consider Target 17 of MDG 8, as one of the thematic areas of global partnership which would also allow a right to development review of the trade dimension of intellectual property rights and health. A right to development focus on Target 17 could also incorporate the work of WHO, UNDP, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the World Bank, and public-private partnerships involving the pharmaceutical industry. The representative of the WHO welcomed the proposal and possible future collaboration with the task force and elaborated on the linkage between access to medicines and the right to health as well as human rights-based approach to health in the work of WHO.

47. In the discussion of a Target 17 thematic focus, task force members and observers tackled the question of which global partnership would be most appropriate for review in accord with the task force's mandate. Reference was made to: discussions within the WTO on the right to health, the Global Fund to fight HIV/AIDS, Tuberculosis and Malaria, and the Global Alliance for Vaccines and Immunization. Additionally, the idea was presented that the WHO convene a meeting of relevant stakeholders during which these partnerships might be explored. Observers also mentioned debt burden, migration, environment, and post-conflict peace building as possible areas of thematic expansion.

48. In order to expand the regional scope of the partnerships, Jorge Vargas Gonzalez, task force member, presented on possible partnerships within Latin America and the Caribbean. Mr. Vargas explored the following possible entry points: the Organisation of American States (OAS), benefiting from a dialogue with its regional mechanisms on human rights; the Inter-American Development Bank (IDB), which is one of the most important partners for development in Latin America and the Caribbean and is taking important initiatives concerning debt reduction and climate change; the Southern Cone Common Market (MERCOSUR) and its Meeting of Human Rights High Level Authorities; and finally, the Caribbean Community (CARICOM). In the discussion, reference was also made by Mr. Schrijver to the consideration of other regions, especially, Asia, in view of the recent adoption of the Charter of the Association of Southeast Asian Nations (ASEAN), including provisions relating to the promotion of respect for human rights. The representatives for the Philippines and Thailand explained that it was too soon to consider the ASEAN Charter, which has only just been adopted and that the status and mandate of the human rights body would be the subject of future negotiations.

### III. CONCLUSIONS

49. Having completed the deliberations at the public and private segments of the fourth session, and taking into account the findings of the technical missions, the independent expert studies and the views of the delegations and other observers, the task force has reached the following conclusions and recommendations.

#### **A. Concluding observations on the initial pilot applications of the criteria to the three partnerships presented at its third session**

50. The initial pilot application of the criteria to the African Peer Review Mechanism (APRM), ECA/OECD-DAC Mutual Review of Development Effectiveness in the context of the New Partnership for Africa's Development (NEPAD) ("Mutual Review" or MRDE) and the Paris Declaration on Aid Effectiveness ("Paris Declaration"), began with constructive dialogue established with representatives of the institutions responsible for these partnerships during the task force's third session and has benefited from a deeper exploration of the issues during technical missions. The task force considered these missions essential for its continued dialogue with the three partnerships, in order to explore perceived strengths and weaknesses from the perspective of the criteria and to draw lessons for the operationalization of the right to development.

51. The task force did not approach the application of the criteria as a process of judging the performance of partnerships against a "scorecard," but rather as a constructive dialogue with

them about concrete commitments congruent with the right to development, identifying possible entry points for introducing relevant features of this right. In order to assist the partners, the task force encouraged incremental change in partners' policies and activities. The technical missions indicated a willingness on the part of partners to consider, over time and based on further collaboration with the task force, the application of the criteria to such complex issues as ownership, mutual accountability, and reciprocal responsibilities.

52. The observations and findings of the three technical missions, supported by independent expert studies, confirmed many of the tentative assessments made at the third session of the task force, as to conformity with the criteria. The relevant findings are as follows.

### **1. African Peer Review Mechanism (APRM)**

53. The APRM has the potential of being a novel model of monitoring African governance. While not a global partnership under MDG 8 in the strict sense, this South-South partnership preserves the autonomy and the voluntary nature of state participation, while replacing conditionality imposed by donor countries with accountability among peers and responsibility at the national level to assume ownership through independent national governing councils, and national focal points. The APRM Secretariat, the Panel of Eminent Persons, and national institutions and research centres which administer the questionnaire perform essential functions to control the accuracy and thoroughness of national reporting and lend credibility and legitimacy to the process. The level of popular participation in its reviews comes closer to meeting the right to development criteria than any of the partnerships the task force has studied. However, the APRM should make efforts to improve access to information about its processes both at a national and regional level and improve follow-up and implementation of the Programme of Action, which should be costed, time-bound and aligned with existing development strategies.

