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**IMPLEMENTATION OF THE RECOMMENDATIONS OF THE  
WORKING GROUP ON THE RIGHT TO DEVELOPMENT, ENDORSED  
BY THE HUMAN RIGHTS COUNCIL IN RESOLUTION 12/23:**

**RIGHT TO DEVELOPMENT CRITERIA AND CORRESPONDING  
OPERATIONAL SUB-CRITERIA**

**Bringing Theory into Practice: Operational Criteria for Assessing  
Implementation of the International Right to Development**

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## INTRODUCTION

1. The 1986 Declaration on the Right to Development integrates aspects of both human rights and development theory and practice and encompasses both national and international dimensions. International support for the Right to Development is evident in the enunciation of the Millennium Declaration and accompanying Millennium Development Goals, and in the initiation of the Doha Development Round by the WTO, as well as in a number of other recent initiatives. However, the normative content of the right remains relatively opaque, and as a result there is a lack of clarity concerning the specific duties incumbent on UN Member States and other actors as well as in assessing compliance with the right by actors at both the national and international levels.

2. The study below was commissioned by the United Nations Office of the High Commissioner for Human Rights to assist the High Level Task Force of the Intergovernmental Working Group on the Right to Development. The objective of the study is to further clarify the normative content of the right and to devise criteria, sub-criteria, and indicators to assess the implementation of the right. The study's mandate is: 1) to help clarify the Right to Development by establishing a well-defined set of contours for the right, 2) to further refine criteria and sub-criteria for assessing implementation of the right and 3) to specify possible indicators and propose an optimal set among them that might eventually be used, along with the criteria and sub-criteria, as the basis for guidelines or a legal instrument on the right.

3. The mandate requires that the outcome be firmly anchored in international human rights law, theory and practice on the one hand, and in development theory and practice on the other; that the criteria and sub-criteria proposed build on the earlier work of the Working Group and reflect the full and universal scope of the right at both national and international levels; and that the indicators proposed for the current year respond to pressing development concerns as enumerated in Millennium Development Goal 8 and identified by the Working Group on the Right to Development. Above all, the goal is that the proposed criteria, sub-criteria and indicators should serve as practical tools that stakeholders at various levels—international organizations, government officials, and civil society—can readily use to evaluate compliance of policies and initiatives with the Right to Development.

4. The study was prepared over a four-month period, between September and December 2009. An early draft was circulated for discussion to approximately 20 international experts in related fields who took part in a two-day consultation on the project hosted by the United Nations Office of the High Commissioner for Human Rights, the Program on Human Rights in Development at the Harvard School of Public Health, and the Measurement and Human Rights Program at the Carr Center for Human Rights Policy at the Harvard Kennedy School. Comments and suggestions arising from the consultation were subsequently incorporated into this, the final version.

5. The study is divided into seven sections, including this introduction. Section II. locates the Right to Development in the evolving world of development-related standards, theory, architecture and practices. Section III. locates the Right to Development in contemporary international human rights law and practice, and establishes a working understanding of the contours of the right. Section IV. discusses the relevance of persistent versus current development challenges and sets out a number of technical issues related to selection of the

indicators. The fifth section provides an overview of internationally recognized priority concerns in human development organized around two overarching topics that in their details encompass the pressing development concerns enumerated in Millennium Development Goal 8 and identified by the Working Group. These overarching topics are: 1) financing development and ensuring global economic and financial stability and 2) trade and technology transfer; these large topics are followed by shorter discussions of development topics relevant to the Declaration: the role of transnational business, and the implications of pursuing development in an environment of peace and security. Subsequent to the discussion of each topic, indicators are proposed that could assist stakeholders at the various levels evaluate the extent to which the design, implementation, and outcomes of policies, programmes, and initiatives most especially at the international, but also at the national, level accord with the Right to Development. Section VI. focuses more narrowly on national level development. After discussing several pertinent conceptual issues related to assessing national level development performance in parallel with section V., indicators are proposed that could be used to assist stakeholders to evaluate the extent to which national policies, programmes and initiatives accord with the Right to Development.

6. These discussions culminate in the final section of the paper, which proposes a set of specific criteria, sub-criteria and indicators for use in assessing Implementation of the Right to Development.

## **I. LOCATING THE RIGHT TO DEVELOPMENT IN THE EVOLVING WORLD OF DEVELOPMENT-RELATED STANDARDS, THEORY, ARCHITECTURE AND PRACTICES**

### **A. Development Theories 1986-2009**

7. Just as the Right to Development (RtD) must be understood in the context of evolving international human rights law, so it must also be understood in the context of evolving theories of effective development policy and action.

8. Although many development perspectives have shaped development practice over the past half century, two have shared dominance since the enunciation of the Declaration on the Right to Development: orthodox development theory rooted in neoclassical economics; and the human development, or capabilities, paradigm which focuses more directly on human well-being. Below we first provide a brief overview of orthodox development thinking prior to the 1980s and its evolution since then, and then discuss the main contours of the human development paradigm.

#### **Orthodox development thinking**

9. Orthodox development theory focuses on building the productive capacity of national economies so as to enhance material well-being, measured as increasing per capita GDP. Orthodox development policy entails inducing structural, institutional, and technological changes that enhance national and international economic efficiency. The desired structural changes entail aligning a country's structure according to its comparative production advantage; that is, shifting production to those activities in which the country has the greatest competitive advantage (or least competitive disadvantage) relative to other countries, and fostering broad-based industrialization. The principal institutional change involves expanding the role of markets, both national and international, in directing domestic economic activity. Finally, the

principal technological change involves increasing total factor productivity; that is, inventing or identifying and then adopting technologies that can produce more output from any given set of inputs. The emphasis on economic growth derives from the recognition that in poor countries, even the best social policies cannot lift people out of poverty in the absence of economic growth. Orthodox development theory is production-centered rather than people-centered, and equates development with changes in the nature of the economy, rather than taking a holistic approach to development. The narrow focus on economic issues derives from functionalist logic that separates technical and economic questions from political and social issues involving normative judgment (Boas 2001), as well as an expectation, at least until recently, that economic growth itself will induce a modernization process that reduces income and social inequalities and promotes broader social, political, and cultural aspects of well-being.

10. Prior to the 1980s, a shortage of capital for investment and pervasive market failures accompanying the early stages of development were seen as the primary obstacles to development. Orthodox development policy accorded government an activist role in offsetting market failures and directing capital inflows towards productive investments that would provide the base for self-sustaining development. A combination of events changed the emphasis of orthodox development theory in the 1980s. First, mounting evidence that government intervention often increased rather than reduced market distortions led to a general loss of confidence in the potential for governments to improve on market allocation and intensify the growth momentum. Second, several factors coalesced to induce a debt crisis throughout Latin America and Sub-Saharan Africa. Decades of borrowing to finance development and to offset the combined effects of the oil price shocks and falling primary product prices in the 1970s led to the accumulation of a heavy debt burden by the 1980s. The imposition of tight monetary policy in creditor countries in an effort to rein in rampant inflation following the second oil price shock precipitated recession in high income countries and radically increased the real interest rate on developing countries' outstanding loans. A pernicious debt crisis ensued.

11. Orthodox development policy emphasis shifted to restoring internal and external macroeconomic balance. Further, by the early 1980s, most orthodox economists regarded activist governments as impediments to development, and development theory and policy in the 1980s and 1990s emphasized minimizing government intervention in markets. Attention focused on liberalizing trade and bringing exchange rates into line with market forces in order to increase foreign exchange earnings, facilitate debt repayment, and exploit comparative advantage. Policy recommendations emphasized the importance of fiscal restraint, deregulation, privatization, and maintaining a stable macroeconomic environment, both to enable markets to work their magic, and to attract renewed capital flows. The policy emphasis on liberalizing trade was reinforced by new endogenous growth models that explain the forces inducing technological change. These models postulate technological change as the primary force for growth and identify the positive externalities and spillovers emanating from trade with firms in high income countries as a key channel for technological diffusion.

12. The question of the proper role of the government in orchestrating development yielded to the questions of how to improve governance for development and how the state can affect development outcomes, and brought the insights of the neo-institutional and public choice schools of economic thought (North 1990, Williamson 1991) squarely into the orthodox development mainstream by the turn of the millennium. Orthodox development theory broadened to incorporate the importance to development of political institutions and investments

in people's knowledge (human capital). Although expanding the focus of orthodox development theory to encompass political and institutional change begins to take a more holistic approach to development, much of the emphasis in this vein focuses on identifying features associated with successful economic reform programs, ensuring governments' efficient use of aid and other resource flows, reducing corruption, and creating an enabling environment for the flourishing of private industry (Isham, Kaufman, Pritchett, 1997; Isham, Narayan, and Pritchett, 1995; Dollar and Svensson, 1998). Little direct emphasis is focused on the extent to which greater material prosperity enables people to enjoy greater economic security, better health, to become better educated, or enhances other dimensions of well-being. Nor is much emphasis placed on the obstacles imposed to a given state's development by the practices of third party actors (multilateral or bilateral institutions, multinational corporations, or other states) in pursuit of their own development.

13. Promoting per capita income growth has always held center stage among orthodox economists, but issues of social justice, particularly income inequality and absolute poverty, gained attention in the 1970s. Averages mask inequality and stark differences in the level of material prosperity people enjoy can underlie a high average level of material prosperity. Further, an increase in average material prosperity can result from simultaneous gains by those who already enjoy the highest level of material prosperity and losses by those suffering the lowest levels. During the 1970s, orthodox economists focused considerable attention on identifying development strategies that promote equitable growth. Although the emphasis on social justice waned in the face of the challenges posed by the 1980s debt crisis, the emphasis on identifying development strategies that promote more equitable growth has resurfaced in orthodox circles as an emphasis on "pro-poor" growth in the past decade, and has been reinforced by the Millennium Declaration's call to remediate poverty. But the priority of growth still dominates the emphasis on "pro-poor" growth in orthodox development theory; even in the absence of a change in the distribution of income, growth reduces poverty over time.

### **The capabilities approach and the human development paradigm**

14. The alternative development paradigm, the capabilities, or human development paradigm, gained prominence in early 1990s with the publication of the United Nations Development Programme's *Human Development Reports* (United Nations Development Programme, various years), but its antecedents stretch back further, and it was very much in the air among Member States when the Declaration on the Right to Development was drafted and adopted. This approach grew out of the reassessment of development performance in the early 1970s that stimulated a focus on poverty, inequality and unemployment even among orthodox economists. One seminal contribution was Chenery et al.'s *Redistribution with Growth* (1974); a second was the Basic Needs strategy initially proposed by Indian planners, but later developed by researchers at the International Labour Office (ILO). These streams of analysis later diverged substantially from a narrow focus on the distribution of material well-being to incorporate other dimensions of human well-being. Amartya Sen (1985, 1999) and Martha Nussbaum (1988) provided the theoretical underpinnings of the capabilities approach and many others contributed to its refinement (see for example, Nussbaum and Sen 1993). Its application as a normative framework for development policy owes much to Sen himself, as well as Mabub ul Haq (1995), Richard Jolly, Frances Stewart, Paul Streeten and Sakiko Fakuda-Parr, through their elaboration of its policy implications in the United Nations Development Programme's *Human Development Reports* (1990 to 2000).

15. The capabilities approach is people centered. Rather than emphasizing production and per capita income growth as goals of development, the capabilities approach judges economic conditions according to the extent to which they promote human well-being. Production and income growth serve as a means to improve human well-being, and how much is produced is of lesser importance than what is produced and who it benefits. Income or growth figures matter to the extent they are transformed into valued functionings—better nutrition or health, greater knowledge, satisfying leisure time, greater security against crime, greater sense of community belonging, and so on. The capabilities approach puts social, cultural, and political well-being on an equal footing with material well-being. It recognizes that not all factors of value depend on income. Some valuable political, social and cultural conditions, such as having political voice, gender equality, or being able to express culture through art, are not dependent on growing material well-being. Ultimately, development is judged by the extent to which it enlarges people's choices about the kinds of valued lives they can lead, or in Sen's terminology, expands their capability sets.

16. In the capabilities approach, people are not only the beneficiaries of development; they are the prime driver of development. Enhancing people's capabilities is both the end goal of development and the means to empowering people to effectively participate in directing every facet of the development project. This requires that national institutional arrangements be structured so as to enable people acting individually and in groups to influence local and national decision making on an equal basis. Similarly, it requires that international institutional arrangements and procedures are structured so as to enable people acting individually, in groups, and through their States to influence decisions that have a bearing on their nation's opportunities, and to do so on a more equal basis.

17. The capabilities approach emphasizes social justice, not just in its economic dimension, but in all dimensions—social, political, cultural and intergenerational. It embraces all of society, the vulnerable as well as the powerful. The government is accorded an activist role in ensuring economic growth does not come at the cost of political repression, environmental desecration, or cultural extinction but instead translates into improved well-being for all. This may require far-reaching changes, including, to quote Haq (1995, p. 15) “land reform, progressive tax systems, new credit systems to bank the poor people, a major expansion of basic social services to reach all of the deprived population, the removal of barriers to entry of people in economic and political spheres and the equalization of their access to opportunities, and the establishment of temporary social safety nets for those who may be bypassed by the markets or public actions.”

18. As is apparent from the above discussion, the capabilities paradigm adopts a holistic concept of development. All aspects of national and international development—economic, social, political, and cultural—are viewed from the vantage point of enabling all people, but most especially the least advantaged, to choose among a broader and deeper set of functioning bundles.

19. The preambular paragraph of the Declaration on the Right to Development sits squarely within the human development paradigm. It enunciates an encompassing view of development. It is people-centered both with regard to its goals and means. The goal of development is to continuously improve the well-being of all people. The Declaration judges development progress on the basis of how the most vulnerable fare. The concept of development enunciated

is holistic, encompassing economic, social, cultural, and political aspects, and is people-driven with regard to its goals, implementation, and enjoyment of benefits.

## **B. Changes in the International Development Architecture and Practice since 1986**

20. Both the contours of the international development architecture and the focus of international development institutions have evolved since 1986 in response to emergent development problems and advances in development theory. Below we highlight some of the major changes, including in the Bretton Woods institutions; in the standards and mechanisms governing international trade, investment and technology; and in UN-based international development standards and agreements.

### **The Bretton Woods Institutions: World Bank and IMF**

21. Both the World Bank and the International Monetary Fund (IMF) have gone through a series of shifts in practice and emphasis since 1986. Orthodox development theory underpinned the development policies promoted by both institutions in the 1980s and 1990s. By 1986, the Bretton Woods Institutions' energies were occupied by the Latin American and Sub-Saharan African debt crises. The IMF's focus on providing short-term finance to enable countries to avoid painful structural adjustments in the face of short-term imbalances shifted to providing short and medium term financing to countries experiencing major balance of payments crises that were unlikely to resolve of their own accord in the absence of painful structural adjustments. In return for short to medium term loans exceeding their allocation of special drawing rights (SDRs), debtor countries agreed to adopt the prescribed stabilization policies. The stabilization policies included: 1) contractionary monetary and fiscal policy (restraining credit creation and reining in government expenditures and increasing tax revenues thereby closing the budget deficit) to stem inflation and so restore internal macroeconomic balance; and 2) currency devaluation, the imposition of wage restraints and raising or freeing the interest rate to restore external macro balance.

22. With the onset of the debt crisis in the early 1980s, the World Bank's lending shifted from project lending (lending for specific projects such as roads, ports, schools, etc.) to structural adjustment lending, and research on the optimal sequencing of market reforms to ignite per capita income growth replaced the focus on development strategies promoting growth with equity. World Bank structural adjustment loans, like IMF loans, were conditional. Long term concessional loans were granted to countries willing to undertake reforms liberalizing the economy so as to consolidate stabilization and lay the basis for long-term market driven economic growth. "Liberalization" entails deregulation and realigning prices with market forces as well as increasing the scope of market activities. It typically involves removing tariffs, quotas and export taxes, interest rate ceilings subsidies on food, fertilizer and other goods; dismantling market regulations; privatization; adopting measures to ensure property rights; and removing restrictions on foreign banks and capital flows.

23. In the face of the transition of the Eastern European and former Soviet bloc countries from command to market economies, IMF and World Bank lending remained focused on stabilization and structural adjustment even as the Latin American debt crisis waned. The lessons of the 1980s brought additional concerns to the fore and reshaped lending practices. First, in response to concerns surrounding the effectiveness of foreign aid and IMF and World Bank lending in promoting per capita income growth, a major initiative to foster good governance was launched

by the World Bank in the mid-1990s. As a result, today, multilateral and bi-lateral financial flows are increasingly conditioned on the quality of recipient country governance and the adoption of measures to improve governance. The focus on governance recognizes linkages between civil and political aspects of development on the one hand and economic aspects on the other, although for the World Bank and the IMF, the goal of improved governance remains focused on increasing per capita income growth.

24. Second, although a measure of growth resumed in most Latin American countries by 1990, this was not the case in Sub-Saharan African countries and some Latin American countries. Unsustainable debt burdens crippled low income countries, especially in Sub-Saharan Africa, and growth eluded them. Further, the adverse impact of contractionary policies and the removal of subsidies on basic food stuffs and fertilizer fell particularly hard on vulnerable groups. These intertwined problems spawned two initiatives, an initiative to attenuate the adverse impact of stabilization and structural adjustment programs on poverty and the heavily indebted poor country (HIPC) initiative. Thus the focus of IMF and World Bank policy broadened to directly take distributional concerns, notably poverty, into account. Towards the end of the 1980s, the World Bank, in particular, began including social clauses in its structural adjustment programs that sought to protect vulnerable groups by protecting social service expenditure and safety net instruments from budget cuts. “Safety net instruments that the Bank has supported include direct cash transfers, subsidies on basic goods and services, social infrastructure development in deprived areas, employment-generating public work schemes, targeted nutrition programs, employment services and retraining programs, and direct delivery of basic goods and services to the poor” (Independent Evaluation Group 1995, para. 29).

25. The Joint World Bank-International Monetary Fund HIPC initiative, launched in 1996, provides debt relief to heavily indebted poor countries that implement agreed-upon reforms supported through IMF and World Bank Programs. Debt relief intends to make debt sustainable and reignite growth and additionally to free up resources to boost social spending. Beginning in 1999, relief under the HIPC Initiative became contingent upon the development of a national Poverty Reduction Strategy Paper (PRSP). These PRSP papers form the basis for IMF and WB concessional lending, and although concessional lending is conditional on their completion according to WB and IMF guidelines, the PRSPs themselves are intended to be prepared by recipient governments with the active participation of civil society and accordingly are expected to reflect recipient country priorities and to enjoy broad country ownership.

26. Each of these initiatives has gained momentum and has been reshaped since its initiation. Disappointment surrounding the effectiveness of the World Bank’s structural adjustment lending led it to focus its lending on the quality of governance. Good governance has become both an objective and condition for Bank lending. Given the Bank’s mandate, emphasis has focused on the economic dimensions of governance. The attention to poverty in IMF and World Bank policy and practice, in particular, was reinforced by the 2000 Millennium Declaration. The number of multilateral and bilateral donors participating in the HIPC initiative expanded and the extent of relief provided increased. As of September 22, 2009, debt reduction packages under the HIPC initiative had been approved providing US\$51 billion in debt-service relief over time (IMF, 2009a). In 2005 the Multilateral Debt Relief Initiative (MDRI), launched by the Group of 8 major industrial countries agreed to the cancellation of 100% of the debt owed to the IMF, the World Bank’s International Development Association (IDA), and the African Development Fund (AfDF), once debtor countries reach the completion point of the HIPC. As of May 15, 2009, the

MDRI had provided US\$ 3,350 million debt relief beyond that provided through the HIPC (IMF, 2009b). In 2007, the Inter-American Development Bank agreed to cancel 100% of its debt to the 5 highly indebted poor countries in Latin America.