54. The African Union (AU), NEPAD, APRM and African human rights institutions need to work together to achieve institutional cohesion. APRM serves as a partnership supporting implementation of the right to development and should relate directly to the African human rights institutions (the African Commission on Human and Peoples' Rights, the African Court and national human rights institutions). The full range of human rights should be taken into account, drawing on all African and international norms and standards, including the right to development and other human rights under the African Charter on Human and Peoples' Rights. In particular, more detailed reporting on freedom of expression, assembly, association and access to information, as well as election management and non-discrimination, should be explicitly and systematically integrated into the APRM process.

55. The task force wishes to continue dialogue with key partners, examine country self-assessments, country reviews and the implementation of National Programmes of Action, as well as establish contact with national and regional African human rights institutions.

### **2. Mutual Review of Development Effectiveness (MRDE)**

56. The MRDE process is a biennial instrument for monitoring and assessing development progress in Africa and its OECD development partners relative to their shared goals and

commitments including MDGs, in support of the NEPAD. The partnership complies in large measure with several right to development criteria, in particular, those related to national ownership, accountability and sustainability. However, participation in the process poses a special challenge as there is at present no stakeholder or civil society participation. The governance component of the Mutual Review is a useful entry point for integrating reference to applicable human rights instruments. The first review (MRDE I) in 2005 did not pay particular attention to the position and needs of the most marginalized groups in the countries under review.

57. The preparation of the second Mutual Review on Development Effectiveness report in 2008 (MRDE 2) offers a special opportunity to address the above-mentioned issues and increase attention to human rights and the right to development. That report should aim for greater specificity than the first report, and pay particular attention to reporting and analysing compliance with existing commitments by both African and OECD countries.

58. The task force believes it would be helpful to participate in a review of the various documents that will be prepared leading up to MRDE 2, in June 2008, in consultation with OECD and ECA. The task force is willing to provide input for the preparation of the report.

### **3. Paris Declaration on Aid Effectiveness**

59. The importance of aid effectiveness for MDG 8 is highlighted by progress indicators 33 to 37 under Target 15. Technical aspects of efficiency and lack of mutual accountability are predominant in the Paris Declaration, although the task force believes there are opportunities to build on the congruence between the principles of aid effectiveness and the right to development. The task force felt that ownership under the Paris Declaration required greater efforts to promote untied aid aligned with national priorities, particularly in the fields of procurement and financial management. There is a danger that the political momentum around the Paris Declaration might detract attention from the need to build global development partnerships under MDG 8. The Paris Declaration does not adequately address the asymmetries in power. Institutional ownership rests by and large with the OECD-DAC and the World Bank, while developing countries have a limited voice. Though the principles of the Paris Declaration are consistent with human rights, several of the indicators and targets can work in practice against the right to development and erode national democratic processes. The willingness of the OECD to adjust these deficiencies was welcomed and the task force felt it should follow developments on this issue.

60. The task force should contribute to efforts to include human rights and right to development considerations in the preparation and roundtables of the High Level Forum on Aid Effectiveness to be held in Accra, Ghana in September 2008. In this approach, there is a distinct advantage to build on the Dublin workshop and work with the Human Rights Task Team of the OECD-DAC, which shares the task force's concern to reinforce human rights in aid effectiveness. The task force should also consult the United Nations Development Group (UNDG) through its Working Group on Aid Effectiveness, as well as the OECD-DAC Working Party on Aid Effectiveness.

**B. Preliminary review of the Cotonou Partnership Agreement between European Union (EU) and African, Caribbean and Pacific (ACP) countries**

61. Pursuant to the proposal of the presidency of the EU during the third session of the task force, the Working Group mandated the task force to give priority to the Cotonou Agreement.<sup>2</sup> The cooperation under the Agreement encompasses a wide range of policy fields, including human rights, good governance, environmental conservation and peace building.

62. Although the assessment of this partnership is still at an early stage, the technical mission provided an opening for further dialogue on the implementation of the Cotonou Agreement, in light of its various pillars. Active and fruitful dialogue has also been initiated with various actors, such as the European Commission (EC), the ACP Secretariat and civil society organisations.

63. The task force has identified a clear link between the Cotonou Agreement and the right to development framework and criteria. While the right to development is not explicitly referred to in the Cotonou Agreement, certain core elements are reflected in it.<sup>3</sup> The right to development criteria relating to an enabling environment and explicit incorporation of human rights principles in the partnership reveal gaps in the agreement and highlight the value of impact assessments, especially as regards gender equality and marginalized groups. The task force believes more attention should be paid to the mutually-reinforcing obligations of the Cotonou Agreement and the right to development criteria.

64. The task force favours development monitoring benchmarks in the Economic Partnership Agreements (EPAs), currently in the process of being negotiated or concluded. Other concerns of the task force include ownership of the ACP countries of their development processes, the continued special and differential treatment of ACP countries in the EPAs, and the impact of the latter on the least developed countries and on vulnerable communities within ACP states. In the view of the task force, there should be adequate recognition of the need for country specific adjustment compensation and for additional resources for trade capacity building, and for independent monitoring and evaluation. Furthermore, the task force is concerned about non-tariff barriers to trade such as overly restrictive sanitary and phytosanitary measures, technical barriers to trade and rules of origin procedures.

65. During meetings at the EC and with the ACP Secretariat, it became clear that more in-depth assessment of Country Strategy Papers (CSPs) as well as EPAs and their relationship to the human rights provisions in the Cotonou Agreement is required. Therefore, further dialogue should take place with relevant officials in the EC Directorate-General for Development, the Directorate-General for Trade, Europe Aid, and the ACP Secretariat, as well as civil society organisations that have been identified as future contacts.

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<sup>2</sup> A/HRC/4/47, para. 56.

<sup>3</sup> See in particular Art. 8 on Good Governance and Political Dialogue, Art. 9 on Democracy, Rule of Law and Respect for Human Rights and Art. 96 on political consultation and the non-execution clause.

### **C. Progressive development and refinement of the criteria for periodic evaluation of global partnerships for development from the perspective of the right to development**

66. The task force has drawn several lessons from applying the right to development criteria to four partnerships through a dialogue with the institutions responsible for them and confirms the conclusion of the Working Group that “the application of the criteria has provided the empirical basis for their progressive development and refinement.”<sup>4</sup> The task force has learned from the experience with the technical missions that it is important to find ways and means of enhancing the criteria as a practical tool for evaluating global development partnerships from the perspective of the right to development.

67. The constant concern of the task force for the quality of the criteria has been echoed by its institutional members, Member States, as well as the agencies responsible for the partnerships reviewed so far. The Working Group requested the task force to review the structure of the criteria, their coverage of aspects of international cooperation and the methodology for their application with a view to enhancing their effectiveness as a practical tool for evaluating global partnerships,<sup>5</sup> and eventually lead to “the elaboration and implementation of a comprehensive and coherent set of standards”<sup>6</sup> and present it with corresponding sub-criteria in phase III of its work (2009). At this stage of its work, the task force is responding to the request by the Working Group that it “progressively develop and further refine the criteria, based on actual practice.”<sup>7</sup>

68. The task force has therefore drafted the list in annex II as a progressive development of the criteria, which maintains essentially the same content, while reordering, clarifying and developing them based on lessons learned from applying the criteria so far. The list in annex II represents an intermediary stage for use in phase II of its work (2008) and anticipates a more significant refinement in phase III (2009).<sup>8</sup>

69. In order to achieve the desired level of quality, the task force considers that the criteria must (a) become analytically and methodologically rigorous; (b) provide empirically-oriented tools to those involved in implementing development partnerships that can improve the outcomes of their work in light of their respective mandates; (c) integrate analytical work done by expert groups within World Bank, OECD, UNDP, UNCTAD, UNICEF, UNESCO, DESA, OHCHR, and others, as well as academic research centres, and (d) provide guidance so that global partnerships for development are enabled to respond better to the broader objectives of the right to development. With respect to item (c) above, the task force welcomed the information provided by UNDP on the MDG Gap Task Force,<sup>9</sup> and the country level mappings of the Global

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<sup>4</sup> A/HRC/4/47, para 49 and para. 54.