27. The East Asian financial crisis in the late 1990s highlighted weaknesses in the IMF's ability to stem financial crises, among them its limited lending capacity and its inexperience in tailoring conditionality to given circumstances. In response to this and subsequent crises, IMF lending capacity has been dramatically increased, its loan facilities reshaped, and its conditionality framework reformed to enable it to better tailor loan terms to countries' circumstances and to more explicitly target conditionality to the objectives of the loan.

28. The IMF and WB were initially constituted to deal with the development and reconstruction challenges that followed the end of World War II. Their evolution in response to the changing world economy and development needs demonstrates the necessarily changing nature of the international machinery set up by the world community for "the promotion of the economic and social advancement of all peoples" (Preamble to the Charter of the United Nations, 1945), and suggests that a critical aspect of the right to development is to provide principles to shape the goals and processes both of evolving existing machinery and of newly arising institutions.

### **Trade, investment and technology**

29. The global rules governing trade and private investment have been reshaped since 1986. Prior to the 1980s, developing countries only played a peripheral role in negotiations in the major trade forum, the General Agreement on Tariffs and Trade (GATT), and as a result, GATT agreements focused almost exclusively on concerns of developed countries. The 1980s saw the fuller incorporation of developing countries into the GATT under the Uruguay Round, a series of negotiations which lasted into the 1990s and which led to the creation, in 1995, of the World Trade Organization (WTO). The WTO incorporates the GATT and other, newer instruments including the General Agreement on Trade in Services (GATS) and the Trade-Related Aspects of Intellectual Property Rights (TRIPS). Both the GATS and TRIPS agreements place commercial interests above other national interests in the expectation that the benefits of increased competition and technological change resulting from liberalization exceed the losses in other domains impinging on human well-being.

30. GATS expanded the scope of international trade agreements to include public services—including health, education, and water supply—extending global opportunities for service provision by multinational corporations. Liberalization under GATS increases market access and extends national treatment to foreign services and service suppliers. In doing so, it creates a climate attractive to direct foreign investment, and fosters competition in service provision. Increased competition and technology transfer along with spillovers in other aspects affecting productive efficiency hold the potential to accelerate technological change, the key force for growth. However, critics argue GATS limits the policy space necessary to ensure public interests are protected. If a commitment is later determined to conflict with the public interest or development goals, the commitment cannot be revoked. GATS commitments are irrevocable. While acknowledging that GATS agreements incorporate formal flexibilities that enable signatories to include exceptions and limitations on market access and arrangements covering

national treatment, critics argue that in the face of the greater bargaining power of developed countries, these flexibilities amount to formalities.

31. TRIPS establishes an enforceable international system for patent and copyright protection with which WTO members are obligated to comply. In so doing, TRIPS rewards innovation with a guaranteed period of monopoly profits. It thus prioritizes the potential benefits of innovation over technology transfer and the current benefits of lower prices that would result in the face of competition. This inter-temporal tradeoff has been a source of contention, especially as it relates to drugs critical to stemming current public health crises, and the transfer of technology to developing countries. In November 2001, the WTO's ministerial conference in Doha adopted a Declaration on the WTO Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS) and Public Health. This agreement specifies that the TRIPS agreement is to be "interpreted and implemented in a manner supportive of WTO members' right to protect public health and, in particular, to promote access to medicines for all" (paragraph 4), and reaffirms WTO members' right to use TRIPS flexibilities to this end.

32. The 2001 Ministerial Doha Declaration launched the "Development Round" of trade negotiations. Coming in the wake of the Millennium Declaration proclaimed at the United Nations Millennium Summit and its commitment to end global poverty, the Doha Declaration acknowledges the particular challenges faced by developing countries and proclaims a determined effort to create a global trading system fostering development. The Doha Declaration aspires to address the needs of developing countries, especially the least-developed countries, front and center in trade liberalization by enhancing their access to global markets, providing technical assistance and capacity building, and balancing the rules governing global trade (paragraph 2). It promises to address a number of imbalances in the WTO so as to better meet the development needs of developing countries, especially the least-developed countries and including island economies. In particular, the work plan promises to reverse restrictions and distortions biased against developing country interests including phasing out subsidies to developed country agriculture, reducing tariffs and non-tariff barriers on products of export interest to developing countries, improving the development impact of direct foreign investment, and ensuring TRIPS prevents bio-piracy and protects rather than exploits traditional knowledge and folklore. The Doha Declaration also articulated a commitment to sustainable development and the right of countries to take measures to protect the environment. Of further note, the Doha Declaration committed the WTO to enabling the effective participation of all members, and increasing transparency. Progress on implementing the "Development Round" however has not met the expectations raised for it.

33. Trade since 1986 has also been shaped by the reinvigoration of a number of existing regional arrangements and the formation of new ones. Bilateral trade arrangements, especially between high income countries and developing countries, have proliferated. The Andean Pact and the Central American Common Market were reinvigorated. The Association of Southeast Asian States (ASEAN) and the South American countries of the Mercado Comun del Sur (MERCOSUR), and the South Asian Association for Regional Cooperation (SAARC) launched free trade areas. African states launched a number of regional and sub-regional trade and monetary arrangements including the African Economic Community and the African Union. The North American Free Trade Agreement (NAFTA) and the Central American-Dominican Republic Free Trade Agreement (CAFTA-DR) came into being, as did numerous other United States bilateral free trade agreements, so that by 2009, the United States was involved in free

trade agreements with 17 countries and had signed bilateral agreements with an additional three countries. The European Union signed the ACP-EU partnership agreement with countries in African, Caribbean, Pacific countries. This agreement seeks to foster development as well as trade. The European Union has also signed bilateral association agreements with numerous developing countries and is in the process of negotiating an agreement with Mercosur and building a Euro-Mediterranean free trade area through bilateral trade agreements with Mediterranean countries.

34. The debates and false starts surrounding the evolution and proliferation of international institutions governing international trade, investment, and intellectual property reflect the difficulties inherent in balancing the future benefits of innovation against the current benefits of technology transfer, the interests of private business over public interests, and more generally, the distribution of benefits from trade and investment within and between countries now and over time. They also reveal that the structure of international institutions set up by the world community to balance these concerns influences outcomes. The Right to Development can serve to provide agreed-upon principles upon which both institutional structures and institutional processes can balance the different concerns in a manner that supports the continuous improvement in the well-being of peoples and individuals throughout the globe.

#### **New UN-based development standards and agreements**

35. The turn of the millennium brought with it a renewed commitment to development. The United Nations Millennium Summit in 2000 set forth ambitious targets, the Millennium Development Goals (MDGs), to combat the worst consequences of underdevelopment—poverty, hunger, disease, illiteracy, environmental degradation, and discrimination against women—and to establish a global partnership for development. The Doha Declaration followed on its heels. The Monterrey Consensus, adopted in 2002, strengthened the framework for a global development partnership by reaching agreements on issues critical to development including mobilizing domestic and international resources to finance development, reducing debt, fighting corruption and improving policy coherence. Six months later, the Johannesburg Summit renewed commitments to sustainable development made ten years earlier in Rio de Janeiro. The Kyoto Protocol committing its signatories to reduce greenhouse gasses entered into force in 2005. Also in 2005, the Paris Declaration on Aid Effectiveness set out principles for donors to improve aid effectiveness and set targets for monitoring progress on new practices.

36. These newer commitments signal a growing consensus around global solidarity in the pursuit of development, and reflect one of the hallmarks of the Right to Development as set out in the Declaration.

## **II. LOCATING THE RIGHT TO DEVELOPMENT IN CONTEMPORARY INTERNATIONAL HUMAN RIGHTS LAW AND PRACTICE, AND ESTABLISHING A WORKING UNDERSTANDING OF THE CONTOURS OF THE RIGHT**

### **A. Locating the Right to Development in Contemporary International Human Rights Law and Practice**

37. The world of human rights and development has changed considerably since the United Nations General Assembly adopted the Declaration on the Right to Development in 1986. Among

the most crucial changes are shifts in global economic architecture, theory, standards, and practices as seen in Section II above, and the expansion of international human rights theory, law and practice on the one hand, and the growth of literature and practice devoted to the effective integration of internationally recognized rights with development-related planning, implementation, and other processes, on the other. These latter two will be discussed below.

38. On the human rights side, the changes appear in the creation of new international legal instruments, including the Convention on the Rights of the Child, the Convention on the Rights of Migrants and their Families, the Convention on the Rights of Persons with Disabilities, and more; in the growing library of theory and practice related to economic, social and cultural rights; and in the establishment of new mechanisms such as the Optional Protocols to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the International Covenant on Economic, Social and Cultural Rights.

39. With regard to the integration of human rights and development, major changes include the Secretary General's Reform in 1997 that mainstreamed human rights through all UN agencies (and was later reinforced via the 2005 Secretary-General's report "In Larger Freedom"), the adoption in 2003 by various UN agencies of a Common Understanding on The Rights-Based Approach to Development (UN 2003); the rise of literature and practice tools (e.g., guides to human rights-based budget analysis) created by the UN, individual Member States, NGOs, and academics that address the integration of human rights and development at national levels; and by the growing world of theoretical exploration and practical guidance around the integration of human rights with global development issues such as trade, aid, business, and climate change.

40. The Right to Development, and therefore the specific criteria, sub-criteria and indicators that will be used to assess its implementation, thus exists within a complex structure of contemporary international human rights law, theory and practice. This section provides a brief overview of some key theoretical and practical aspects of human rights that will have an impact on how the Right to Development is understood to play out at national and international levels.

### **Economic, social and cultural rights**

41. One important change has been the rapid expansion, due to the UN Committee on Economic, Social and Cultural Rights, the work of other UN experts and bodies, and the work of scholars, civil society, and national courts, of our normative and practical understanding of the rights listed in the International Covenant on Economic, Social and Cultural Rights (ICESCR) and in other treaties. Of special interest in the context of the Right to Development are clarifications concerning the "progressive realization" of substantive economic, social and cultural rights, the notion of three kinds of obligations ("respect," "protect" and "fulfill") that speak to negative obligations, obligations to protect from 3<sup>rd</sup> parties, and positive obligations respectively, and the growing understanding, also adopted by human rights-based approaches to development (in varying forms), that implementation of substantive economic, social and cultural rights, to be effective, must be accompanied by core procedural rights, i.e., the right to non-discrimination, the right to access to information, the right to participation, and the right to an effective means of complaint and remedy.

## **Civil and political rights**

42. Among the key developments, aside from the adoption of the Convention against Torture and other treaties (such as the Convention on the Rights of the Child), with civil and political rights components, have been the rise of access to information standards (see especially the NGOs Article 19 and Transparency International).

## **Special protections**

43. Since 1986 new standards have been adopted in the UN system concerning the human rights of members of a number of groups, including indigenous peoples (General Assembly Declaration), persons with disabilities (treaty), migrants and their families (treaty); at the same time, there have been advances in systems of protection in a number of related fields such as, for instance, violence against women and girls in wartime; stigma and discrimination experienced by persons thought to be HIV positive; social exclusion generally; and internationally displaced persons.

## **Business**

44. Recent years have seen a rise in movements to address business and social justice, in particular in the growing field of “corporate social responsibility” and in voluntary standards schemes like the UN’s Global Compact. For a brief discussion of the current state of theory and practice concerning transnational corporations and other forms of business and human rights specifically, see section V.C., below.<sup>1</sup>

## **Responsibility to Protect**

45. A newly emerging standard known as Responsibility to Protect seeks to address issues of responsibilities of the international community when a government egregiously attacks those under its own jurisdiction, or patently fails to provide them succor in times of need (see United Nations Security Council Resolution 1634).

## **Human rights-based approaches to development**

46. Among the most important changes since the adoption of the Declaration on the Right to Development is the emergence of a new paradigm and field that focuses on integrating human rights standards effectively with development policy and programming, including development planning, implementation, monitoring, and assessment.

47. This paradigm, generally referred to as “human rights-based approaches to development” (HRBA) or “rights-based approaches to development” (RBA) has been formally adopted in the UN system, where considerable effort has gone into implementing it; and UN agencies, along with other international organizations, bilateral donors, academics, and civil society, are steadily adding to the field through the production of new methods, theories, practices and literature geared towards the practical implementation of internationally recognized rights standards in the context of international and national development policy and practice.

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<sup>1</sup> Note too the existence of a comprehensive website on this topic, the online “Business and Human Rights Resource Center” at [www.business-humanrights.org](http://www.business-humanrights.org).

48. The field encompasses work on human rights and development generally (see e.g., Uvin 2004 and United Nations Office of the High Commissioner for Human Rights 2006), on rights and development goals like the MDGs (see e.g., Alston 2004, Fukuda-Parr 2006 and United Nations Office of the High Commissioner for Human Rights 2008b), on rights and international financial or trade machinery like the World Bank, the IMF, and the WTO (see e.g., Skogly 2001, Darrow 2003, Cottier, Pauweln and Burgi 2005, Lang 2006, McInerney-Lankford 2009), and on practical tools for using human rights to analyze and address political, economic or social processes (see e.g., FUNDAR 2004 and UN Food and Agricultural Organization 2009 on budget analysis from a human rights perspective; Hunt and McNaughton 2006 on conducting human rights impact assessments; and the increasingly sophisticated and extensive literature on human rights indicators, which includes the 2008 United Nations Office of the High Commissioner for Human Rights "Report on Indicators for Promoting and Monitoring the Implementation of Human Rights," that has helped to shape this current paper<sup>2</sup>).

49. Within the UN system, it has given rise to the UN Common Understanding on Human Rights-based Approaches to Development mentioned above (United Nations 2003); to the integration of human rights into the Common Country Assessments and the United Nations Development Framework (UNDAF), to numerous practical guides for UN staff members in various agencies (UNDP, WHO, FAO, UNICEF, UNHABITAT, UNHCR, among others); and to processes like HURITALK, an email-based source of information-sharing on human rights for UN development practitioners.

50. At its core, the HRBA seeks to operationalize two key concepts: first, that the goals identified and pursued by national and international development processes should be shaped by, and congruent with, international human rights standards (including the full range of civil, cultural, economic, political and social rights); and second, that the methods used in pursuing development should equally accord with human rights standards, and in particular with cross-cutting norms around participation, accountability, transparency and access to information, and non-discrimination. This is deeply relevant to a contemporary understanding of the Declaration on the Right to Development; it is to be noted, however, that the Right to Development itself is relatively rarely used in practical ways in the HRBA literature, which tends to mention its existence and then swiftly move on to other, more clearly operational human rights standards. The relationship between the HRBA and the Right to Development is discussed further in Section III.B., below.

51. The same near absence of the Right to Development (beyond brief normative references) in the more practice-focused HRBA literature is to be found throughout the contemporary world of international human rights and development practice: even as other human rights standards and practices have evolved and been increasingly referred to in development contexts, the Right to Development itself has played a relatively small role in shaping state or other action in either field. This can be attributed to the fact that although the right enjoys strong international support, its normative content has remained difficult to parse, and there has been concomitant difficulty for Member States and other actors both in determining the duties inherent in the right and in

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<sup>2</sup> Although there are far more indicators on human rights in general now, there are still important areas in which human rights-specific indicators that are relevant to development have not yet been devised. One such area is cultural rights, which are especially important in development contexts where economic and material progress sometimes comes hand in hand with attacks on cultural expressions such as minorities' languages. For a discussion of the paucity of indicators on cultural rights see Stamatopoulou (2007) pp. 158-160.

assessing whether or not those duties are being met at national and international levels.<sup>3</sup> Section III.B., below, addresses this issue in more detail.

## **B. Establishing a Working Understanding of the Contours of the Right**

52. The Right to Development does not slot in easily beside other internationally recognized human rights: it covers a broader territory than most other human rights, and the text of the Declaration raises a tangle of conceptual and practical questions about implementation as well as content.

53. Considerable work, both before and after the advent of the Declaration itself, has been put into defining the normative content of the right (see e.g., United Nations 1979, United Nations 1991, Andreassen and Marks 2006). In recent years in particular the UN system has undertaken a concerted attempt to bring the content of the Right to Development to the kind of clarity that would enable Member States, UN agencies, and other international institutions and actors to integrate the standard effectively into their arrangements and practices. Among the steps taken are the appointment by the Human Rights Council of a Special Rapporteur on the Right to Development (see UN 2004); the creation of the Intergovernmental Working Group on the Right to Development; and the formation, by the Working Group, of its High Level Task Force, made up of independent experts, to assist the Working Group in the clarification and operationalization of the norms contained in the Declaration. Between them, and with additional contributions from academia, civil society, and the UN Secretariat, the world community has taken sizable strides in delineating the elements of the right and what it means to implement those elements at national and international levels.

54. Despite these advances, however, the right is in many ways still in a formative stage, with views not yet entirely fixed about the meanings and practical implications of some of its provisions. The present undertaking of the Working Group and its Task Force, and therefore of this paper, is thus inevitably definitional as well as assessment-focused. The purpose of this section is to provide a straightforward account of how we have approached the content of the right—that is to say, of the conceptual decisions we have made—when thinking of how implementation might best be assessed.

55. This section discusses the contours of the right to development on two planes: *general principles of implementation*, which address underlying practical and conceptual questions that must be answered before implementation can be assessed; and *specific normative content*, which delineates the substantive elements of the right. The section concludes with a brief discussion of the likely practical implications for development policy or programming of this understanding of the right.

### **General principles of implementation**

56. Implementation of the Right to Development has been stymied by on-going confusion around core aspects of the right, e.g., Is it like any other human right, in which the duty-holders are national governments and the rights-holders are individuals or groups? Or is it anomalous,

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<sup>3</sup> For an example of a civil society organization attempting, with limited success, to make practical use of the Right to Development in addressing a timely development issue, see the International Council for Human Rights Policy's 2008 "Climate Change and Human Rights: a Rough Guide," p.73ff.

implicating different rights-bearers and different duty-holders? In determining criteria, sub-criteria and indicators for assessing implementation of the right we needed to identify potential points of confusion and, where the answer was unfixed, take a position one way or another. The result is the set of general principles listed below. All of these principles are either explicit in, or consistent with, the text of the Declaration.

57. The principles are as follows:

1. The right is a right of peoples and of individuals. There is a rebuttable presumption that in international transactions and contexts states represent the collective rights of the peoples and individuals under their jurisdiction.

-- Given that so much of development involves action among states (trade agreements, international assistance, etc.) there was some question as to the role of the state in representing the Right to Development's rights-holders in international arenas. The principle adopted here is that in the state-driven world of international development practice it is logical for states to be assumed to represent the collective rights of those under their jurisdiction. However, this assumption can be challenged in the rare situations (such as those that might trigger the Responsibility to Protect) where there is overwhelming evidence that state representatives are unwilling or unable to fulfill the core functions of government.

2. The right entails obligations on all states, regardless of their level of development.

-- This is clear from the text of the Declaration, but worth iterating, as the right has often been understood to be primarily a right to transfer of resources from higher-GDP countries to lower-GDP countries. The principle adopted here speaks both to the obligations of all countries to those under their jurisdiction and to the external obligations of all countries, including for instance obligations of middle- and low-income countries towards each other.