<sup>5</sup> *Id.*, para. 51.

<sup>6</sup> *Id.*, para. 52.

<sup>7</sup> *Id.*, para. 55.

<sup>8</sup> *Id.*, para 54.

<sup>9</sup> The inter-agency MDG Gap Task Force has the objective of developing a methodology to systematically track international development commitments, primarily under MDG 8, and their

Partnership for Development (a Joint UNDP - DFID – ODI Project) and regards these initiatives as demonstrating the need for and seeking to provide rigorous qualitative and quantitative tools in dealing with MDG 8 and broader global partnership for development.<sup>10</sup>

70. For these reasons, the task force considers that a proper refinement of the criteria could best be carried out through an expert consultation, and drawing upon the expertise and experience of its institutional members and academic researchers. In this way, the task force could better meet the expectations of the Working Group that it “provide a consistent mapping of the criteria and relevant checklists, viewing the latter as operational sub-criteria.”<sup>11</sup> The outcome of the consultation could then be applied during phase III (2009) of the task force’s Work Plan and thus allow it to benefit from methodologically-sound criteria and operational sub-criteria in order to consolidate its findings and present a revised list of the criteria and operational sub-criteria.

#### **D. Consideration of additional partnerships: further thematic and regional expansion**

71. In phase II (2008), the task force was requested by the Working Group “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.”<sup>12</sup> This step-by-step approach would allow the task force to follow up on the current four partnerships, in various stages of assessment and initiate evaluation of additional partnerships, expanding thematically and geographically.

72. The first three partnerships reviewed by the task force have allowed it to focus primarily on aid and on Africa, while the examination of the Cotonou Agreement has expanded its work thematically to trade and geographically to the Caribbean and Pacific countries.

73. For phase II of its Work Plan, the task force proposes to continue to follow developments relating to the three partnerships considered in phase I and assess more thoroughly the Cotonou Agreement.

#### **1. MDG Target 17: Access to affordable essential drugs in developing countries**

74. Target 17 reads “in cooperation with pharmaceutical companies, provide access to affordable essential drugs in developing countries.” At its second session (2005), the task force considered this target<sup>13</sup> and welcomed the adoption of General Comment No. 17 (2005) by the

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fulfilment at the international and country level. It reports to the Secretary General and suggests improvements to the implementation of existing commitments.

<sup>10</sup> The aim of the initiative is to design and pilot a tool to systematically map the ways in which a range of global issues impact on poverty, in particular country contexts.

<sup>11</sup> A/HRC/4/47, para. 51.

<sup>12</sup> *Id.*, para 54.

<sup>13</sup> E/CN.4/2005/WG.18/TF/3, paras. 66-67.

Committee on Economic Social and Cultural Rights and considered that further reflection was 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 MDG 8.<sup>14</sup> At its current session the task force felt it was appropriate to take up Target 17 during phase II of its Work Plan, not only to address intellectual property but also because health figures prominently throughout the MDGs<sup>15</sup>. It is significant that as noted by the Working Group on Access to Essential Medicines of the Millennium Project's Task Force on HIV/AIDS, Malaria, TB and Access to Essential Medicines, "The lack of access to life-saving and health-supporting medicines for an estimated 2 billion poor people stands as a direct contradiction to the fundamental principle of health as a human right."<sup>16</sup> Moreover, the examination of Target 17 would also allow the task force to apply the criteria to an important dimension of international trade, namely, the intellectual property regime both through the TRIPS Agreement of the WTO and numerous bilateral and regional free trade agreements.

75. The pertinence of the subject is further underscored by the work of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, who has prepared draft "Human Rights Guidelines for Pharmaceutical Companies in Relation to Access to Medicines,"<sup>17</sup> and by various advocacy and research initiatives.<sup>18</sup>

76. The task force proposes to explore, during a working session, progress made in realizing Target 17 from the perspective of the right to development criteria in the activities of key partnerships of the private sector (pharmaceutical companies), governments, and multilateral agencies (e.g. WHO, WTO, UNICEF, UNAIDS, UNDP, OHCHR, the World Bank). In this regard, the WHO can be approached, as co-convenor of the High-Level Forum on the Health MDGs, and in light of the special position of its Department of Medicines Policy and Standards, in relation to Target 17, to convene such a working session. The task force considers that these

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<sup>14</sup> *Id.*, para. 67.

<sup>15</sup> Three of the 8 MDGs, 8 of the 18 targets, and 18 of the 48 indicators relate directly to health.

<sup>16</sup> UN Millennium Project, *Prescription for healthy development: increasing access to medicines*, Report of Task Force on HIV/AIDS, Malaria, TB and Access to Essential Medicines, Working Group on Access to Essential Medicines, 2005, p. 1.

<sup>17</sup> Text available at [http://www2.essex.ac.uk/human\\_rights\\_centre/rth.shtm](http://www2.essex.ac.uk/human_rights_centre/rth.shtm).

<sup>18</sup> NGO initiatives include the Médecins Sans Frontiers (MSF) Campaign for Access to Essential Medicines. Independent research initiatives include Management Sciences for Health and its program Strategies for Enhancing Access to Medicines. Building on the "Montréal Statement on the Human Right to Essential Medicines", adopted in 2005 at the University of Montréal, the following institutions organized a workshop on the evaluation from the right to development perspective of Target 17 on 20 November 2007 at the Université de Québec: l'Association pour la santé publique du Québec, Initiative luso-francophone sur l'accès au médicament et la protection du citoyen, Program on Human Rights in Development of the Harvard School of Public Health, Canadian Institutes of Health Research, le Réseau de recherche en santé des populations du Québec, and le Groupe d'étude sur l'interdisciplinarité et les représentations sociales de l'UQAM.

issues would be best addressed through two separate sessions: one, dealing with procurement and pricing issues and involving primarily public-private partnerships, with relevant multilateral initiatives,<sup>19</sup> and the second one, devoted to trade-related aspects of intellectual property protection under the TRIPS agreement of WTO and bilateral and regional free trade agreements, involving relevant institutions.<sup>20</sup> These sessions would also provide an opportunity for the Special Rapporteur to present his guidelines to the stakeholders.

## **2. MDG 8 Targets 13 and 15: Debt relief and sustainability**

77. At its first session, the task force considered a heavy debt burden as a major obstacle for poor developing countries in achieving the MDGs and in meeting their obligations under the International Covenant on Economic, Social and Cultural Rights.<sup>21</sup> It considered the matter further at its second session deeming it necessary to define debt sustainability within a State context with a view to attaining a level of debt that allows countries to achieve the MDGs and avoid an increase in debt ratios by 2015 and agreed that poverty reduction and promotion and protection of human rights should be key considerations in finding solutions for debt sustainability.<sup>22</sup> Finally, it considered that a State's obligation to service national debt had to take sufficiently into account national priorities of human development and poverty reduction, consistent with its human rights obligations and the need to maintain trust in the financing system.<sup>23</sup> The importance of the issue is underscored by MDG Target 13,<sup>24</sup> and Target 15.<sup>25</sup>

78. The task force is aware of the experience of the two phases of the HIPC initiative and the Multilateral Debt Relief Initiative (MDRI) and of other facilities dealing with debt relief. For its current Work Plan, it sees the advantage of combining its interest in this issue with its geographical expansion and taking up the experience of the IDB with debt relief.

## **3. Latin America and the Caribbean – Targets 12, 13 and 15**

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<sup>19</sup> This includes the Interagency Pharmaceutical Coordination Group, The Global Fund to Fight AIDS, Tuberculosis and Malaria, The Bill & Melinda Gates Foundation, The GAVI Alliance and The Clinton Foundation's HIV/AIDS Initiative.

<sup>20</sup> Institutions include WTO, WHO, UNDP, UNCTAD and WIPO.

<sup>21</sup> E/CN.4/2005/WG.18/2, para. 48.

<sup>22</sup> E/CN.4/2005/WG.18/TF/3, paras. 62.

<sup>23</sup> *Id.* para. 63.