3. State obligations under the right include: 1) obligations of collective action at regional and global levels, 2) obligations of individual action with regard to peoples and individuals within the state's jurisdiction, and 3) obligations of individual action with regard to peoples and individuals outside of the state's jurisdiction.

-- The purpose of this principle is to identify different forms of obligations under the Declaration, each entailing different systems of implementation and assessment. This issue is discussed further in section III.B.3, below; for a discussion of the important role of collective obligations, in particular, under the Right to Development, see section III.C., below.

4. Implementation of the right includes not only establishing and implementing formal structures for the improvement of well-being, but also choices of action within those structures (that is to say, the right involves not just the rules of the game but also the practice on the field).

-- This speaks to a concern sometimes raised (see in particular Lang, 2006) that human rights advocates or specialists working on development institutions sometimes

focus on formal structures to the exclusion of informal systems of decision-making. For instance, the equity issue in a trade dispute between a powerful country and a weaker trading partner might not lie in the formal content of the trade standard involved, or in the fact that one country has the right to bring a complaint under that standard, but rather in the decision of the complaining country to make use of that mechanism for the particular dispute in question.

5. Implementation of the right is properly assessed through examination both of conduct and of result.
6. The right does not exist in isolation either from other aspects of international human rights law and practice, or from international consensus around effective development policy and practice, and implementation at any given time is appropriately shaped by current developments in both.
7. Particular focus areas for assessment of the implementation of the right will vary from time to time in accordance with changing priority areas of concern at national and international levels.

--The three principles above represent practical decisions we made in thinking about how the contours of the right, and criteria, sub-criteria and indicators for assessing implementation of the right, could most effectively be defined.

### **Specific normative content**

58. A number of different definitions of the Right to Development have been proposed (See UN 2004, Andreassen and Marks 2006), and there is at this point no single settled definition in international human rights practice.

59. In seeking to pin down the content of the right in the context of criteria for assessing implementation specifically, we were looking for definitional or organizational language that would 1) provide an overarching principle (if possible) that could serve as a steady reference point for resolving ambiguities in the text and 2) break the right down into several distinct components that would provide coherent categories by which to group specific obligations, so as to help State Parties and other actors to clearly understand the nature and scope of the duties involved. Ideally, the language would also clarify the relationship of the right to other international human rights, as this is a regular source of confusion with regard to implementation.

60. The reasons for this approach are fundamentally practical: the operational space covered by the Declaration on the Right to Development is vast, potentially encompassing all of national and international economic and social policy on the one hand and all of international human rights standards and practice on the other. Any attempt simply to catalog the individual actions implied by the right, one after the next, would yield a document as long as it was unreadable. What are needed instead in this context are various levels of organizing concepts – broad criteria and sub-criteria that can be used to generate more specific criteria and indicators by which implementation of the right can be assessed in particular situations and circumstances.

61. None of the existing definitions proposed entirely accomplished our goals, and we turned instead to the analysis of the right that the Working Group had recently adopted and that divided it into three components: Enabling Environment, Comprehensive Development, and Equity and Social Justice. (These components had been adopted along with some 20 associated criteria for assessing implementation of the right; our thinking in this context was shaped in no small part by Rajiv Malhotra’s 2009 paper “Implementing the Right to Development—A Review of the Task Force Criteria and Some Options.”)

62. The three components, along with the text of the Declaration, very much shaped our thinking as we sought language that would suit our needs. However, we found that we were interested in characterizing the contours of the right in terms of obligations as well as of outcomes, and that it was at times difficult to sort out what obligations were associated with Enabling Environment that were not also part of one or the other of the remaining components. In the end we used the three components, the text of the Declaration itself, and the principles established above to come up with a working set of characterizations that we found provided both an overarching principle (“the continuous improvement of well-being”, which could serve as a reference point for the rest of the right just as, one level up, “human dignity” is understood to serve as a reference point for the rights in the Universal Declaration of Human Rights and by extension for international human rights in general), and a series of organizing categories, while still reflecting the essential content of the three categories already adopted by the Working Group. Our working understanding of the substantive content of the right is as follows (citations are to supporting provisions in the Declaration and the 20 Task Force Criteria that had been adopted by the Working Group):

Member States of the United Nations, in agreeing to implement the Declaration on the Right to Development, undertake to act **individually and collectively** to ensure continual improvement in the well-being of peoples and individuals. (DRtD Preamble, art.1.1, art. 2.2., art. 2.3, art. 4, art.10)

To this end, they undertake to ensure, at both national and international levels, an enabling environment that, by removing obstacles and creating opportunities, fosters the ongoing, sustainable and equitable development of individuals and peoples in an environment of peace and security, and in accordance with internationally recognized human rights standards. (WG broad criteria; art. 2(2), art. 2(3), art. 7, TF criterion (f)).

Specifically, they agree to establish, promote and sustain national and international arrangements, including economic, social, political and cultural policies, institutions, systems, and processes, that:

- o Promote and ensure sustainable, comprehensive human development in an environment of peace and security (TF broad criteria; art. 2(2,3), art. 4, art. 7, art. 8, TF criteria f, n, p).
- o Are shaped by, and act in accordance with, the full range of international human rights standards, while also promoting good governance and the rule of law (art.2. art. 3(3), art. 6, art. 9(1), TF criteria k,l, m)

- o Adopt and implement equitable approaches to sharing the benefits of development and to distributing the environmental, economic, and other burdens that can arise as a result of development (art. 2, art. 8(1), TF criteria f, h, i, o, r, s, t, u)

Major elements of **ensuring sustainable, comprehensive human development in a environment of peace and security** include ensuring, at both national and international levels, the following:

- o a stable economic and financial system (TF criterion j);
- o a rule-based, open, predictable and non-discriminatory trading system (TF criterion h);
- o access to adequate human and financial resources (art. 3(3), art. 4. Art. 6, TF criterion g);
- o an environment of peace and security (including in contexts of armed conflict, post-conflict situations, and personal security from gender-based violence and other forms of violent crime) (art. 7, TF criteria n, o, p);
- o access to the benefits of science and technology (art. 3(3), art. 4. Art. 6, TF criterion g);
- o environmental sustainability and sustainable energy policies and practices (TF criterion f);
- o constant improvement in economic and social well-being (art. 2(3)); and
- o the creation and monitoring of development strategies (national level only) (art. 2 (3), art.10, TF criteria k, m; economic, social and cultural rights jurisprudence).

Major elements of **ensuring that policies, institutions, systems and processes are shaped by, and act in accordance with, the full range of international human rights standards at both national and international levels and promote good governance and law** include:

- o Ensuring that the goals of development-related policies and strategies are shaped by international human rights standards (art. 1, art. 3(3), art. 6, art 9(2), TF criteria a, b, c);
- o Ensuring the integration of the “cross-cutting” norms of participation, non-discrimination, access to information, and access to means of effective remedy (art. 3(3), art. 6, art. 9, TF criteria a, b,

c, d, i, m) in into development-related processes, noting that they should be reflected in all stages -- assessment, planning, implementation, and evaluation -- of development-related policy and programming;

- o Attention to rule of law and anti-corruption measures (art. 2, art.3, art. 10 [per the TF criteria]); TF criteria l, m).

Major elements of **adopting and implementing equitable approaches to sharing the benefits of development and to distributing the environmental, economic, and other burdens that can arise as a result of development** include the following:

- o ensuring that the benefits stemming from trade, economic growth, scientific advancement, etc., do not accrue purely in proportion to the political or economic bargaining power of particular parties or groups (art. 2, art. 8(1), TF criteria f, h, i, o, r, s, t, u);
- o ensuring that any burdens caused by development, including environmental and other damages and costs of economic transformations, are equitably distributed (art. 2, art. 8(1), TF criteria f, h, i, o, r, s, t, u);
- o ensuring attention to and care for the needs of the most vulnerable or marginalized individuals or groups. (art. 2, art. 8(1), TF criteria f, h, i, o, r, s, t, u)

### **The different types of state obligation entailed by the Right to Development**

63. The question of different types of obligations that is raised briefly in the discussion of general principles, above, warrants further explanation here. This section explains the difference between individual/internal, individual/external and collective obligations of states and examines the practical implications of addressing of all three types of obligation in assessing implementation of the right.

*Obligations of individual states (domestically/with internal implications and internationally/with external implications)*

64. The Declaration on the Right to Development clearly addresses both international and national processes, and thus speaks both to how each state acts nationally, *i.e.* with regard to individuals and peoples under its jurisdiction, and internationally, *i.e.* with regard to individuals and peoples in other countries. The relevance of the first is straightforward; the latter is implicated because actions of individual states can have significant impacts on development processes beyond their own borders; the impacts range from formally global (*e.g.* via votes on the governing boards of international financial institutions); to formally regional (*e.g.*, via votes in regional organizations); to specific to people in particular countries (*e.g.*, via decisions concerning bilateral aid programs, trade disputes, etc.). Sometimes actions by individual states that are formally domestic in nature, *e.g.* decisions concerning interest rates or subsidies for

domestic industries, have very large implications for individuals, groups of individuals, or peoples in other countries, even to a global level.

65. Although the natures of the two kinds of obligation may be different -- states have highly developed duties under international human rights standards towards those under their jurisdiction, for instance, while their duties towards those not under their jurisdiction are less clearly developed, and the Declaration does not address all ambiguities concerning situations where the interests of those living outside of a state's jurisdiction might compete with the interests of those living within it – they both are clearly included in the right as set out in the Declaration and later elaborated in Right to Development literature.

66. For each individual state, therefore, assessment of the implementation of the right to development is measured by the extent to which it acts in accordance with these two types of obligations; criteria and indicators that are relevant to these individual obligations are critical for policy-makers in national governments as they seek to implement the right and to assess their government's actions in its light. Criteria and indicators also serve in turn to help other stakeholders to assess the extent to which any given government's actions are congruent with the undertakings that the right entails.

#### *Collective obligations*

67. In addition to addressing the individual actions of states, the Declaration on the Right to Development speaks specifically about collective actions, and indeed many of the core issues around development are impacted by institutions and policies that are created by states acting collectively, and over which any particular state may have only limited influence. Assessment of the Right to Development that ignored the collective component, and looked only at the actions of individual states, would thus fail to fully address critical development-related institutions and processes, including in particular global and regional financial, trade and development institutions.

68. In contrast, assessing the collective implementation of the right would imply, specifically, measuring the extent to which international policies, institutions, processes and programs that are under the collective control of states serve to further the undertakings set out in the Declaration. That is, assessment of the collective obligations of states would look, not to the actions of any given state (which are covered under the individual obligations) but rather to the adequacy and processes of the international institutions themselves.

69. Criteria and indicators that are relevant to the collective undertakings of states under the Right to Development could therefore be used directly by decision-makers within the Secretariats of international bodies, as well as within their governing bodies, as reference points in planning and assessing their institution's development-related actions and processes, and similarly by other stakeholders. For instance, if the Right to Development suggests that states have collectively undertaken to ensure that development processes are congruent with human rights norms like transparency and means of remedy, then staff members at the World Bank or IMF might use Right to Development criteria and indicators to assess their own institution's policies around transparency or around mechanisms for stakeholders to access remedies if the institution's own internal standards are not met in a particular policy, programme or project. Along these lines, adoption of the human rights-based approach to development in the UN

system has provided UN agencies with occasions to ensure that their own projects incorporate principles of transparency, accountability, and so forth.<sup>4</sup>

70. In addition to providing tools for that can be applied to specific multilateral institutions or processes, assessment systems that explicitly address the collective obligations of states also provide a way for the world community to assess global outcomes that, although they cannot be traced to the action of any single state or institution, are clearly reflections of the adequacy of global machinery as a whole; this might include, for instance, global health or nutrition outcomes, with upward or downward trends providing guidance to states, international civil servants, and other stakeholders about desirable future actions to achieve the standards encompassed by the right.

### **C. Practical Implications of the Right to Development for Development Policy**

71. The recent advances in international human rights standards and practice, along with the ongoing global discussions around poverty through global benchmarks like the MDGs, suggest that it is possible for the Right to Development to play a richer and more practically effective role in shaping development policy today than it might have done ten or twenty years before.

72. When we look at the Right to Development in the contemporary legal and practical context of development, we see four particular strengths that suggest that the right, when more fully operationalized through projects like the creation of assessment tools, could make significant contributions to international development practice.

#### **References to collective obligations of states**

73. The first is its focus on collective, as well as individual, obligations of states, as discussed in section III.B.2., above. The international human rights system is fundamentally state-based, with the result that although human rights standards are theoretically universal, in practice the level of fulfillment of the rights that one may legitimately claim is dependent on the state of resources of the country in which one lives. The repeated language in the Declaration concerning cooperation and the “obligation to take steps, individually and collectively to formulate international development policies” suggests an intent by the Member States that the new Right to Development standard take up and strengthen earlier references in other instruments to international cooperation in human rights and establish a right of all human individuals and peoples for which all governments bear some formal obligation.

74. As a practical matter, it is helpful in this context, when considering assessment methods and measurements, to distinguish between the implications of assessing a collective obligation *per se* under the declaration and the implications of assessing individual State actions to meet that collective obligation.

75. Individual State actions can be assessed by the extent to which any given State, whether acting in international forums or domestically, uses its voice and decision-making power to foster global development, and there are contexts in which this is important; assessing it fits in well with the standard tools for measuring state implementation of any international human right.

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<sup>4</sup> For a practical example of a process for integrating human rights into an international organization’s own development work see Green 2008.

76. However, as discussed above, the collective obligation *tout court* serves a different function: it provides a shared standard through which all stakeholders, including state officials, staff in the Secretariats of international and regional organizations, representatives of civil society, and members of the public, can assess whether or not a given international policy, institution, program or process reflects the normative values established by the right. To the extent that governments adopt the Right to Development, staff members at multilateral development-related institutions, from the World Bank, the IMF and the WTO to the UN and regional organizations, can legitimately understand that their mandates are to be interpreted in the light of the right, and that thus their policies and processes are legitimately to be assessed by the extent to which they reflect the different elements of the right. Similarly, Member States and civil society have a legitimate basis to examine the institutions in the light of the standard and to seek change when the standard is not being met.<sup>5</sup>

77. Although implementation of some aspects of the right is relatively complex in this context, others are straightforward, and this understanding of the collective aspect of the Right to Development could play out with swift and tangible effect with regard, in particular, to the cross-cutting procedural norms (participation, non-discrimination, access to information, and forms of accountability) that have been widely adopted as part of the “human rights-based approach to development” (see the discussion in this section, below); and, to some extent, to equity.

### **Focus on equity**

78. A second strength lies in the Right to Development’s intimations of the notion of equity and attention to vulnerable groups, at both national and international levels, and of social justice at the national level. Although both earlier and later international human rights instruments are strong with regard to non-discrimination, they are less forceful on the notion of equity, particularly at the international level. While the text of the Declaration on the Right to Development is also not entirely explicit with regard to equity—at the international level particularly it speaks to, for instance, cooperation in removing obstacles rather than directly to fairness or equity—the jurisprudence that has developed around the right, including the reports of the Special Rapporteur and the criteria already adopted by the High Level Task Force, suggest that it offers a basis for a legitimate claim, not only for equal treatment as covered by non-discrimination, but also for international and national decisions to reflect not purely the relative political, social or economic bargaining power of the parties involved but rather also issues of balancing of benefits for the well-being of all. As a practical matter, there are strong forces, including governments’ legitimate obligations to their own citizens, that mitigate against equitable approaches to international financial activities in particular. However, a robust set of standards for equity in development that provide clear guidance for action both nationally and internationally, along with clear tools to point out when equity is not being addressed, might have a significant impact on political will and therefore action both within and outside of governments.

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<sup>5</sup> Note that a collective obligations approach to human rights and multilateral institutions continues to place the ultimate responsibility under the right on the Member States; that is, it does not suggest that the multilateral institutions themselves are direct duty-holders under the Right to Development. It thus fits well into the standard human rights paradigm in which states are the principal duty holders.

**Focus on human development**

79. A third strength is that the right provides additional normative support for integrating the human development approach into mainstream economics at both national and international levels. That is, the Right to Development, in addressing outcomes of development processes rather than the nearly exclusive focus on per capita income growth that is common among economists, legitimizes a more direct focus on how the processes affect people's lives and squarely identifies promotion of per capita income growth as subservient to improving human well-being as the ultimate goal of development.

**Integration of human rights into development-related goals and processes**

80. Finally, there is the right's affirmation that development is to take place in a human rights context and in accord with human rights standards. This affirmation provides an additional legitimate basis for, and platform for assessing implementation of, the growing set of human rights-based approach standards and practices; the existence of these approaches, in turn, is likely to make up a very large part of the actual implementation of the Right to Development. Given that the human rights-based approach incorporates a substantial amount of international human rights theory and practice that had not yet been developed when the Declaration was adopted, and that it provides specific technical guidance for integrating human rights goals and processes into the planning, implementation, monitoring and assessment of development-related policies, programs and processes, it is reasonable to refer to it when determining the correct way to conceptualize significant aspects of the right. To the extent that a tool to assess implementation of the Right to Development incorporates the HRBA as the most current system for operationalizing the relevant aspects of the right, it has promise to spread the approach in a wider range of institutions and systems both nationally and globally, with very large practical implications at both national and international levels.

**III. PERSISTENT VERSUS CURRENT DEVELOPMENT CHALLENGES AND TECHNICAL ISSUES RELATED TO SELECTION OF INDICATORS**

81. Some development challenges will surely persist through the ages, but certain development concerns will be particularly pressing at any given time. The challenge of eliminating poverty persists, for example, but we are only now beginning to fully understand the challenge that global climate change poses to development. Sometimes efforts to resolve one global challenge impose new obstacles to development. For example, the current global food crisis is in part a consequence of efforts to address climate change by developing bio-fuels. As was noted earlier, the global architecture has evolved over time and continues to evolve in response to the challenges of the time. There has been a blossoming of development partnerships since the birth of the United Nations and the Bretton Woods Institutions, and the latter institutions have evolved and grown in complexity as well. The international development architecture will continue to evolve to meet current and future development challenges.

82. Nor does development theory stand still. Our understanding of the linkages between political, economic, and social factors that impinge on development at both the global and national levels continues to evolve as does our understanding of the physical and biological forces that can accelerate or impede climate change. Development theory and practice inform one another so that over time our understanding grows. And sometimes, areas of former ignorance are illuminated. For these reasons, the indicators used to assess compliance with the

right to development must be specific to the current development context, even as the criteria and sub-criteria remain constant.

83. At the same time, the choice of specific indicators is not something to be undertaken lightly. Experience tells us that that decision of what to measure has real impacts on action; the indicators chosen will serve not only a descriptive, monitoring function in showing how far the right has been implemented in the past; they will also serve a prescriptive, guidance-offering role in helping states and other actors to understand what the Right to Development expects.

84. Decisions on what aspects of the right indicators should focus on are therefore not merely technical, but also normative, and thus should be made through an extensive participatory and deliberative process involving multiple stakeholders, as should the decisions on the particular indicators to be used.<sup>6</sup>

85. It is to be noted also that because the scope of the Right to Development is extremely large, indicators to monitor it could in principle encompass not only the existing tools for monitoring all existing international human rights standards as they are relevant to development contexts (including all of the tools established by the UN human rights treaty bodies, the Universal Period Review process of the Human Rights Council, and regional human rights oversight mechanisms), but also all the existing tools available for monitoring economic and social policies and practices at national and international levels (including both systems established for monitoring global commitments such as the MDGs or Education For All and reporting regimes established through, *e.g.*, environmental treaties). That is clearly neither desirable nor practicable. It is therefore necessary to determine principles by which to choose specific indicators to assess implementation of the right.