<sup>24</sup> This target reads: "Address the special needs of the least developed countries Includes: tariff and quota free access for least developed countries' exports; enhanced programme of debt relief for HIPC and cancellation of official bilateral debt; and more generous ODA for countries committed to poverty reduction."

<sup>25</sup> This target reads: "Deal comprehensively with the debt problems of developing countries through national and international measures in order to make debt sustainable in the long term."

79. Regarding the regional expansion of the application of right to development criteria to global development partnerships, the task force has identified the following partnerships and institutions within Latin America and the Caribbean and hopes to begin a constructive dialogue moving on to future assessments.

80. The Inter-American Development Bank (IDB) is the oldest and largest regional bank and one of the main sources of multilateral financing for development in the Latin America and the Caribbean. The task force takes note of IDB's work on debt, regional integration and human development, as well as on the environment. The Southern Cone Common Market (MERCOSUR) constitutes a regional trade agreement between Argentina, Brazil, Paraguay and Uruguay with potential new and associate members. Although a trade agreement, MERCOSUR also pursues a development agenda. The task force also takes note of the work being done with the Meeting of High Level Authorities on Human Rights within MERCOSUR.

81. These potential partnerships should be viewed within the wider context of the Inter-American system and global cooperation. Particularly relevant are the Organisation of American States (OAS) and the United Nations Economic Commission for Latin America and the Caribbean (ECLAC). The OAS has a long tradition in human rights with an established regional system of human rights promotion and protection.<sup>26</sup> The Charter of the OAS contains several principles of the right to development and specifically promotes development of states in a frame of human rights.<sup>27</sup> ECLAC has a long established record influencing economic development policies and has embraced most recently a vision of development based on social cohesion and human rights.

82. Other regional instruments which may be examined at a later stage of the task force's work include the recently adopted ASEAN Charter and the Arab Charter for Human Rights, containing an explicit article on the right to development, which is expected to enter into force soon.

#### IV. RECOMMENDATIONS

**83. The task force has reordered and slightly developed the list of criteria in light of lessons from their application and recommends their approval, as they appear in annex II.**

**84. The task force recommends that a dialogue continue with partners of the African Peer Review Mechanism (APRM), the ECA/OECD-DAC Mutual Review of Development Effectiveness (MRDE), the Paris Declaration on Aid Effectiveness, and the Cotonou Partnership Agreement between ACP countries and the EU. It further recommends (a) a**

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<sup>26</sup> See American Convention on Human Rights, OAS Treaty Series No. 36, 1144 UNTS 123, entered into force July 18, 1978 and the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, "Protocol of San Salvador," OAS Treaty Series No. 69 (1988), entered into force, November 16, 1999

<sup>27</sup> In particular, see Article 17 and Chapter VII of the revised OAS Charter which includes references to the right to development and integral development.

second round of technical missions for the Cotonou Partnership Agreement and the APRM and (b) participation, subject to an invitation, at the third High Level Forum on Aid Effectiveness at Accra, Ghana in September 2008, and (c) providing input as appropriate to MRDE 2.

85. For phase II, the task force recommends devoting attention to the region of Latin America and the Caribbean, and to expand thematically under MDG- 8 to the issues of essential medicines (Target 17), debt relief (Targets 13 and 15), and trading and financial systems (Target 12).

(a) The task force proposes to examine the role of key multilateral and public-private initiatives in implementing Target 17 relating to access to affordable essential drugs in developing countries. This dialogue would involve partnerships focused on procurement and pricing as well as on trade related aspects of intellectual property protection in the WTO and bilateral and regional free trade agreements involving relevant institutions.

(b) The task force therefore recommends to the Working Group that it encourage the task force to explore with WHO and relevant institutions identified, the possibilities of organizing a working session or other suitable method to collect information on the application of the right to development criteria to Target 17 with a view to identifying the strengths and weaknesses of various approaches to advancing this target, benefiting from the draft Guidelines of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

(c) As part of its geographical expansion into the region of Latin America and the Caribbean, the task force recommends that it study the work of the Inter-American Development Bank (IDB) on debt under Target 15 as well as other relevant programmes for sustainable development. Alternatively, it could study MERCOSUR in the context of Target 12.

86. In view of the essential role and valuable contribution to its work, the task force recommends continuing and reinforcing the active participation of international financial and development institutions, including the World Bank, UNDP, IMF, UNCTAD, and WTO, as well as other relevant specialized agencies, funds and programmes of the United Nations. Further, it recommends that for the technical missions relating to phases II and III of its work, the involvement of regional development banks, economic integration and human rights institutions be actively encouraged.

ANNEXES

**Annex I**

**AGENDA**

1. Opening of the meeting
2. Election of the Chairperson of the meeting
3. Adoption of timetable and programme of work
4. Preliminary assessment of the outcome of phase 1 of the three-phase workplan as recommended by the Working Group in its eighth session – application of the criteria for periodic evaluation of global development partnerships – as identified in Millennium Development Goal 8 (MDG 8) - from the perspective of the right to development
  - (a) Introduction on the topic and guiding parameters for interactive discussion
  - (b) Interactive discussion
5. The African Peer Review Mechanism and the ECA/OECD-DAC Mutual Review of Development Effectiveness
  - (a) Presentations on follow up of assessment by relevant task force members, experts and participants
  - (b) Interactive discussions on the theme
6. The Paris Declaration on Aid Effectiveness
  - (a) Presentations on follow up of assessment by relevant task force members, experts and participants
  - (b) Interactive discussions on the theme
7. The Cotonou Partnership Agreement between European Union and ACP countries
  - (a) Presentations on initial assessment by relevant task force members, experts and participants
  - (b) Interactive discussions on the theme
8. Identification of additional partnerships for application of the criteria for the implementation of right to development
  - (a) Presentations by relevant task force members

- (b) Interactive discussions on the theme
9. Progressive development and refinement of the criteria
- (a) Presentations by relevant task force members, experts and participants
  - (b) Exploration of methods of progressive development and refinement of criteria -  
*closed session*
  - (c) Interactive discussions on the theme
10. Adoption of the report, and of conclusions and recommendations

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## Annex II

### CRITERIA FOR PERIODIC EVALUATION OF GLOBAL DEVELOPMENT PARTNERSHIPS FROM A RIGHT TO DEVELOPMENT PERSPECTIVE

(as revised by the task force at its fourth session)<sup>1</sup>

To facilitate their application, the criteria remain organised in three groups related to development partnerships: structure and institutional framework, process and outcome.

#### **Structure / institutional framework<sup>2</sup>**

*The extent to which a partnership:*

- (a) contributes to creating an enabling environment for sustainable development and the realisation of all human rights.<sup>3</sup>
- (b) draws on all relevant international human rights instruments, including those relating to the right to development, in elaborating the content of development strategies and tools for monitoring and evaluating their implementation;<sup>4</sup>
- (c) promotes good governance, democracy and the rule of law and effective anti-corruption measures at the national and international levels;<sup>5</sup>
- (d) follows a human rights-based approach to development, and integrates the principles of equality, non-discrimination, participation, transparency, and accountability in its development strategies;<sup>6</sup>
- (e) establishes priorities that are responsive to the needs of the most vulnerable and marginalized segments of the population, with positive measures to realise their human rights;<sup>7</sup>

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<sup>1</sup> The revision is in response to the request of the Working Group that the task force review the criteria and enhance their effectiveness as a practical tool for evaluating global partnerships, and that it “progressively develop and further refine the criteria, based on actual practice” (A/HRC/4/47, paras. 51 and 55). This version maintains essentially the same content, while reordering, clarifying and developing some of them slightly based on lessons learned from applying the criteria so far. It represents an intermediary stage for use in phase II of its work (2008) and anticipates a more significant refinement of the criteria to be carried out in phase III (2009).

<sup>2</sup> For conceptual clarity, “enabling environment” has been replaced by “institutional framework”.

<sup>3</sup> Former criterion (a).

<sup>4</sup> Former criterion (b) and see revised criterion (n) for new wording that reflects “and the extent to which partner countries receive support from international donors and other development actors for these efforts.”

<sup>5</sup> Former criterion (c).

<sup>6</sup> Former criterion (e).

<sup>7</sup> Former criterion (n).