86. The sections below serve to set out a range of potential indicators and to explain the theoretical and practical considerations that will go into any final decisions. The goal is provide a solid basis for further discussion of the kind described above.

87. The indicators discussed in this paper in the context of the right to development speak to the criteria and sub-criteria as they are reflected in pressing current development issues. Three sorts of indicators are included, structural, process, and outcome indicators. As noted in the United Nations, document “Report on indicators for promoting and monitoring the Implementation of Human Rights” (United Nations 2008), structural indicators measure the duty bearer’s commitment, while process indicators measure their efforts to ensure the right concerned. Finally, outcome indicators measure the results of the duty-bearer’s efforts.

88. The substantive components of the right to development are constant across countries and come into play whether countries are acting individually or collectively. However, the development context differs across countries and even within countries. Cultural preferences also shape development objectives as was noted earlier. As a result, a balance needs to be struck between universally relevant indicators and contextually or culturally specific indicators, especially when it comes to monitoring national development outcomes. Our primary emphasis here is on specifying universally relevant indicators, although with regard to national level

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<sup>6</sup> A model for such a participatory and deliberative process for establishing human rights indicators can be found in United Nations Office of the High Commissioner for Human Rights 2008.

indicators, in addition to indicators that are relevant to all countries, we specify some indicators that are relevant to high income countries and others that are relevant to developing countries.

89. A number of general criteria guide our selection of indicators including the validity of the indicators, and their reliability, availability, and international and inter-temporal comparability. Validity refers to how well an indicator reflects what one desires to measure, while reliability refers to whether the value of an indicator is consistently estimated in repeated samples. Collecting data is far from costless and some indicators cost more than others to collect. Whenever possible, we have sought to specify indicators that are currently widely available, currently being collected as part of other monitoring initiatives, or are inexpensive to collect and construct, such as indicators drawing on regularly collected administrative data. Monitoring progress across countries and over time both within and across countries requires indicators that are internationally and inter-temporally comparable and are collected with reasonable frequency.

90. Indicators that allow one to monitor the right to development as it pertains to vulnerable groups, especially vulnerable groups within countries must be disaggregatable or decomposable. We propose indicators that can be disaggregated or decomposed in principle, but current data initiatives will often need to be ramped up in order to provide the disaggregated data that is essential to assessing the situation of vulnerable groups.

91. Both quantitative and thematic indicators are proposed. An additional factor that guided our selection of quantitative indicators in particular is the methodology used to collect the data that directly constitute indicators or are used to construct indicators. The quantitative indicators proposed use an objective data generating method and a transparent methodology. So far as is reasonable, the quantitative indicators selected are derived from socio-economic and other administrative statistics. These sorts of data are collected through administrative records and statistical surveys. National statistical institutes or international organization with high professional standards compile most socio-economic data using standardized methodology. Accordingly, socio-economic data tend to have high validity and reliability. National statistical institutes are expected to be impartial, neutral and objective and tend to follow guidelines set by international statistical organization. As such socio-economic statistics are generally comparable across countries and over time.

92. To the extent possible, we have avoided using quantitative indicators derived from events based data. Events based data on human rights violations tend to underestimate violations and are seldom comparable across countries or even overtime within a country. Similarly, we have avoided basing quantitative indicators on household perception and opinion surveys since the subjectivity inherent in this sort of data leads to low reliability and validity scores and poses international and inter-temporal comparability problems. We have avoided data based on expert judgment that lacks a transparent methodology and objective data generating method.

93. With regard to the obligation to set and monitor global and regional development benchmarks we have looked at existing programmes (e.g., especially the MDGs) and, where they already have indicators, have included those we thought most central. In some cases, we have noted relevant indicators that are not already agreed on; in those cases we have not hesitated to add them on the chance that they provide helpful additional tools for states as they implement the right to development.

94. The role of indicators in assessing implementation of the Right to Development (RtD) is not just to look backwards, but also to provide clarity about the nature of states' ongoing obligations under the right. For instance, on participation in the WTO, we can look to the level of expert representation of poorer member states vs. wealthier member states. This will tell us whether or not things have changed. However, we can also look to whether or not the Secretariat of the WTO has produced and made publicly available a plan, acceptable to the member states, for improving informed participation by less wealthy countries. As the economists will point out, this type of thematic indicator tells us nothing about the quality of the plan. But if producing such a plan is an indicator of the RtD, and the WTO secretariat and its member states consider themselves bound by the RtD, then there is an entrée point for requesting the plan and, if it seems inadequate to some, for further public discussion around it. Thematic indicators are proposed to provide entrée points to stimulate further public discussion whereas quantitative indicators are proposed to show post-hoc compliance or to illuminate evolving situations that highlight development successes or signal impending or current development problems.

95. Given the importance of ensuring that indicators reflect current priority concerns and development challenges, the next section provides an overview of internationally recognized priority concerns in human development organized around two overarching topics: 1) financing development and ensuring global economic and financial stability; and 2) trade and technology transfer. The final section takes up the priority human development issues, most of which are timeless, at the national level.

96. Within each of these topical sections, first the main issues are discussed and then indicators corresponding with the main issues are specified. The indicators discussions draw out the linkage between the development concerns and challenges, explain the rationale for selecting specific indicators, and provide information on data sources.

#### **IV. OVERVIEW OF INTERNATIONALLY RECOGNIZED PRIORITY CONCERNS IN HUMAN DEVELOPMENT—ISSUES AND INDICATORS**

97. The pressing development concerns identified by the Working Group on the Right to Development and reflected in Millennium Development Goal 8 are many. The following details these issues organized according to two overarching international development topics: 1) financing development and ensuring global economic and financial stability, and 2) trade and technology transfer. A discussion of potential structural, process, and outcome indicators follows the discussion of each overarching topic.

##### **A. Financing Development & Ensuring Global Economic and Financial Stability - challenges and obstacles**

98. Most countries can improve human development without increased resources, whether domestically generated or externally provided, as the *Human Development Reports* (UNDP) clearly demonstrate. But there are limits to the extent of improvement feasible within the confines of the resources currently available and economic growth and resource inflows offer the potential to increase both the level and rate of improvement in human development. For low income countries, and especially the least developed countries, even in the context of the best policy regime, without economic growth, the level of human development will remain devastatingly low. Pro-poor growth—income growth that disproportionately benefits the poorer and more vulnerable segments of the population—is most directly linked with improvements in

human well-being. Further, in contrast to the previous conventional wisdom, there is mounting evidence that equity facilitates growth. Thus, pro-poor growth is not only most directly linked with improvements in human well being, but by increasing equity, also likely offers prospects for more rapid and sustainable growth (Rameriz and Ranis 2000; Aghion, Caroli and Garcia-Penalosa 1999).

99. The Right to Development obligates states to design and implement development plans that induce comprehensive and holistic development. Among other things, this entails ensuring domestic institutions and policies direct current productive capacity to promote human well-being to the maximum extent feasible, and increase productive capacity over time so as to enable sustainable and continual improvement in human well-being.

100. A number of factors currently thwart the ability of developing countries to ignite and sustain growth. Further, for many developing countries, even the most effective husbanding of resources cannot bring an end to poverty inside of a generation. Access to substantial external resource flows is a prerequisite to eliminate abject human poverty in the near term. Eliminating the financial obstacles impeding poor countries' ability to foster equitable growth and augmenting and enhancing the effectiveness of resource flows to developing countries not only promises to reduce human suffering in poor countries, but also confers benefits on donor countries by reducing infectious diseases, security threats and environmental problems that readily cross international borders.

#### *Eliminating financial obstacles*

101. Global financial and economic instability, commodity price instability, and crippling debts are interlocking problems that challenge the ability of developing countries to foster human development. The regulatory failures and lapses in high income countries that precipitated the current financial and economic crisis continue to impose hardships on many people living in high income countries; these failures extort a devastating toll on the most vulnerable in developing countries. The current financial and economic crisis is just the most recent in a series of crises. Although the precipitating factors differ between crises, and most crises reflect lapses and failures on the part of developed and developing countries alike, they share a penchant to spread widely, and tend to inflict the greatest burden on the poorest countries and the most vulnerable groups within them.

102. Mitigating the harm inflicted by economic and financial crises requires that the global response to crises be coordinated and take into account the broader development and poverty reduction challenges. But the best solution is to prevent crises in the first place. As noted in the report of the Secretary-General to the 64<sup>th</sup> session of the General Assembly on the "International financial system and development" (United Nations, 2009a), the International Monetary Fund's Surveillance system needs to be broadened beyond a narrow focus on exchange rates. "In this regard, more attention should be given to financial risks, including asset price bubbles, leverage, risk concentration in large banks and hidden or off-balance sheet exposures. ...In addition, the Financial Sector Assessment Programme needs to be made more focused, risk-based and forward-looking, with a greater emphasis on external links and spillovers." (p. 9) As country level economic and financial risks become apparent, decisive and corrective action is incumbent upon the states concerned to stave off potential crisis.

103. In the face of financial and economic crises, and commodity price instability, developing countries have often resorted to borrowing heavily to maintain consumption, a factor that all too often has resulted in crippling debt burdens. Pro-cyclical conditionalities imposed by the IMF, World Bank, and increasingly other bilateral lenders tend to accentuate and prolong the crisis in human welfare. The need for coordination is greater today than in the past. Globalization has deepened and strengthened the channels that transmit negative economic spillovers across countries. But the potential for policy coordination to prevent and mitigate crises is also better; the same channels transmit positive spillovers across countries.

*Commodity price instability*

104. Commodity price trends and swings pose a special challenge for countries whose economies depend on a handful of commodities, most of which are small island countries or low income countries. As a group, commodity prices rose by a factor of three between 2000 and the first half of 2008 with half of the increase occurring in 2008. Commodity prices then plummeted by the same amount during the second half of 2008 (UNCTAD, Commodity Price Bulletin as referenced by United Nations, 2009b, p.5 ) These spectacular commodity price swings are historically unprecedented. They reflect the interplay of market fundamentals and new developments in commodities future markets as discussed below.

105. Demand growth, and particularly rapid growth and industrialization in China and India, along with supply constraints caused by decades of underinvestment in commodity supply and reflected in falling stocks, played a role in the gradual rise in commodity prices between 2000 and the end of 2007. The commodity price boom and bust witnessed in 2008 reflects unprecedented amounts of liquidity moving in and out of commodity futures markets partly in response to adverse trends in other financial markets. Whereas traditional speculators are buyers and sellers of commodities seeking to hedge against commodity price risks and accordingly dampen commodity price swings, speculation in recent years is increasingly divorced from market fundamentals. That is, commodity price speculation in recent years is not driven by non-price factors affecting commodity supply and demand, but rather by speculation-induced price trends. As such, it amplifies price movements and is reflected in dramatically increased trading volume on commodities markets.

106. Estimates indicate investment in commodity index funds (like index stock funds, a commodity index fund is comprised of a group of investments, in this case, spot and futures contracts on physical commodities, whose composition is in proportion to a particular index) surged from between \$13-15 billion to between \$200-\$260 billion, a 13 to 20 fold increase depending on the estimate, between 2003 and 2008 (United States Senate 2009; Masters 2008) The increased trading volume in commodity markets largely reflects hedgers with commercial interests with no limits on the volumes of their operations due to relaxation of regulations on commodity markets (Commodity Futures Trading Commission of the United States 2008 as referenced in United Nations 2009b, p. 15).

107. The challenge is to identify a mix of regulatory and market instruments that can confine price swings within acceptable limits and mitigate the effect of price shocks. The price swings have also amplified the adverse effect of tight credit markets resulting from the global financial and economic crisis. Low income countries dependent on commodity imports and exports in particular, are hard hit given their higher political and economic risk ratings and need increased

access to credit on reasonable terms in order to overcome the liquidity problems resulting from commodity price swings.

### *Global food crisis*

108. While food price swings have been less pronounced than price swings for crude petroleum and minerals, ores and metals, their impact on vulnerable populations has been greater. With food prices comprising upward to 70% of budgets among poor households, the effect of high food prices is devastating. Hammond, et. al. (2007) put the food budget share in income at an average of 50% in households living on less than \$1.4 (2005 PPP\$) per capita per day in those countries for which there is data and at 74% in India at the same income level. The food crisis is driven by growing demand for food and animal feed in Asia, rising demand for bio-fuels in high income countries, supply shocks driven in part by climate change, and the cumulative effect of under-investment in agriculture. The food crisis has fed on itself as food producing countries restricted food exports to check rising prices at home and those food importing countries that could stockpile food in anticipation of higher prices yet to come. Poor people in the poorest countries with the least ability to mitigate the crisis suffered its harshest effects, and many resorted to selling off what assets they had to assuage their children's hunger.

109. Food prices have come down since their peak, but not to their levels in 2003 prior to the price run-up in 2003. Many of the factors responsible for the crisis persist, rising demand in China and India, bio-fuel policies, and climate change among them. Food stocks remain low and the distressed sell off of assets by poor smallholders challenges their ability to purchase the inputs needed for the next cropping season. Critically, price instability and tight credit markets continue to depress agricultural investment. All of these factors pose a challenge to the food security of poor households that are net food purchasers as well as countries that are net food importers in the medium and long-term, and climate change is expected to magnify the challenge (Yohe et al. 2007; Tubiello and Fischer 2007; Cline 2008).

110. Ending the current food crisis and preventing future food crises requires action on several fronts including: 1) measures to reduce food price instability at both the national and international levels including regulations guarding against destabilizing speculation, buffer stock schemes, creation of virtual or physical reserves, (see for example Joachim von Braun and Maximo Torero, 2008) 2) measures to sustainably increase food production globally, including expanding the acreage under food production and increasing the productivity of food crops especially among smallholders in developing countries, 3) unilateral and collective action to ensure policies to reduce oil dependency do not undermine global food security, 4) national policies to enhance domestic food safety nets (e.g., feeding programs) along with collective measures to ensure ready availability of sufficient emergency food aid (Conceição and Mendoza, 2009), and 5) measures to slow climate change (World bank, 2009a). Even if these challenges are met, however, unless poverty and inequality are reduced within and between countries, food security cannot be ensured. Food security is less a failure in global production than a failure in food entitlements (Sen, 1981).

### *Capital flows to developing countries*

111. It is generally agreed that the challenge of reducing global inequality and poverty is immense and requires renewed collective action to enhance resource flows to developing countries. For middle income countries, especially upper middle income countries, with access

to private capital flows, the primary challenge is to mitigate the volatility of private flows, and increase access to stand-by credits on appropriate terms. For countries with limited access to private capital flows, the challenge is to increase the magnitude and efficiency of both bilateral and multilateral official flows on appropriate terms and to facilitate the removal of constraints that impede private flows. Increased capital flows to developing countries will be of limited benefit in the absence of sound domestic development policies and measures to ensure aid flows are in fact used to promote development. Measures to enhance governance at both the national and international levels are essential to increasing both the quantity and effectiveness of resource flows for development.

112. The magnitude and composition of international private capital flows has been unstable across place and time. Today, as in the past, emerging economies attract the bulk of private capital inflows. Private capital inflows to low income countries and particularly the least developed countries are far more limited and almost exclusively linked to extracting mineral and other natural resources. The past 140 years have witnessed five major surges in capital flows to developing countries: bond finance boomed from 1870 until World War I, and again from post-World War I until the Great Depression, international bank lending accelerated from the 1973 oil price shock until 1982, and portfolio lending and foreign direct investment boomed in the 1990s until 1997 and then again after 2003 until last year. Each of these booms has been followed by a bust of a similar magnitude and it appears the most recent crisis will be no different with total private capital flows to developing countries expected to fall back to their pre-surge level this year.

113. In fact, the World Bank projects that net private debt and equity flows will decrease from their record high of 8.6% of developing country GDP in 2007 to 2% of developing country GDP in 2009. This peak-to-trough drop exceeds that of the “Latin American debt crisis in the early 1980s (3.3 percentage points) and the combined East Asian and Russian crises of the late 1990s (2.4 percentage points)” (World Bank, *Global Development Finance*, 2009b, p.3). In each case, the emerging markets of the time were the principal beneficiaries of capital inflows and bore the greatest burden of capital retrenchment. Although debt build-ups have always played a role in the crises by increasing borrowing countries’ vulnerability, systemic shocks to the global economic or political system have prompted the abrupt reversal of capital flows. And when capital reversals occur, former debtor countries bear the brunt of the adjustment burden.

114. The challenge for development is not only to reduce capital flow volatility, but also to sever the negative feedback link between global investors’ retreat and economic recession. It is generally agreed the Bretton Woods institutions can play an important role in this regard by providing counter-cyclical liquidity as well as by providing early warning of impending financial crises. Measures that would support this role include: increasing the magnitude of financing available to countries facing liquidity crises; increasing the speed with which financing can be disbursed; increasing the amount of pre-approved financing available or financing without conditionality; and granting recipients of conditional loans the policy space to undertake counter-cyclical measures.

115. Official capital flows will continue to be the primary source of external financing for lower middle and low income countries for decades to come. The ability of low income countries, particularly low income small island and land-locked economies, to mediate the impact of external price shocks is more limited than the ability of middle income and certainly

high income countries. Access to liquidity sufficient to offset the adverse consequences of external price shocks, such as the recent commodity price swings, is essential to avoid marked deterioration in human well-being in these countries. The Bretton Woods institutions have a key role to play in this regard as well, however, unless the concessional component (grant element) of loans is substantial, the resultant debt burden will jeopardize progress towards attaining the Millennium Development Goals (MDGs) and broader development prospects.

116. International Monetary Fund and World Bank lending terms need to take fuller account of their impact on human development. Some analysts and activists argue greater participation, representation, and voice of developing countries—low income and middle income—in setting the policies and lending terms of the Bretton Woods Institutions is needed to align policies and practices with human development objectives. Simply access to liquidity will not enable low income, land locked and small island economies to meet the development challenges they face. An increase in official development assistance in the form of grants, concessional loans (loans offered under terms more favorable than going private market terms, e.g., lower interest rate, longer repayment period, etc.), and technical assistance is essential.

117. The challenge extends beyond increasing the magnitude of official development assistance (ODA), to increasing its effectiveness to foster human development, and ensuring a higher proportion of ODA goes to those countries that face the greatest difficulty in meeting the challenges of human development in general and the Millennium Development Goals in particular. Increasing the grant component of aid is also critical for heavily indebted poor countries, low income, landlocked, and small island economies. One can surely point to many examples where aid failed to promote human development, and as noted by Todd Moss, “[t]he inability to reach goals in the past has contributed to previous bouts of ‘aid fatigue’ and the fragile constituency for aid is highly vulnerable to counterclaims of aid as ‘money down a rat-hole.’” (2005, p.10). But one can also point to many examples where aid made a crucial difference in human well-being. There is no dispute that it has been crucial in meeting global health challenges. It led to the eradication of smallpox, enabled polio to be wiped out in the western hemisphere, and virtually halted the spread of river blindness. The Egyptian Ministry of Health’s campaign to reduce diarrheal disease financed by aid succeeded in reducing infant and child mortality due to diarrhea by 82% and 62% respectively.

118. There is no shortage of articles assessing the impact of aid on economic growth (see for example, the June 2004 issue of the *Economic Journal*, Volume 114, which contains a series of articles on this topic). Results of these cross-section studies assessing the impact of aid on growth are fragile; no systematically relationship emerges that is robust to a range of plausible control variables. Simply pouring aid into countries does not guarantee increased growth and is no panacea for development. As Collier (2007) points out, aid is not unlike foreign capital inflows from natural resources, and countries rich in natural resources more often than not fail to grow. But aid can make a critical difference under the right circumstances. Aid can facilitate a big industrialization push that enables “latecomers” to development to initiate growth; it can help consolidate the peace in post conflict situations enabling countries to break out of the conflict trap (Collier 2007). Further, aid’s potential to foster human development is not limited to its ability to induce growth. Aid can directly foster human development if it is targeted directly on human development and delivered effectively. It can be a lifeline for poor landlocked countries with limited prospects for development in the near term (Collier 2007) and in the wake of natural disasters and other humanitarian crises.

119. The Paris Declaration on Aid Effectiveness addressed a number of factors that research indicates have limited Aid's effectiveness in the past as well as factors that tend to enhance its effectiveness. In brief, aid is more effective when country ownership of the projects financed through aid is strong, when donors align behind country objectives, when aid flows are predictable and when there is mutual accountability between donors and recipients for results and conditionality is replaced by mutual obligations and reciprocal commitments of donors and recipients whereby donors cede greater control over the use of aid and recipients commit to use aid to meet their development objectives (Santiso 2001; United Nations 2008).

120. Aid is often "tied" to the purchase of goods and services in donor country. The value of aid can be substantially increased by untying aid and reducing the transactions costs of providing and distributing aid. Studies indicate tied aid reduces the value of assistance by 11% to 30%, and in the case of food aid, by 40% (McKay and Aryeetey 2004; OECD/DAC 2004). Reducing transactions costs requires increasing coordination among donors to share information and avoid duplication and working through government structures. Transactions costs swallow up a substantial portion of aid as is noted in the 2005 *Human Development Report*, "Meeting donor requirements for reporting, consultation and evaluation imposes a heavy burden on the scarcest of resources in developing country ministries: skilled people. Aid programmes in a typical Sub-Saharan African country will generate demands for thousands of reports to multiple oversight agencies, with hundreds of missions visiting to monitor, evaluate and audit performance. Line ministries may be required to generate not only departmental reports, but dozens of reports on individual projects as well." (United Nations Development Programme, p. 100). The value of aid to recipient countries also depends on the magnitude of the concessional component (grant element) involved. As many of today's poorest countries can attest, even aid flows can result in the build-up of unsustainable debts. Debt relief enables recipient countries to shift resources from servicing debts to activities fostering human development and growth.

#### *Debt relief for highly indebted poor countries*

121. The World Bank and IMF launched the highly indebted poor country initiative (HIPC Initiative) in 1996 to enable poor countries to get out from under unsustainable debt burdens. The decision by the World Bank and IMF to qualify countries for debt relief, is dependent on their meeting four conditions (briefly, they must have per capita incomes below an income threshold, US\$ 1095 in 2009, have unsustainable debts that traditional mechanisms cannot address, have implemented reforms under IMF and WB supported programs, and have developed a poverty reduction strategy). Countries meeting these conditions are said to have reached the "decision point", and countries qualifying for debt relief then begin receiving relief on debt service payments. However, in order to receive full debt relief, they must meet three additional conditions (briefly, continued reform under IMF and WB supported programs, implementation of reforms agreed to at the decision point, and implementation of the country's Poverty Reduction Strategy Program for at least one year). Once these conditions have been met, the country is said to have reached the completion point and full debt reduction is provided (IMF, 2009a). By June of 2009, 35 of the 40 eligible countries qualified for debt relief under the HIPC Initiative, 24 of which had reached the completion point. Although the debt relief provided to the 24 countries reaching the completion point has been reduced by approximately 80 percent only 8 are currently classified as being at low risk of debt distress (United Nations 2009c, p. 9). The current economic crisis threatens to reverse much of the progress made by the Heavily Indebted Poor Country Initiative to reduce debt burdens to sustainable levels. If debts

are to be maintained at sustainable levels, these countries will require additional resource flows in the form of grants and highly concessional loans.

122. Countries participating in the HIPC Initiative are not the only countries facing problems. Many low-income countries and non-HIPC small island countries are facing balance of payments crises resulting from terms of trade shocks, decline in export demand, a drop in tourism revenues and decreased remittances. As a result, a number of low income countries that did not participate in the HIPC Initiative, and small island economies are suffering under unsustainable debt burdens. The economic crisis has resulted in higher borrowing costs and lower access to private sources of credit. In addition to increasing the grant component of official flows, a temporary debt moratorium or standstill will be necessary to prevent a crisis that will preclude progress on meeting the millennium development goals.

123. Ensuring the adequacy of resources for financing development requires action on a number of fronts. Indicators reflecting whether the necessary resources are available on an on-going basis to foster human development focus on: 1) the extent and nature of economic growth; 2) Global Financial and Economic Stability; 3) Private and Official Capital Flows to developing countries; 4) Debt Sustainability.

### **Financing development & ensuring stability—indicators**

#### *Extent and Nature of Economic Growth:*

Indicators of both the rate of growth and the distribution of growth's benefits are of concern here.

#### Process Indicators:

(Data available from World Bank's, *World Development Indicators Online*)

1. Investment: These indicators are intended to reflect whether the investments necessary to fuel per capita GDP growth, and hence expand resources available to increase human development are being made, and to signal instability in investment rates.

Average Gross capital formation (% GDP) least developed (small island developing, landlocked, post conflict, low income, middle income, high income) countries. [Country weights, not population weights.]

- o Higher is better: Possible benchmark 30%
- o Disaggregated by country should go into States acting individually obligations.

Average of Current year gross capital formation (% GDP) / Average past 5 years gross capital formation (% GDP) for least developed (small island developing, landlocked, post conflict, low income, middle income, high income) countries. [Country weights, not population weights.]

- o Ratio should be = 1 if benchmark above met; >1 if country/region is still below benchmark level. A ratio significantly <1 indicates a problem.

- o Disaggregated by country should go into States acting individually obligations.
2. Inflation: This indicator is intended to reflect whether internal macroeconomic management is sound.

Inflation rate, GDP deflator, disaggregated by country.

- o Lower is better: Possible benchmark 20% (Available evidence suggests inflation rates below this have limited additional benefit; some studies set the cutoff inflation rate of concern as high as 40%, others as low as 5%)., but many countries may want to set a different benchmark reflective of reasonable goals relative to the recent inflation experience.

Outcome Indicators:

1. Extent of economic growth: Per capita GDP growth rate least developed (small island developing, landlocked, post conflict, low income, middle income, high income) countries [country weighted rather than population weighted]:

Higher is better: Possible Benchmark 6% for developing country groupings. (lower for developed countries.)

Disaggregated by country should go into States acting individually obligations.

Although per capita Gross Domestic Product is far from a perfect indicator of the average standard of living, it is a widely accepted indicator of the average standard of living feasible given current production. Data on the per capita GNI growth rate is available from World Bank's *World Development Indicators Online* as well as many other sources.

2. Distribution of growth: Of concern here is whether growth is promoting greater equity between and within countries.

Global: Average per capita GDP growth rate poorest quintile of countries / Average per capita GDP growth rate wealthiest quintile of countries

- o This indicator captures the extent to which income inequality between the poorest and wealthiest countries is converging.
- o Higher is better: Possible benchmark is a ratio of 2
- o Ratio can be computed using data from World Bank's *World Development Indicators Online*.

By country: Income growth rate poorest population quintile / income growth rate wealthiest population quintile

- o This indicator captures the extent to which growth is pro-poor and accordingly, income inequality is decreasing. Pro-poor growth implies that the growth disproportionately benefits the poorer segments of the population. It would also be useful to know whether the middle income groups benefit more from growth

than the wealthiest in the country. However, when pro-poor growth occurs, middle income groups also tend to benefit relative to the wealthiest population quintile.

- o Higher is better: Possible benchmark is a ratio of 2
- o Data on this indicator are not readily available given the infrequency of surveys in most countries collecting information on the distribution of income. The data necessary to calculate this indicator can be obtained for a large number of countries (but not annually) from the World Bank's *PovCalNet* Tool:  
<http://web.worldbank.org/WBSITE/EXTERNAL/EXTDEC/EXTRESEARCH/EXTPROGRAMS/EXTPOVRES/EXTPOVCALNET/0,,contentMDK:21867101~pagePK:64168427~piPK:64168435~theSitePK:5280443,00.html>

#### *Global Financial and Economic Instability:*

Several sorts of indicators are of concern here. First indicators related to factors inducing instability are of concern. Here we focus on swings in commodity prices. Second, indicators reflecting measures taken to guard against or offset financial and economic stability are included. Finally, indicators reflecting the extent of instability experienced are included.

#### Structural Indicators:

Of concern here is the extent of macro-policy coordination among high income countries (given their dominant influence on the global economy), the potential to mediate global cyclical downturns and whether the interests of developing countries and vulnerable groups are taken into account in decisions affecting global financial stability.

1. Macro-policy coordination: This set of indicators reflects whether the macro-policies of high income countries were coordinated in a manner that protects against adverse impacts on developing countries. Policy coordination facilitates global economic and financial stability.

Percentage of meetings among G-8 & G-20 countries that address macro-policy coordination. Computed separately for G-8 and G-20 countries.

- o Higher is better: benchmark 100%
- o Data source, minutes of G-8 meetings & minutes of G-20 meetings.

Percentage of coordinated macro-policy decisions by G-8 and G-20 countries (separately) that incorporate analysis of human development impact on developing (least developed, landlocked, small island) countries.

- o Higher is better: benchmark 100%
- o Data source, background reports prepared for G-8 and G-20 meetings.

2. Governance: This set of indicators is intended to reflect the ability of all countries to effectively participate in decisions of the Bretton Woods Institutions and the likelihood women's concerns are fully considered.

a. International Monetary Fund:

% quotas (or votes) least developed (small island developing, landlocked, post conflict, low income, middle income, high income) countries / % share in global GNI. (Alternate version would look at a country groups' % quotas as % share in global trade. Arguments could be made for either variant.)

- o Ratio = 1 is the benchmark.
- o Data on quotas and voting power can be found at <http://www.imf.org/external/np/sec/memdir/members.htm>
- o Neither variant of this indicator approaches equal representation of countries in IMF decisions. A radical change in IMF governance would be required to further increase the representation of poor countries in IMF decisions.

% staff from least developed (small island developing, landlocked, post conflict, low income, middle income, high income) countries / share in country membership

- o Proposed benchmark: Ratio =1 (this may be unrealistic except for developing countries as a group and should be discussed for each country grouping)
- o Motivation for this indicator is that staff from vulnerable countries are more familiar with the priorities and challenges facing these countries and accordingly their needs and interests are better addressed when IMF staff come from these countries.
- o Data source: Data should be available from IMF human resources records.

% female staff

- o Proposed benchmark: 50%
- o Motivation for this indicator is that women are more familiar with the priorities and challenges facing women and accordingly women's interests are better taken into account by female IMF staff.
- o Data source: Data should be available from IMF human resources records.

b. World Bank

% WB votes of least developed (small island developing, landlocked, post conflict, low income, middle income, high income) countries / % share in global GNI. (Alternate version would look at a country groups' % votes as % share in global trade. Arguments could be made for either variant.)

- o Ratio = 1 is the benchmark

- o Data on voting power by member country can be found at <http://siteresources.worldbank.org/BODINT/Resources/278027-1215524804501/IBRDCountryVotingTable.pdf>
- o Neither variant of this indicator approaches equal representation of countries in World Bank decisions. A radical change in World Bank governance would be required to further increase the representation of poor countries in World Bank decisions.

% staff from least developed (small island developing, landlocked, post conflict, low income, middle income, high income) countries / share in country membership

- o Proposed benchmark: Ratio=1 (this may be unrealistic except for developing countries as a group and should be discussed for each country grouping)
- o Motivation for this indicator is that staff from vulnerable countries are more familiar with the priorities and challenges facing these countries and accordingly their needs and interests are better addressed when World Bank staff come from these countries.
- o Data source: Data should be available from World Bank human resources records.

% female staff

- o Proposed benchmark: 50%
- o Motivation for this indicator is that women are more familiar with the priorities and challenges facing women and accordingly women's interests are better taken into account by female World Bank staff.
- o Data source: Data should be available from World Bank human resources records.

3. Global Liquidity: The IMF is a major source of global liquidity. Countries are free to draw on their allocation of special drawing rights without conditionality and can be mobilized rapidly for balance of payments support.

Value Special Drawing Rights (US\$) / Global GNI (\$US)

- o A larger ratio implies greater liquidity. Benchmark needs to be determined.
- o Data source: <http://www.imf.org/external/np/exr/facts/sdr.HTM> for value of special drawing rights. *World Development Indicators Online* for global GNI

Process Indicators:

1. Food Stocks: Food Stocks provide a mechanism to reduce food price instability. Falling stocks reflect rising price pressure and are a warning sign of a potential global food crisis.

Rate change in Global Stocks of Key staple foods (Corn, Oilseed, soybean, rice, wheat.)

- o Data Source <http://www.fas.usda.gov/psdonline>

2. Agricultural investment, productivity, and production: The indicators focused on food production measure supply trends related to food security. In addition to examining them for country groupings, countries with food security as a goal will want to track them for their country. The indicators focused on agricultural production in general, and especially smallholder production, are relevant to reducing poverty, since the incidence of poverty is high among smallholders.

Current year net per capita food production index/past year net per capita food production index for least developed (small island developing, landlocked, post-conflict, low income, middle income, high income) countries and disaggregated by country.

- o Higher is better: Ratio < 1 signifies falling per capita food production and increased potential for food crisis.
- o This is an indicator of short-term food production instability, the supply side source of short term food price swings.
- o Data Source: <http://faostat.fao.org/site/612/default.aspx#ancor>

Current year net per capita food production index/Average past 5 years net per capita food production index for least developed (small island developing, landlocked, post-conflict, low income, middle income, high income) countries and disaggregated by country.

- o Higher is better: Ratio <1 signifies falling per capita food production and increased potential for food crisis
- o This indicator tracks medium term food production instability, the supply side source of food price swings over the medium term.
- o Data Source: <http://faostat.fao.org/site/612/default.aspx#ancor>

Agricultural share in total investment average across least developed (small island developing, landlocked, post-conflict, low income, middle income, high income) countries and disaggregated by country.

- o Increase above current level: benchmark needs to be set.
- o Increasing food supply and accordingly food security requires investment in agriculture and in food crop production in particular.
- o Data Source: Still to be identified.

Average % change crop yields basic staple grains (wheat, rice, corn, sorghum) in least developed (small island developing, landlocked, post-conflict, low income, middle income, high income) countries, and disaggregated by country.

- o Increase above current level: Benchmark needs to be set.
- o Long term food security depends on increasing crop yields of basic staple grains.
- o Data Source: <http://faostat.fao.org/site/567/default.aspx#ancor>

Current year Agriculture Net production Index /Average past 5 year agriculture net production index for least developed (small island developing, landlocked, post-conflict, low income, middle income, high income) countries, and disaggregated by country.

- o This is an indicator of stability of growth in agricultural production, a major income source for the rural poor.
- o Value  $\geq 1$  desirable; value  $< 1$  indicates problems
- o Data Source <http://faostat.fao.org/site/612/default.aspx#ancor>

It would be useful to have an indicator reflecting access to credit, technical assistance, input supplies, and farm gate prices as well as crop yields of smallholders, but to our knowledge this data is not available except perhaps for a handful of countries. Establishing data series that provided information by landholding size & tenancy status would be helpful to monitor processes that contribute to poverty reduction and human development of vulnerable groups.

3. Extent to which Official financial flows are counter-cyclical: (Data source for all indicators below is the World Bank's *Global Development Finance* data set.)

Year to year % change total IMF credit and loans disbursed / % change GNI growth rate averaged across least developed (small island developing, landlocked, post-conflict, low income, middle income) countries.

- o This indicator reflects whether IMF credit and loans are counter-cyclical
- o Negative value is desired

Year to year % change net transfer IBRD and IDA loans outstanding/% change GNI growth rate averaged across least developed (small island developing, landlocked, post-conflict, low income, middle income) countries.

- o This indicator reflects whether World Bank loans and grants are counter-cyclical
- o Negative value is desired

Year to year % change Net transfer, official / % change GNI growth rate averaged across least developed (small island developing, landlocked, post-conflict, low income, middle income) countries.

- o This indicator reflects whether official capital flows in total are counter-cyclical
- o Negative value is desired

Outcome Indicators:

1. Commodity Price Stability/Instability. Of concern here is whether commodity prices are stable in the short and medium term, and whether adverse (beneficial) price trends are reversing.

Ratio year on year FAO monthly food price index

- o This is an indicator of short term food price instability
- o Benchmark depends on whether last year's prices were considered high or low . Value=1 implies short-term price stability, Value > 1 indicates rising prices, Value < 1 indicates falling prices
- o Data source food price index: Food and Agriculture Organization (FAO)  
<http://www.fao.org/worldfoodsituation/FoodPricesIndex/en/>

Average annual value FAO food price index /average value FAO food price index over past 5 years.

- o This is an indicator of medium term food price instability
- o Benchmark depends on whether prices have been abnormally high or low in previous 5 years. Value = 1 implies price stability, Value > 1 indicates rising prices, Value <1 indicates falling prices.
- o Source food price index:  
<http://www.fao.org/worldfoodsituation/FoodPricesIndex/en/>

Highest Value Price index for non-agricultural raw materials (minerals, ores & metals, crude petroleum) in past 12 months / lowest value price index for non-agricultural raw materials (minerals, ores & metals, crude petroleum) in past 12 months. .

- o This is an indicator of short-term non-agricultural commodity price instability
- o Benchmark depends on whether prices have been abnormally high or low. Value = 1 implies price stability, Value > 1 indicates rising prices, Value <1 indicates falling prices.
- o Source for above is UNCTAD Commodity Price Bulletin.  
<http://www.unctad.org/Templates/Page.asp?intItemID=1889&lang=1>

Average value price index for non-agricultural raw materials (minerals, ores & metals, crude petroleum) this year / average value price index for non-agricultural raw materials (minerals, ores & metals, crude petroleum) in past 5 years.

- o This is an indicator of medium-term non-agricultural commodity price instability

- o Benchmark depends on whether prices have been abnormally high or low in previous 5 years. Value = 1 implies price stability, Value >1 indicates rising prices, Value <1 indicates falling prices.
- o Source for above is UNCTAD Commodity Price Bulletin.  
<http://www.unctad.org/Templates/Page.asp?intItemID=1889&lang=1>

2. Private Capital Flow Stability/Instability: Of concern here is how stable private capital flows are and whether a reversal of flows is in progress. (Data Source is World Bank's *Global Development Finance Online*)

Current Year Net transfer (= disbursements – principal repayment – interest payments during the year) private non-publically guaranteed external debt / Average past 5 year' Net transfer; separately for least developed (small island developing, landlocked, post-conflict, low income, middle income, high income) countries and disaggregated by country.