- (f) recognizes mutual and reciprocal responsibilities among the partners, taking into account their respective capacities and resources and the special vulnerability of Least Developed Countries;<sup>8</sup>
- (g) ensures that human rights obligations are respected in all aspects of the relationship between the partners, through harmonization of policies;<sup>9</sup>

## **Process**

### *The extent to which a partnership:*

- (h) ensures that adequate information is freely available to enable effective public scrutiny of its policies, working methods and outcomes;<sup>10</sup>
- (i) promotes gender equality and the rights of women;<sup>11</sup>
- (j) provides for the meaningful consultation and participation of all stakeholders, including affected populations and their representatives, as well as relevant civil society groups and experts, in processes of elaborating, implementing and evaluating development policies, programmes and projects;<sup>12</sup>
- (k) respects the right of each state to determine its own development policies in accordance with international law, and the role of national parliaments to review and approve such policies.<sup>13</sup>
- (l) includes fair institutionalized mechanisms of mutual accountability and review, through which the fulfilment by all partners of their agreed commitments is monitored and publicly reported, responsibility for action is indicated, and effective remedies are provided;<sup>14</sup>
- (m) monitors and evaluates progress in achieving development strategies by carrying out systematic assessments of the human rights impact of its policies and projects based on appropriate indicators and contributes to strengthening the capacity to collect and disseminate timely data, which should be disaggregated sufficiently to monitor the impacts on vulnerable population groups and the poor;<sup>15</sup>

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<sup>8</sup> Former criterion (j).

<sup>9</sup> New criterion reflects lesson from partnerships reviewed.

<sup>10</sup> Former criterion (f).

<sup>11</sup> Former criterion (d).

<sup>12</sup> Former criterion (l).

<sup>13</sup> Former criterion (g).

<sup>14</sup> Former criterion (k).

<sup>15</sup> Former criterion (h) and former criterion (i); with social safety nets appearing in revised criterion (o).

## Outcome

### *The extent to which a partnership:*

- (n) ensures that developing countries, through their own efforts and through international assistance and cooperation, have the human and financial resources to implement successfully development strategies based on these criteria;<sup>16</sup>
- (o) establishes, as needed, safety nets, to provide for the needs of vulnerable populations in time of natural, financial or other crisis;<sup>17</sup>
- (p) achieves the constant improvement of the well-being of populations and all individuals, on the basis of their active, free, and meaningful participation in development and in the fair distribution of the benefits, in accordance with article 2, paragraph 3, of the Declaration on the Right to Development;<sup>18</sup>
- (q) contributes to development that is sustainable and equitable, with a view to ensuring continually increasing opportunities for all and a fair distribution of resources;<sup>19</sup>

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<sup>16</sup> Former criterion (b), expanded to reflect lesson from partnerships reviewed.

<sup>17</sup> Former criterion (i).

<sup>18</sup> Former criterion (m).

<sup>19</sup> Former criterion (o).

### Annex III

#### LIST OF DOCUMENTS

<i>Symbol</i>	<i>Title</i>
A/HRC/8/WG.2/TF/1	Provisional agenda
A/HRC/8/WG.2/TF/CRP.1	Technical Mission Report, Paris Declaration on Aid Effectiveness, Paris 13-14 September 2007.
A/HRC/8/WG.2/TF/CRP.2	Technical Mission Report, ECA/OECD-DAC Mutual Review of Development Effectiveness, Paris, 13-14 September 2007, Addis Ababa, 12-16 October 2007
A/HRC/8/WG.2/TF/CRP.3	Technical Mission Report, African Peer Review Mechanism, Addis Ababa, 12-16 October 2007
A/HRC/8/WG.2/TF/CRP.4	Technical Mission Report, Cotonou Partnership Agreement between European Union (EU) and African, Caribbean and Pacific Countries, Brussels 19-21 September 2007.
A/HRC/8/WG.2/TF/CRP.5	Further analysis of the African Peer Review Mechanism and the ECA/OECD-DAC Mutual Review of Development Effectiveness in the context of NEPAD. Ms. Bronwen Manby
A/HRC/8/WG.2/TF/CRP.6	The Cotonou Partnership Agreement between the European Union and ACP Countries. Prof. James Thuo Gathii
A/HRC/8/WG.2/TF/CRP.7	The Paris Declaration on Aid Effectiveness. Mr. Roberto Bissio