- o Indicator medium term stability private capital flows to private entities
- o If net transfer is negative and ratio is positive, indicates continued outflow, accelerating if ratio > 1; if net transfer is positive and ratio is positive, indicates continued inflow, accelerating if ratio>1; if ratio is negative, indicates reversal of capital flows

Current Year Portfolio equity flows as percent of GNI/ Average past 5 years portfolio equity flows as percent of GNI for least developed (small island developing, landlocked, post-conflict, low income, middle income, high income) countries and disaggregated by country.

- o Indicator medium term stability portfolio flows
- o If numerator is negative and ratio is positive, indicates continued outflow, accelerating if ratio > 1; if numerator is positive and ratio is positive, indicates continued inflow, accelerating if ratio>1; if ratio is negative, indicates reversal of portfolio equity flows

Current Year Foreign direct investment, net inflow/ Average past 5 years foreign direct investment, net inflow to least developed (small island developing, landlocked, post-conflict, low income, middle income, high income) countries and disaggregated by country. [Note: Foreign direct investment (net) shows the net change in foreign investment in the reporting country. Foreign direct investment is defined as investment that is made to acquire a lasting management interest (usually of 10 percent of voting stock) in an enterprise operating in a country other than that of the investor (defined according to residency), the investor's purpose being an effective voice in the management of the enterprise. It is the sum of equity capital, reinvestment of earnings, other long-term capital, and short-term capital as shown in the balance of payments.]

- o Indicator medium term stability foreign direct investment flows

- o If numerator is negative and ratio is positive, indicates continued outflow, accelerating if ratio > 1; if numerator is positive and ratio is positive, indicates continued inflow, accelerating if ratio > 1; if ratio is negative, indicates reversal of portfolio equity flows

*Private Capital Flows to Developing Countries:*

Of concern is whether the magnitude of resources to developing countries is increasing, and whether the terms on which they are provided is improving. (The data source for these indicators is World Bank's *Global Development Finance*.)

Outcome Indicators:

1. Magnitude of Flows

Net transfer (= disbursements – principal repayment – interest payments during the year) on private non-publically guaranteed external debt as % GNI to least developed (small island developing, landlocked, post-conflict, low income, middle income, high income) countries and disaggregated by country.

- o Positive value indicates private capital flows to private entities are increasing as a share of economic activity.
- o Benchmark: needs to be set for each country grouping

Portfolio equity flows as percent of GNI for least developed (small island developing, landlocked, post-conflict, low income, middle income, high income) countries, and disaggregated by country.

- o Positive value indicates portfolio equity flows are increasing as a share of economic activity.
- o Benchmark: needs to be set for each country grouping

Foreign direct investment, net inflow as % of GNI to least developed (small island developing, landlocked, post-conflict, low income, middle income, high income) countries and disaggregated by country. [Note: Foreign direct investment (net) shows the net change in foreign investment in the reporting country. Foreign direct investment is defined as investment that is made to acquire a lasting management interest (usually of 10 percent of voting stock) in an enterprise operating in a country other than that of the investor (defined according to residency), the investor's purpose being an effective voice in the management of the enterprise. It is the sum of equity capital, reinvestment of earnings, other long-term capital, and short-term capital as shown in the balance of payments.]

- o Positive value indicates direct foreign investment is increasing as a share of economic activity.
- o Benchmark: needs to be set for each country grouping

2. Terms of Private Flows: Of interest here is whether terms of private flows to developing countries are more favorable and less risky. Low interest rates and short loan maturity entails lower risk.

Average interest on new external private debt commitments of least developed (small island developing, landlocked, post-conflict, low income, middle income, high income) countries and disaggregated by country.

Average maturity new private external debt commitments of least developed (low income, small island, landlocked, middle income, developing, post conflict) countries.

#### *Official Capital Flows to Developing Countries:*

Of concern is whether the magnitudes of official capital flows to developing countries is increasing, the terms of provision are improving, and in the case of official flows, whether aid flows are delivered in a more efficient manner and are targeted in a manner that more effectively enhances human development.

#### Structural Indicators:

(Note: Data source for treaty ratification is:  
<http://www.unhchr.ch/tbs/doc.nsf/Statusfrset?OpenFrameSet>)

Percentage of least developed (small island developing, landlocked, post-conflict, low income, middle income, high income) countries that have ratified the United Nations Convention Against Corruption, also disaggregated by country. [This structural indicator is also relevant to private capital flows.]

- o Benchmark = 100%

#### Process Indicators

(Note: Benchmarks Set by Paris Declaration on Aid Effectiveness can be found at <http://www.oecd.org/dataoecd/45/46/35230756.pdf>. The base year is 2005 for their benchmarks. Data on most recent Paris Declaration indicator values can be found at: Data source: OECD, 2008 Survey on Monitoring the Paris Declaration: Effective Aid by 2010? What will it Take, Vol 1 Overview available at <http://siteresources.worldbank.org/ACCRAEXT/Resources/Full-2008-Survey-EN.pdf>.)

1. Policy Space: Of interest here is extent to which aid flows limit the policy space of recipients.

Average number of conditions imposed on IMF loans to least developed (small island developing, landlocked, post-conflict, low income, middle income) countries.

- o Lower is better: Benchmarks need to be set.
- o Data source: IMF loan agreements.

Average number of conditions imposed on IBRD loans to least developed (small island developing, landlocked, post-conflict, low income, middle income) countries.

- o Lower is better: Benchmarks need to be set.
- o Data source: World Bank loan agreements.

Average number of conditions imposed on IDA loans to least developed (small island developing, landlocked, post conflict, low income) countries.

- o Lower is better: Benchmarks need to be set.
- o Data source: World Bank loan agreements.

% of Aid flows recorded in country budgets (Indicator 3 monitoring implementation of Paris Declaration on Aid Effectiveness) [May want to break out by country grouping.]

- o Higher is better
- o Benchmark Set by Paris Declaration: halve the % not recorded with minimum 85% recorded

% of donor capacity-development support provided through coordinated programmes consistent with partners' national development strategies. (Indicator 4 monitoring implementation of Paris Declaration on Aid Effectiveness)

- o Higher is better
- o Benchmark Set by Paris Declaration: 50%

2. Human Development Impact: Of interest here is extent to which aid fosters human development.

Proportion total bilateral, sector-allocable ODA of OECD/DAC donors to basic social services (basic education, primary health care, nutrition, safe water and sanitation) [This is MDG indicator 8.2]

- o Higher is better: Benchmarks need to be set.
- o Data source: Millennium Development Goals Indicators  
<http://mdgs.un.org/unsd/mdg>

Efficiency: Of interest here is whether terms and procedures are increasing the value of aid flows to recipient countries.

Proportion of bilateral official development assistance of OECD/DAC donors that is untied [This is MDG indicator 8.3]

- o Higher is better: Benchmark is 100%

- o Data source: Millennium Development Goals Indicators  
<http://mdgs.un.org/unsd/mdg>

#### Disbursals ODA / Commitments ODA

- o Higher is better: Benchmark needs to be set
- o Data source: OECD International Development Statistics (IDS) Online  
[www.oecd.org/dac/stats/idsonline](http://www.oecd.org/dac/stats/idsonline)

Correlation ODA disbursals as share of recipient country per capita GNI with per capita GNI recipient countries (indicator of extent to which ODA is going disproportionately to poorer countries facing greater challenges to meet MDGs)

- o Negative correlation is better, the more negative, the better.
- o Benchmark needs to be set.
- o Data source for ODA disbursals—OECD International Development Statistics (IDS) Online. [www.oecd.org/dac/stats/idsonline](http://www.oecd.org/dac/stats/idsonline); Data source for per capita GNI—World Bank's World Development Indicators Online.

Technical Cooperation Grants (value as % GNI) to least developed (small island developing, landlocked, post-conflict, low income, middle income) countries.

- o Benchmarks need to be set for each country group.
- o Data source OECD International Development Statistics (IDS) Online. [www.oecd.org/dac/stats/idsonline](http://www.oecd.org/dac/stats/idsonline) .

% Aid channeled through recipient Public Financial Management System. (Indicator 5a monitoring implementation of Paris Declaration on Aid Effectiveness.)

- o Higher is better
- o Benchmark Set by Paris Declaration: 2/3 reduction in gap in countries with PFM/CPIA Score  $\geq 5$ ; 1/3 reduction in gap in countries with PFM/CPIA score between 3.5 and 4.5.

% Aid using country procurement system (Indicator 5b monitoring implementation of Paris Declaration on Aid Effectiveness.)

- o Higher is better
- o Benchmark Set by Paris Declaration: 2/3 reduction in gap in countries with PFM/CPIA Score  $\geq 5$ ; 1/3 reduction in gap in countries with PFM/CPIA score between 3.5 and 4.5.

Change in total stock Parallel Implementation Units (PIUs) (Indicator 6 monitoring implementation of Paris Declaration on Aid Effectiveness)

- o Lower is better
- o Benchmark Set by Paris Declaration: Reduce the stock of parallel PIUs by 2/3rds.

% of Aid disbursements released according to agreed schedules in annual or multi-year frameworks (Indicator 7 monitoring implementation of Paris Declaration on Aid Effectiveness)

- o Higher is better
- o Benchmark Set by Paris Declaration: halve the gap in % aid not disbursed on schedule

% of aid provided as programme-based approaches and accordingly using common arrangements or procedures (Indicator 9 monitoring implementation of Paris Declaration on Aid Effectiveness)

- o Higher is better
- o Benchmark Set by Paris Declaration: 66%

% of field missions, that are joint (Indicator 10a monitoring implementation of Paris Declaration on Aid Effectiveness)

- o Higher is better
- o Benchmark Set by Paris Declaration: 40%

3. Accountability: Concern focuses on whether analytic, diagnostic, and evaluation activities exhibit transparency and accountability.

% of country analytic work, including diagnostic reviews that are joint (Indicator 10b monitoring implementation of Paris Declaration on Aid Effectiveness)

- o Higher is better
- o Benchmark Set by Paris Declaration: 66%

Number of partner countries that undertake mutual assessments of progress in implementing agreed commitments on aid effectiveness (Indicator 12 monitoring implementation of Paris Declaration on Aid Effectiveness)

- o Higher is better
- o Benchmark Set by Paris Declaration: 100% of countries

Outcome Indicators:

(Data Sources: World Banks, *Global Development Finance Online* & IMF administrative data unless otherwise indicated.)

1. Magnitude of Multilateral Lending: Of interest here is whether multilateral lending to developing countries is an increasing proportion of their resources

Annual Change Total IMF credit and loans outstanding as % of GNI of least developed (low income, small island, land locked, developing countries, post conflict)

- o Higher is better
- o Benchmark needs to be set

Net transfer (= disbursement – principal repayment – interest payments during the year) IBRD and IDA loans to least developed (low income, small island, landlocked, developing, post conflict) countries as % of their GNI.

- o Higher is better
- o Benchmark needs to be set

2. Terms of Multilateral Lending: Of interest here is whether the terms of multilateral lending are increasingly favorable to developing countries and accord developing countries greater policy space.

Total IMF Credit under the Flexible Credit Line (pre-approval) as % total fund credit and loans outstanding for least developed (low income, small island, land locked, and developing countries).

- o Higher is better
- o Benchmarks needs to be set

Average number conditions imposed on new IMF credit and loans to least developed (low income, small island, landlocked, developing) countries.

- o Lower is better
- o Benchmarks needs to be set

Average grant element of total IMF credit and loans outstanding to least developed (low income, post-conflict) countries.

- o Higher is better
- o Benchmark needs to be set

Average grant element IDA loans disbursed to least developed (low income, small island, landlocked, post conflict) countries.

- o Higher is better
- o Benchmark needs to be set

Average maturity combine IBRD and IDA loans disbursed to least developed (low income, small island, landlocked, developing, post-conflict) countries.

- o Higher is better
- o Benchmarks needs to be set

3. Magnitude of Official Bilateral Flows: Of interest here is whether high income countries are increasing their aid flows to developing countries.

Net ODA total as percentage OECD/DAC donors' gross national income (Target 0.7% by 2015) [This is MDG indicator 8.1]

- o Higher is better
- o Target 0.7% by 2015

Net ODA as % recipient countries' GNI to least developed (low income, small island, land locked, developing, post conflict) countries.

- o Higher is better
- o Benchmarks needs to be set for different country groups

Net transfer (= disbursement – principal repayment – interest payment during the year) bilateral public and publically guaranteed loans as % recipient country GNI to least developed (low income, small island, landlocked, developing, post conflict) countries. [Bilateral debt includes loans from governments and their agencies (including central banks), loans from autonomous bodies, and direct loans from official export credit agencies.]

- o Higher is better
- o Benchmarks needs to be set for different country groups

4. Terms of Official Bilateral Flows

Average grant element (% value) new official bilateral debt commitments of least developed (low income, small island, landlocked, developing, post conflict) countries.

- o Higher is better
- o Benchmarks need to be set by country group

Average interest on new official bilateral debt commitments of least developed (low income, small island, landlocked, developing, post conflict) countries

- o Lower is better
- o Benchmarks need to be set by country group

Average maturity on new official bilateral debt commitments of least developed (low income, small island, landlocked, developing, post conflict) countries.

- o Longer is better
- o Benchmarks needs to be set by country group

*Debt Sustainability:* Of concern here is to ensure debt levels in developing countries are not so high as to jeopardize progress on meeting the Millennium Development Goals as well as broader development goals. [The data source for these indicators is World Bank's *Global Development Finance Online*]

Process Indicators:

Debt Forgiveness grants (% total debt outstanding) to least developed (low income, small island, landlocked, post conflict) countries. [Debt forgiveness grants data cover both debt cancelled by agreement between debtor and creditor and a reduction in the net present value of non-ODA debt achieved by concessional rescheduling or refinancing. The data are on a disbursement basis and cover flows from all bilateral and multilateral donors.]

- o Higher is better
- o Benchmarks need to be set

Debt to exports ratio (simple average of country ratios, so as not to reduce influence of few large countries) of least developed (low income, small island, middle income, post conflict) countries.

- o Lower is better
- o HIPC Initiative benchmark is 150%, but many argue debts of this size are not sustainable.

Reserves/short-term debt (simple average of country ratios, so as not to reduce influence of few large countries) of middle income countries. [Want to keep this above 1 to be safe]

- o Higher is better
- o Benchmark  $\geq 1$

Reserves/Average Monthly Imports of least developed (low income, small island, post conflict) countries.

- o Higher is better
- o Benchmark  $\geq 4$

## **B. Trade and Technology Transfer**

### **Trade and technology transfer--challenges and obstacles**

124. Trade holds the potential to foster rapid gains in human development and to promote global social justice. In the short run, trade allows countries to separate production from consumption so they can concentrate production on those activities where their comparative advantage is greatest, raising global output. But in addition to these “static gains from trade” there is potential to reap dynamic gains, especially for developing countries. Trade offers opportunities to increase employment and wages in labor abundant countries while reducing the cost of capital intensive goods thus spurring investment and growth. Trade provides a channel for technology transfer contributing to the development of technological capacity, and offers opportunities for skill upgrading, two key ingredients for long-run growth. The challenge is to ensure that the potential of trade to foster human development and promote social justice is realized. This requires that the global trading system as well as national trade policies function to foster social justice and broader development objectives.

125. Evidence is incontrovertible that historically trade fostered rapid output growth and contributed to substantial gains in human well-being in high income countries and more recently in many emerging East Asian countries, notably in the Republic of Korea, Taiwan Province of China, Hong Kong Province of China, Singapore, and China; but that is not to say that rapid and comprehensive trade liberalization will automatically translate into growth and enhanced human well-being. Latin America has undertaken rapid and extensive trade liberalization, but enjoyed far more limited success. More generally, the positive statistical correlation between indicators of trade openness and growth is fragile, and the direction of causation is disputed. Further, evidence that import liberalization automatically increases growth is weak. (Baldwin 2003, Rodriguez and Rodrik 1999; Samman 2005a ). As decades of *Human Development Reports* demonstrate, the link between growth and human development is far from automatic. (United Nations Development Programme, various years 1990 to present).

126. The ability to reap short- and long-run gains from trade and to translate these gains into improved human well-being depends on a number of factors. First, to realize static gains from trade, countries must gain access to markets that enable them to exploit their comparative advantage. In the case of many poor countries today, this entails gaining access to agricultural markets in high income countries as well as markets for labor intensive manufactured goods. If poor countries are to reap long-run gains from trade they will need to shift their comparative advantage over time to higher value-added manufactured goods and manage price shocks and adverse long-run price trends through export diversification.

127. Lessons from countries that have harnessed trade’s potential to promote growth underscore the critical importance of activist industrial investment policy in this regard. The industrial policies utilized by the East Asian tigers and China provided incentives for the development of local technological capacity by restricting imports, encouraging reverse engineering of imported technologies, imposing local content requirements to strengthen domestic linkages, and placing performance criteria on foreign investors to ensure technology transfer, and skills transfer (World Bank 1993; Amsden and Chu 2003).

128. Translating trade openness into human development requires poor countries to undertake policies that foster growth with equity and protect and increase public expenditures on social and

economic infrastructure and social safety nets. Greater openness gives rise to dislocation and adjustment costs, producing losers as well, and the lesser flexibility of developing countries' economies poses a particular challenge in this regard. Enabling poor countries to phase in tariff reductions and phase out the loss of privileges is critical.

129. Although principles of the current trade regime, such as the WTO's most-favored-nation principle, along with special and differential treatment provided developing countries in some areas, might be expected to ensure the benefits from trade do not accrue disproportionately to a single country or group of countries, the current system nonetheless functions in such a way that the benefits from trade flow primarily in accordance with the economic and political bargaining power of individual countries or blocs of countries. The bargaining power between high income countries and developing countries is asymmetrical. Developing countries with limited markets have little to offer high income countries in return for greater access to higher value-added markets whereas high income countries have much to offer developing countries. Further, developing countries are not able to fund or staff negotiating teams with the same breadth and depth as those of high income countries. As a result of these asymmetries in bargaining power, developing countries face restrictions on access to key markets and barriers to technology transfer that can have the effect of impeding their productivity growth and, to the extent the bargaining asymmetries limit developing country access to green technologies and patented pharmaceuticals, that limit developing countries' ability to respond effectively to climate change and health crises. Asymmetric bargaining power also likely has played a role in the limited focus on the aspect of trade in services of greatest concern to developing countries, movement of persons.

130. Developed countries apply low tariffs to raw commodities, but rapidly rising rates to intermediate or final products, making it difficult for developing countries to break into higher value-added export markets and locking them into volatile low value-added markets or commodity markets with secularly declining terms of trade (United Nations Conference on Trade and Development and World Bank 2009. Cernat, Laird and Turrini 2003). High income countries tend to apply low average tariffs in their trade with each other, but higher tariffs in their trade with developing countries. At the beginning of the decade, on average the tariffs on developing country exports to high income countries were 3 to 4 times higher than those of high income countries exporting to each other, and the share of tariff revenues collected by high income countries from developing countries was roughly twice the share of developing countries in high income country imports. (International Monetary Fund and World Bank 2001; Laird 2002). While the precise magnitude of the differential in the average tariff rate on developing country versus high income country exports to high income countries and the share of tariff revenues collected by high income countries from developing versus high income countries may be less pronounced, the basic problem remains.

131. Preferential trade schemes, such as the European Union's Everything but Arms initiative introduced in 2001 and the US African Growth and Opportunity Act signed in 2000, provide some developing countries with protection from high import duties, but the "rules of origin" requirements limit the benefits enjoyed by participating developing countries. Agricultural subsidies in high income countries limit developing country access to high income country agricultural markets. They also enable high income countries to penetrate developing country agricultural markets, lowering the prices received by poor-country farmers and exacerbating poverty. Sanitary and phyto-sanitary measures protect food safety and animal and plant health,

but they also limit developing country access to high income country agricultural and processed food markets. These measures do not significantly restrict trade between high income countries, suggesting that technical assistance on how best to comply with these measures could help offset their adverse impact on developing country (Disdier, Fontagne and Mimouni, 2008)

132. The World Trade Organization's Agreement on Trade-Related Aspects of Intellectual Property Rights agreement (TRIPs), as well as TRIPs-like and TRIPs-plus variations on this agreement in regional and bilateral trade agreements, influence the terms on which developing countries can acquire and adapt technology. The ultimate purpose of TRIPs agreements is to foster and spread the benefits of technological change. Patents create incentives to innovate but limit the benefits of technological change to patent holders. In the absence of patent protection, innovations diffuse rapidly spreading their benefits widely, but there is less incentive to innovate. The issue is one of striking a balance between the two. Relative to the historical balance struck, TRIPs privileges patent holders, and accordingly the act of innovation, over spreading the benefits of technological change.

133. The benefits of patent protection accrue primarily to high-income countries since that is where most innovations originate (Maskus 2004). By raising the cost of technology transfer, patent protection impedes the acquisition of technological capacity and slows productivity growth in developing countries. By increasing the cost of medicines, patent protection reduces access to pharmaceuticals urgently needed to promote health in developing countries and increases the cost of adopting technologies that reduce greenhouse gasses and foster sustainable development. The Doha Declaration on Public Health for which an accord was reached in 2003 and a decision was reached to make it a permanent amendment in 2005 contingent upon formal acceptance by two-thirds of WTO members (WTO, 2009) provides a mechanism to offset the most egregious adverse public health consequences of TRIPs, but many "TRIPs Plus" provisions in regional and bilateral agreements undermine this mechanism.

134. While TRIPS provides strong legally binding protection for modern, 'formal' inventions, it fails to provide protection for traditional knowledge, an area of particular concern for developing countries and indigenous peoples. Traditional knowledge has lucrative applications, and although the Convention on Biodiversity and the Declaration (CBD) on the Rights of Indigenous Peoples addresses this issue, recognizing the rights of communities over such knowledge, the TRIPS agreement could be interpreted to violate the CBD by granting firms that turn indigenous knowledge into marketable products patent rights to them. A number of United Nations Organizations are examining the issue, including the World Intellectual Property Organization, WIPO. The issue is not one sided. High income countries argue it is costly to turn indigenous knowledge into marketable products for the agricultural, biotechnology, and pharmaceutical industries and they are entitled to the profits for doing so (Simeone 2004; Sharma 2004).

135. The WTO's General Agreement on Trade in Services (GATS) has placed only limited emphasis on liberalizing the 4<sup>th</sup> mode of service provision, the temporary movement of people, yet this is the aspect that is of greatest interest to developing countries. It holds the potential to reduce unemployment or increase wages in developing countries, increase access to foreign exchange (through remittances), and enhance labor skills. Instead, the greatest emphasis has been placed on liberalizing trade in services via commercial presence, the mode of provision of greatest interest to high income countries. There are concerns that this limits the ability of

developing country governments to ensure affordable access to water, health and education (United Nations Development Programme, *Human Development Report 2005*).

136. Another factor concentrating the gains from trade and posing an obstacle to fostering human development through trade is the growing role of supermarkets in global marketing chains. One consequence of the increasingly concentrated supermarket industry in high income countries is the concentration of global sourcing, shutting smallholders out of the supply chain. The high cost of monitoring food safety and other standards for small geographically dispersed suppliers creates incentives to source from large producers. The demand for “just in time” delivery exceeds the financial and institutional capacity of smallholders while the demand for uniform produce often exceeds the technical capacity of smallholders. Yet, including smallholders in the agricultural (or other) supply chain offers the greatest potential to foster human development (United Nations Development Programme, *Human Development Report 2005*).

137. Successful responses to these problems include public investments in infrastructure linking smallholders to markets, as well as public and public private initiatives facilitating access to market information, credit, and technologies such as Senegal’s Agricultural Export Promotion project, Ghana’s work with coops and India’s Spice Board (Jensen 2005, Diao & Hazell 2003 and Jaffee 2005 as referenced by United Nations Development Programme, *Human Development Report, 2005*).

138. The crafting of a global trade regime that fosters human development will require measures to offset the disadvantages of underdevelopment as well as measures to equalize the bargaining power between developing and high income countries. Indicators reflecting whether the global trade regime increasingly fosters human development focus on 1) equalizing bargaining power of developing countries in trade negotiations; 2) enhancing the ability of developing countries to exploit their current comparative advantage and protect food security; 3) improving developing country market access to higher value-added markets, and ability to conduct industrial policy; 4) fostering enhancement of technological capacity in developing countries and the ability of developing countries to benefit from technologies that benefit health and reduce environmental harm and 5) improving developing country access to developed country labor markets. A related topic, discussed below under national implementation of the right to development, addresses the extent to which governments ensure that trade and other international agreements they enter into do not bring benefits disproportionately to domestic groups with particular economic or political influence.

139. The discussion below identifies specific structural, process, and outcome indicators that could be used to assess the extent to which the global trade regime increasingly fosters human development along each of the above five dimensions and that are consistent with our criteria for selecting indicators.

### **Trade and technology transfer--Indicators**

*Indicators related to equalizing bargaining power of developing countries in trade negotiations:*

Structural Indicators:

1. At issue is whether the right to development is recognized and as a result, whether measures that prioritize liberalization over human development are avoided in trade agreements. No data base currently provides this information but the requisite data can be compiled from the trade agreements.

Average across states and by state of the proportion of regional trade agreements the State is signatory to that explicitly recognize the Right to Development and provide for special and differential treatment for developing countries?

- o Higher is better
- o Bench mark needs to be set
- o Data source: trade agreements

Process Indicators:

1. Equal representation indicators: Here we want an indicator of whether progress in being made in increasing the relative size of developing country negotiating teams. There are two options here: a) an indicator that reflects funding allocated to assist poor countries to build their negotiating teams, b) an indicator of the relative size of the negotiating teams. Since the translation between funding provided and the relative size of developing country versus developed country negotiating teams is not direct, the latter approach is chosen. Data could be compiled from the administrative records of negotiation sessions.

WTO: Average across negotiation sessions:

Ratio of the average number of representatives per least developed [landlocked, small island, post conflict, low income, middle income] country that is party to the agreement to the average number of representatives per high income country that is party to the agreement.

- o Higher is better
- o Benchmark needs to be set

Existence of a formal and publicly available plan, agreed to by WTO members, to improve effective participation by all member States

- o Positive is better
- o Higher is better
- o Benchmark needs to be set

2. Access to information: Since bargaining power does not just depend on representation, but also the capacity of negotiators to assess the impact of different proposals on human development in their countries, an indicator of extent to which the playing field has been leveled in this regard is needed. Again, there are two general options: a) an indicator reflecting the magnitude of funding or technical assistance provided developing countries to

assess the human development impact of potential agreements and evaluate the effect of agreements entered into, or b) access of developing countries to impact studies of potential and actual agreements. The latter is a more direct indicator of access to the necessary information and accordingly is proposed here.

a. WTO:

Regarding proposals on the table for a given bargaining session:

% of developing [least developed, landlocked, small island, post conflict, low income, middle income] countries party to the WTO for which the WTO Secretariat has undertaken and made accessible human development impact assessments of proposals on the table.

- o Higher is better
- o Benchmark needs to be set

% of developing [least developed, landlocked, small island, post conflict, low income, middle income] countries party to the WTO for which other parties (UN agencies, NGOs, academics, etc.) have undertaken and made accessible human development impact assessments of proposals on the table.

- o Higher is better
- o Benchmark needs to be set

Regarding agreements reached:

% of developing [least developed, landlocked, small island, post conflict, low income, middle income] countries party to the WTO for which the WTO Secretariat has undertaken and made accessible human development impact assessments of trade agreements in place.

- o Higher is better
- o Benchmark needs to be set

% of developing [least developed, landlocked, small island, post conflict, low income, middle income] countries party to the WTO for which other parties (UN agencies, NGOs, academics, etc.) has undertaken and made accessible human development impact assessments of trade agreements in place.

- o Higher is better
- o Benchmark needs to be set

b. Regional and bilateral trade arrangements involving both high income and developing countries

For regional arrangements, same indicators as above for WTO

For bilateral arrangements:

- o % of proposals on the table for which the developing country concerned has access to competent human development impact analysis undertaken by independent third party (UN agency, NGO, academics.)

Higher is better

Benchmark needs to be set

- o % agreements for which competent human development impact analysis has been undertaken

Higher is better

Benchmark needs to be set

c. Civil Society: The issue of concern is whether civil society has timely access to information regarding the proposals on the table for all trade negotiations and whether they have access to human development impact analyses available to negotiators. Media (radio, TV, newspapers, books) provide one vehicle for dissemination, but require either access to libraries (books, old newspapers) or being in the right place at the right time (radio, TV) to access the information. Access to the web is growing rapidly, even in the least developed countries and provides local access that is not time bound to information. As such, indicators reference web-based access to information. For each arrangement, the following indicators are proposed. The relevant websites would need to be monitored to collect and compile this information.

Existence of timely web based notice of negotiating sessions and proposals on the table provided?

- o Positive is better
- o Benchmark needs to be set

Proportion of impact assessments of proposals on the table made publically available via the web

- o Higher is better
- o Benchmark needs to be set

Proportion of impact assessments of trade agreements made publically available via the web.

- o Higher is better
- o Benchmark needs to be set

*Indicators Reflecting Ability of Developing Countries to Exploit their Current Comparative Advantage*

Access to agricultural Markets & Protection of Domestic Agriculture from Unfair Competition: There are several ways one might assess this. One way is to look at obstacles imposed by developed countries; tariffs and agricultural subsidies are the key distortion so indicators of this would assess the magnitude of the tariff or the magnitude of the subsidy. A second way is to look at measures facilitating access to developed country agricultural markets. So here, one could look at an indicator of technical assistance provided to facilitate agricultural exports, or funding for roads and other infrastructure facilitating agricultural exports, the extent of agricultural subsidies. A third approach is to consider the success of developing countries in penetrating developed country (or global) agricultural markets. At issue here is also whether small holders are enabled to benefit from access to developed country (or global) agricultural markets. Given the difficulties in assessing the impact of technical assistance or infrastructure on improving market access, our indicators focus on obstacles and success in penetrating developed country markets. Success in penetrating developed country agricultural markets captures both success in removing obstacles and measures to facilitate developing country agricultural exports (including technical assistance to meet sanitary and phyto-sanitary requirements).

## Structural Indicators:

## 1. Protecting Poor from Adverse Effects of Liberalization:

- % Regional and bilateral trade arrangements involving a developing country that exempt agricultural products in developing countries essential to food security or essential to rural livelihood from any liberalization requirement.
  - Higher is better
  - Benchmark needs to be set
- % regional and bilateral trade arrangements involving a developing country that permit developing countries to restrict market access for agricultural products when import levels threaten food security and rural livelihood.
  - Higher is better
  - Benchmark needs to be set

## Process Indicators:

1. Magnitude of high income country agricultural subsidies: The magnitude of agricultural subsidies can be assessed relative to country GDP or value of agricultural production. The MDG indicator uses the former approach. However, this indicator is also influenced by the share of agriculture in the country's GDP. The value of agricultural subsidies relative to GDP could be small even if agricultural production is heavily subsidized if the relative size of the agricultural sector is small. As a result, here we assess the subsidy relative to the value of agricultural output. High income country subsidies to certain agricultural crops may impose a particularly high cost on least developed countries. As such, it may be desirable to track this indicator for particular agricultural products. For example sake, we propose an indicator that reflects the magnitude of the subsidy on cotton. Data are available from Source: OECD, PSE/CSE Database, 2009 cited in OECD, "Agricultural Policies in OECD

Countries: Monitoring and Evaluation, OECD, 2009, available on the web at <http://www.oecd.org/dataoecd/37/16/43239979.pdf>

Agricultural support estimate for OECD countries as percentage of Value OECD Agricultural Output, disaggregated by country.

- o Lower is better
- o Possible benchmark: 10%

Agricultural support to cotton estimate for OECD countries as percentage of Value of OECD Cotton production.

- o Lower is better
- o Possible benchmark: 10%

2. Magnitude of high income country tariffs on agricultural goods: Tariff levels on agricultural products differ across high income countries by product and country. To gain insight into general trends, an indicator of the average tariff level on agricultural products is relevant. However, it is also of interest to know whether certain agricultural products are subject to particularly high tariff rates. As is conventional, here we define particularly high tariffs as tariff peaks—tariff rates of 15% or more. The data source to construct this indicator is UNCTADs TRAINS (Trade Analysis and Information System) data base which can be found at: [http://r0.unctad.org/trains\\_new/index.shtm](http://r0.unctad.org/trains_new/index.shtm) and the World Bank's WITS (World Integrated Trade Solution) which can be found at: <http://wits.worldbank.org/witsweb/FAQ/Basics.aspx>

Average tariff rate on Agricultural Products in OECD countries, disaggregated by country.

- o Lower is better
- o Possible benchmark: eliminate tariffs on agricultural imports from Middle and Low income countries.

Number of agricultural products subject to tariff peaks in some OECD country, disaggregated by country.

- o Lower is better
- o Possible benchmark: eliminate tariffs on agricultural imports from Middle and Low income countries

Outcome Indicators:

1. Indicators of developing country penetration of high income country agricultural markets: One can look at penetration relative to production or penetration relative to consumption. Declines in OECD production likely to result from reducing subsidies and tariffs could cause the penetration ratio based on production to fall, even in the absence of any increase in LDC

exports to OECD countries. Agricultural consumption in OECD countries, although influenced by the price of agricultural products, is less influenced by changes in agricultural tariffs and subsidies. As a result we propose assessing penetration relative to consumption. Data on Value agricultural imports is available from UNCTADs TRAINS database (referenced in b above). Data on value agricultural consumption is available from OECD.Stat accessible via SourceOECD. (However, user account necessary to access.) To our knowledge, there is not data currently available that tracks data on sourcing from smallholders. A precise definition of “smallholder” would also need to be set. However, given the importance of this issue to developing countries we recommend funding the collection of this data.

Value of Agricultural Imports from low and middle income countries (least developed, low income, middle income) as percentage value agricultural consumption in OECD countries; could disaggregate by agricultural product if desired.

- o Higher is better
- o Benchmark needs to be set

% (in value terms) OECD agricultural imports sourced from smallholders.

- o Higher is better
- o Benchmark needs to be set

*Indicators reflecting developing country access to higher value-added markets in OECD countries & ability to conduct industrial policy:*

As was the case for indicators reflecting the ability of developing countries to exploit their comparative advantage, many factors influence whether developing countries are able to access higher value-added markets in OECD. This set of indicators assesses removal of obstacles to higher value-added markets in OECD countries as well as the host of factors (technical assistance, technology transfer, market information as well as the ability of developing countries to undertake successful industrial policies) that jointly influence the ability to produce quality manufactured products competitively. With regard to obstacles, escalating tariff structures in OECD countries as one moves up the value chain are of direct concern, as are local content requirements that influence whether special and differential tariff rates apply in particular cases. With regard to positive measures to facilitate developing countries’ ability to diversify their trade and move up the value chain, outcome indicators related to export diversification and the composition of developing country exports are proposed.

Structural Indicators:

1. Scope for industrial policy:

Existence of a formal and publicly available plan, agreed to by WTO members, to clarify and expand the scope for developing countries to implement industrial policy

- o Positive is better

% of other regional arrangements including a high income country explicitly providing scope for developing countries to implement industrial policy.

- o Higher is better
- o Benchmark needs to be set

% of bilateral arrangements between a developing and high income country explicitly providing scope for developing countries to implement industrial policy.

- o Higher is better
- o Benchmark needs to be set

2. Scope for developing countries to phase in tariff reductions and phase out loss of privileges:

Time period permitted by WTO for implementation of liberalization measures by least developed [land locked, small island, post conflict, low income, middle income] countries upon joining the WTO.

- o Longer is better
- o Benchmark needs to be set

Average time period permitted for implementation of liberalization measures by least developed [landlocked, small island, post conflict, low income, middle income] countries upon joining other regional trade arrangements.

- o Longer is better
- o Benchmark needs to be set

Average across bilateral agreements between a developing and high income country negotiated in past 5 years to phase in liberalization measures.

- o Longer is better
- o Benchmark needs to be set

Process Indicators

1. Tariffs on manufactures in OECD countries: As was the case for agricultural tariffs, levels and rates differ by product and country. Here we propose an indicator of the average level of tariffs on manufactures to gain insight into general trends and an indicator to identify products for which tariffs are particularly high. The indicators proposed here cover the entire manufacturing sector; it might be desirable to identify those manufactured goods of particular concern to developing countries and calculate the indicators below over that set of manufactured goods. As was the case for agricultural tariff indicators, the data source to construct this indicator is UNCTAD's TRAINS (Trade Analysis and Information System) data base which can be found at: [http://r0.unctad.org/trains\\_new/index.shtm](http://r0.unctad.org/trains_new/index.shtm) and the World

Bank's WITS (World Integrated Trade Solution) which can be found at:

<http://wits.worldbank.org/witsweb/FAQ/Basics.aspx>

Average tariff rate on manufactured goods in OECD countries (disaggregated by country).

- o Lower is better
- o Possible benchmark: eliminate tariffs on manufactured imports from Middle and Low income countries.

Number of manufactured products subject to tariff peaks in some OECD country, disaggregated by country.

- o Lower is better
- o Possible benchmark: eliminate tariff peaks.

2. Tariffs on manufactures charged countries with lower per capita income levels: Trade between developing countries holds tremendous potential to foster development. Trade policies consistent with special and differential treatment would entail lower tariff levels on imports from countries at lower development levels. Stiglitz and Charlton (2005) propose a rule-based trading system that requires countries to set tariff levels at zero for all countries with lower per capita income level, thus granting countries free access to the markets of all countries with a higher GDP and a higher GDP per capita. While such a proposal is not consistent with the current trade regime, it does suggest a means to test the fairness of the system. Data from UNCTAD's TRAINS data base and World Bank's WITS data base (as referenced above) along with data from the World Bank's World Development Indicators data base are sufficient to calculate the indicator proposed below by country.

Average tariff on manufactures charged countries with lower per capita income levels.

- o Lower is better
- o Benchmark needs to be set

Average tariff revenues received from countries with lower per capita income levels.

- o Lower is better
- o Benchmark needs to be set

3. Local content requirement: Access to special and differential tariff rates, often 0% tariff, offered developing countries under some agreements is restricted to products meeting a specified level of local content. Most commonly this level is set at 50%. Reducing the minimum content requirement to 25% would substantially increase developing country access to high income country markets.

Average local content requirement to qualify for special and differential tariff rates across bilateral and regional trade agreements & separately by agreement.

- o Lower is better
- o Possible benchmark: 25%

Proportion of total OECD country imports (by value and excluding arms) from least developed [landlocked, small island, post conflict, low income] countries admitted free of duty. (tracks MDG indicator 8.6)

- o Higher is better
- o Benchmark needs to be set

#### Outcome Indicators:

1. Developing country success in breaking into high value-added markets: These indicators can be computed from data provided in the UN Statistics Divisions Comtrade database which can be accessed at <http://comtrade.un.org/db/> . (All of the indicators below could be disaggregated by country as well.)

Average across developing [least developed, landlocked, small island, post conflict, low income, middle income] countries of the share of manufactured exports in total merchandise exports

- o Higher is better
- o Benchmark needs to be set

Average across developing [least developed, landlocked, small island, post conflict, low income, middle income] of high technology exports in total merchandise exports.

- o Higher is better
- o Benchmark needs to be set

2. Export diversification: These indicators can be computed from data provided in the UN Statistics Division Comtrade data base which can be accessed at <http://comtrade.un.org/db> . (All of the indicators below could be disaggregated by country as well.)

Average across developing [least developed, landlocked, small island, post conflict, low income, middle income] of export revenue from largest 10 export products as a percentage of total export revenue.

- o Lower is better
- o Benchmark needs to be set

Average across developing [least developed, landlocked, small island, post conflict, low income, middle income] of Gini Coefficient of export earnings inequality by export product. (This is analogous to computing a Gini Coefficient of income inequality but with each export's share in total export earnings.)

- o Lower is better
- o Benchmark needs to be set

*Indicators fostering LDC technological capacity and transfer of technology*

Structural Indicators:

1. Prioritizing public health over intellectual property rights:

Number (or %) of WTO member states that have formally accepted the amendment to the TRIPS agreement allowing WTO members to issue compulsory licenses to export generic versions of patented medicines to countries with insufficient or no manufacturing capacity in the pharmaceutical sector.

- o Higher is better
- o Benchmark needs to be set

Percentage of bilateral trade agreements and regional trade agreements that include “TRIPS-plus” conditions that impose restrictions on compulsory licensing and parallel importing of pharmaceuticals or otherwise prevent members from taking measures to protect public health

- o Lower is better
- o Benchmark needs to be set

2. Enabling tech transfer via DFI:

Percentage of bilateral trade agreements and regional trade agreements that include Trade Related Investment Measures (TRIMS) that prohibit developing countries from using performance criteria ( local content requirements, tech transfer requirements, local employment requirements, research and development requirements, etc. ) to maximize the benefit of direct foreign investment.

- o Lower is better
- o Benchmark needs to be set

3. Protection of Indigenous Knowledge

Percentage of high income (low income, middle income) countries that have signed the Convention on Biodiversity (CBD) according indigenous knowledge property rights protection.

- o Higher is better
- o Benchmark needs to be set

Outcome Indicators:

1. Access to affordable medicines: Data available from World Health Organization at <http://apps.who.int/globalatlas/>

Proportion of Population with access to affordable essential drugs on a sustainable basis. (MDG indicator 8.13)

- o Higher is better
- o Benchmark needs to be set
- o % AIDs/HIV sufferers being treated with effective drugs in high income [least developed, landlocked, small island, post conflict, low income, middle income] countries.
- o Higher is better
- o Benchmark needs to be set

% malaria sufferers being treated with effective drugs in high income [least developed, landlocked, small island, post conflict, low income, middle income] countries.

- o Higher is better
- o Benchmark needs to be set

2. Extent of property rights protection accorded indigenous knowledge: (I am not aware of a data source for this indicator, but it would reflect extent to which indigenous knowledge property rights are honored.)

Average across firms exploiting indigenous knowledge of Royalties/compensation paid to indigenous/traditional groups for use of indigenous knowledge as a percentage of firm profits.

- o Higher is better
- o Benchmark needs to be set

3. Access to environmental technology: These indicators are from World Bank World Development Indicators by country. They would need to be aggregated into country groups.

Average clean energy production (% total energy use) among developing [least developed, landlocked, small island, post conflict, low income, middle income] countries.

- o Higher is better
- o Benchmark needs to be set

Average CO2 emissions (kg per 2005 PPP\$ of GDP) among developing [least developed, landlocked, small island, post conflict, low income, middle income] countries.

- o Lower is better
- o Benchmark needs to be set

Average GDP per unit of energy use (constant 2005 PPP\$ per kg oil equivalent) among developing [least developed, landlocked, small island, post conflict, low income, middle income] countries.

- o Higher is better
- o Benchmark needs to be set

4. Access to communication technology: (MDG indicators used here)

Telephone lines per 1000 population (MDG indicator 8.14) by country and averaged for developing [least developed, landlocked, small island, post conflict, low income, middle income, high income] countries

- o Higher is better
- o Benchmark needs to be set

Cellular subscribers per 1000 population (MDG indicator 8.15) by country and averaged for developing [least developed, landlocked, small island, post conflict, low income, middle income, high income] countries

- o Higher is better
- o Benchmark needs to be set

Internet users per 1000 population (MDG indicator 8.16) by country and averaged for developing [least developed, landlocked, small island, post conflict, low income, middle income, high income] countries

- o Higher is better
- o Benchmark needs to be set

*Trade in Services including labor services*

Process Indicators:

1. Enhancing the temporary migration of labor from developing countries to high income countries. (No specific data source identified but the information should be available from administrative data.)

Average across high income countries of foreign nationals from developing [least developed, landlocked, small island, post conflict low income, middle income] countries with valid permits as percentage of high income country labor force.

- o Higher is better
- o Benchmark needs to be set

Average duration of working permits for people from developing [least developed, landlocked, small island, post conflict low income, middle income] countries currently working in high income country labor markets.

- o Higher is better
- o Benchmark needs to be set

2. Guaranteeing affordability of essential service to poor households in developing countries: (This data could be obtained from household budget surveys, but currently no internationally harmonized data set.)

Average across developing [least developed, landlocked, small island, post conflict, low income, middle income] countries of water expenditures as share of poor household's income (national poverty line)

- o Higher is better
- o Benchmark needs to be set

Average across developing [least developed, landlocked, small island, post conflict, low income, middle income] countries of electricity expenditures as a share of poor household's income (national poverty line)

- o Higher is better
- o Benchmark needs to be set

Average across developing [least developed, landlocked, small island, post conflict, low income, middle income] countries of health expenditures as a share of poor household's income (national poverty line)

- o Higher is better
- o Benchmark needs to be set

Average across developing [least developed, landlocked, small island, post conflict, low income, middle income] countries of primary education expenditures as a share of poor household's income (national poverty line)

- o Higher is better
- o Benchmark needs to be set

### **C. Regulation of Transnational and Other Business Enterprises**

140. As discussed in Section II, above, there have been a series of attempts, beyond ILO standards on labour rights, to forge explicitly human rights-based standards for transnational and other business enterprises. The most current, though still-developing, standards on this issue are found in the on-going reports of John Ruggie, the Special Representative of the UN Secretary-General on human rights and business. The latest Ruggie reports in particular have established a three-part framework for integrating human rights into business practices: these include “protect” (“State duty to protect against human rights abuses by third parties, including business, through appropriate policies, regulation, and adjudication”) “respect” (giving business enterprises a responsibility to conduct “due diligence” to ensure that their activities do not constitute or promote human rights violations); and “remedy” (a duty by the State to ensure effective means of complaint and remedy when business infringe on human rights)” (UN 2009d, p. 3).

141. The latest Ruggie report does not suggest that the responsibility to protect extends to regulating the “extraterritorial activities of businesses incorporated in their jurisdiction,” though it does provide strong reasons why States may choose to do so (UN 2009d, pp.7-9). It is to be noted, however, that the report’s reticence on mandating extraterritorial regulation is based on an absence of settled international human rights law in this regard. If States were to adopt assessment tools for the Right to Development that included such an obligation, they would in some sense be adding their view that this is an appropriate interpretation of the “international cooperation” language in human rights documents like the UDHR and the ICESCR.

142. Among others issues concerning business that are raised in the Ruggie reports or elsewhere are transparency in payments to governments (see the discussion of extractive industries under Peace and Security in section V.B.5., below); the nature of provisions concerning “stabilization” and confidentiality of dispute resolution proceedings in bilateral investment agreements (see UN 2009d, p. 11), ensuring labor and environmental standards; ensuring that businesses, including state-owned businesses, obtain prior informed consent from indigenous peoples concerning any exploitation of natural resources on their traditional lands (see under National Level Indicators, Section V.D. below) and ensuring that governments adequately regulate private providers of core public services (such as water, utilities, health services, and education services) to ensure that they meet human rights standards regarding availability, accessibility (including affordability, geographic accessibility, and absence of barriers based on discrimination) and quality as well as participation, access to information, and means of complaint and remedy (see under National Level Indicators, Section V.C., below).

143. The discussion below identifies illustrative indicators that could be used to assess the extent to which states’ national and international policies concerning business enterprises are consistent with the Right to Development as discussed in Section III.B., above. Note that these

indicators are illustrative of discussions of issues around business and human development, but are not drawn from existing databases, and require further vetting by experts in that area.

144. Illustrative indicators related to transnational corporations and human development:

- Creation by states of a clear international standard concerning states' duties with regard to the extraterritorial regulation of infringements by human rights by business enterprises incorporated under their jurisdiction
  - Positive is better
- Number of bilateral investment treaties to which the State is party that have highly restrictive WTO-plus clauses (eg, protecting investors from new environmental or social laws), or mandating undue confidentiality concerning the existence, nature and outcome of claims subject to arbitration under the treaty's dispute resolution provisions (inspired by Ruggie report 2009d, p. 11)
  - Lower is better
- Existence of national legislation implementing all four core standards in the ILO's Declaration on Fundamental Principles and Rights at Work (1998), i.e., "freedom of association and the effective recognition of the right to collective bargaining; elimination of all forms of forced or compulsory labour; effective abolition of child labour; elimination of discrimination in respect of employment and occupation."
  - Positive is better
- Existence of a National Human Rights Institution that includes business and human rights in its mandate (inspired by Ruggie report UN 2009d, p.24).
  - Positive is better

#### **D. Development in an Environment of Peace and Security**

145. The question of peace and security encompasses several broad topics: international armed conflict; intra-national armed conflict, including over natural resources; national-level post-conflict reconstruction; national-level personal security in times of natural disasters; and finally national-level everyday personal security, including security from domestic and gender-based violence.

146. A number of international bodies, agencies and standards exist explicitly to address aspects of one or more of these issues: these include *inter alia* the UN Security Council; the UN High Commissioner for Refugees; the UN Office of the High Commissioner for Human Rights; the new and as yet unnamed UN gender equality entity (for an overview of which see Bunch, 2009); and the International Criminal Court; on the standards side a short and non-comprehensive list includes the UN Charter itself; the Geneva Conventions on the laws of war (1949 and the protocols of 1977 and 2005), including the provisions on the protection of infrastructure during conflict; the Convention Relating to the Status of Refugees (1951); An Agenda for Peace (United Nations 1992) and An Agenda for Development (United Nations

1994, paragraphs 16-40); the proposed Arms Trade Treaty currently under discussion at the United Nations (for an overview of its current status see International Action Network on Small Arms, 2009); and finally Security Council resolutions 1325, 1820, 1888, and 1889, addressing the participation of women in peace processes (Security Council resolution 1325) and sexual violence against women and children in times of armed conflict (Security Council resolutions 1325, 1820, 1888, and 1889) (for a concise account of these resolutions see Dokmanovic, 2009, p.4).

147. The Right to Development is thus not the principal context in which international and domestic protection of peace and personal security are normatively defined and implemented. At the same time, peace and security are critical for development, and their absence can be catastrophic.

148. UNDP's Human Development Report 2005 (HDR 2005), which includes a focus on violence, identifies a series of links between violence and obstacles to development:

Violent conflict disrupts whole societies and can roll back human development gains built up over generations. Conflict disrupts food systems, contributes to hunger and malnutrition and undermines progress in health and education (p.151);

similarly,

Conflict increases poverty, reduces growth, undermines investment and destroys the infrastructure on which progress in human welfare depends. It encourages high levels of military spending, diverting resources from productive investments. Violent conflict also spreads malnutrition and infectious disease through the breakdown of services and increased numbers of refugees and displaced people (p. 155).

149. At the national level, the development costs of conflict fall disproportionately on poor and marginalized people. HDR 2005 attributes this to a number of reasons: conflicts disrupt trade leaving those dependant on markets with no alternative sources of support; the loss of adult men has the greatest impact on those with small or non-existent economic margins; women are especially vulnerable to rape and its physical and psychological impacts, as well as to social exclusion following rape; children are especially vulnerable to forced recruitment into armed forces (Otunnu 2005 and Physicians for Human Rights 2002 as cited by United Nations Development Programme 2005). Nor are the negative impacts of conflict contained to those countries in which violence occurs: HDR 2005 also points to the spillover effects on human development in neighboring countries, including through influxes of refugees and need for increased military spending, citing a half percentage point decline in growth rates on average (Collier et al. 2003 as cited by United Nations Development Programme).

150. Common risk factors for intra-national conflict include "poverty and inequality... institutional failure, undemocratic political structures, occupation or rival claims over territory, ...external events such as economic shocks, regional conflicts, and changes in society that create tensions between political elites" (United Nations Development Programme 2005, p.162). In addition, "[n]atural resource abundance can also magnify gaps, making some states more prone to conflict" (United Nations Development Programme 2005, p. 165): the problem arises

particularly when governance structures are weak, providing no protection against windfall gains accruing to those controlling the resource rather than to the nation as a whole. Among the impacts are that large influxes of revenue from the resource weaken incentives for the government to develop a stable revenue systems through taxation of citizens, making it less dependent on (and thus accountable to), citizen approval; the large sums of money involved provide temptations for corruption by those who control the state.; and financial flows that could promote human development are redirected to funding civil wars over the resource.

151. In looking to assess implementation of the peace and security element of the Right to Development specifically, it is suitable to focus on those aspects that are most often raised in development contexts. These include 1) disarmament; 2) addressing trade in natural resources as an incentive for, and source of financing of, armed conflict; 3) ensuring effective financing for reconstruction following armed conflict; 4) ensuring attention to gender in conflict and post-conflict situations; and 5) ensuring protection of refugees and those displaced internally by natural or humanitarian disasters; and finally 6) ensuring personal security, including from domestic and gender-based violence and other forms of crime, in non-conflict situations.

152. The indicators below are not standardized indicators, but rather are generally illustrative and reflective of the issues raised above. While it would be possible to construct these indicators from administrative data, both these indicators and the overall choice of the best set of indicators for this topic need to go through an extensive vetting process by experts in the field. Note too that in this case the indicators are organized by state obligation (collective, individual (internal), individual external) rather than by structural/process/outcome, though all three kinds of indicators are included.

153. Illustrative indicators:

### **Collective obligations**

1. Preventing conflict, including conflict over natural resources:

- Creation and entry into force of an international legal standard addressing trade in arms (eg, the planned Arms Trade Treaty)
  - o Positive is better
- % of UN Member States participating in one or more international agreements or standards regulating trade in small arms (eg, Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies) agreed to
  - o Positive is better
- % of UN Member States that have adopted national standards requiring transparency in payment arrangements to one's own or foreign government by businesses engaged in trade in extractive resources (eg, standards set by the Extractive Industries Transparency Initiative (see the Initiative's website at <http://www.eitransparency.org/>).
  - o Positive is better

- # of private or public international legal regimes or certification schemes to restrict consumer access to products that are sources of, or provide financing for, armed conflict (eg, the Kimberle Process on so-called “blood diamonds”), or of a single overarching regime for this purpose

- Higher is better

2. Protection of the vulnerable during conflict:

- Global % of reported cases, as % of the population, of women and children experiencing rape during and following armed conflict

- Lower is better

- % of UN Member States that have adopted a National Action Plan on UN Security Council Resolution 1325 regarding participation of women in decision-making and peace processes (see Dokmanovic, 2009, p. 10 and United Nations Inter-Agency Network on Women and Gender Equality, Task Force on Women, Peace and Security, n.d)

- Higher is better

3. Post-conflict:

- Percentage of total annual ODA/DAC for disarmament, rehabilitation and reintegration directed specifically at issues affecting women

- Higher is better

- Percentage of countries receiving international post-conflict aid that have a budget and plan for reconstruction prepared with representation of people in all of the affected areas and populations, including women

- Higher is better

- Number of post-conflict countries receiving aid for which there exists a two-sided aid monitoring system encompassing regular meeting's by donors to monitor spending of reconstruction funds, and regular reporting by donors of their fulfillment of their funding pledges

- Higher is better

- Among countries in which hostilities have ceased in the last ten years, the average duration of aid persistence

- Higher is better

- Average duration of post-conflict peace among countries that concluded a peace agreement within the last 10 years.

- Longer is better

4. Personal security not in times of armed conflict:

- Global rate per 100,000 population of reported violent crime (excluding domestic violence and rape)\_ (not in times of armed conflict)
  - Decrease is better
- Global rate per 100,000 population of reported cases of domestic violence and rape (not in times of armed conflict)
  - Decrease is better

**National (internal)**

1. Preventing conflict, including conflict over natural resources:

- Existence of national standards requiring transparency in payment arrangements to one's own or foreign government by businesses engaged in trade in extractive resources (eg, standards set by the Extractive Industries Transparency Initiative (see the Initiative's website at <http://www.eitransparency.org/>)).
  - Positive is better

2. Protection of the vulnerable during conflict:

- Existence of programs to support internally displaced persons
  - Positive is better
- % of reported cases, as a percent of the population, of persons experiencing rape during and following armed conflict
  - Lower is better

3. Post-conflict:

- For post-conflict countries: existence of a budget and plan for reconstruction prepared with representation of people in all of the affected areas and populations, including women
  - Positive is better
- For post conflict countries: % of women representatives on formal teams negotiating post-conflict governance [could be further developed in consultation]
  - Positive is better
- For post-conflict countries receiving aid: existence of a two-sided aid-monitoring system

encompassing regular meetings by donors to monitor spending of reconstruction funds, and regular reporting by donors of their fulfillment of their funding pledges

- o Positive is better

4. Personal security not in times of armed conflict:

- National rate per 100,000 population of reported case of violent crime (excluding domestic violence and rape),(not in times of armed conflict)

- o Decrease is better

- National rate per 100,000 population of reported cases of domestic violence and rape (not in times of armed conflict)

- o Decrease is better

**National (external)**

1. Preventing conflict:

- Participation in one or more international agreements or standards regulating trade in small arms (eg, Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies) agreed to

- o Positive is better

- Existence of national standards requiring transparency in payment arrangements to one's own or foreign government by businesses engaged in trade in extractive resources (eg, standards set by the Extractive Industries Transparency Initiative (see the Initiative's website at <http://www.eitransparency.org/>).

- o Positive is better

2. Protection of the vulnerable during conflict:

- [Asylum policies/policies towards refugees]

3. Post-conflict:

- Existence of a National Action Plan on UN Security Council Resolution 1325 regarding participation of women in the peace process (see Dokmanovic, 2009, p. 10)

- o Positive is better

- For states providing post-conflict aid: percentage of annual national ODA/DAC for disarmament, rehabilitation and reintegration directed specifically at issues affecting women

- o Higher is better

- For states providing post-conflict aid: Percentage of countries receiving post-conflict aid that have a budget and plan for reconstruction prepared with representation of people in all of the affected areas and populations, including women
  - Higher is better
- For states providing post-conflict aid: proportion of countries receiving post-conflict aid from the state where there is a two-sided aid monitoring system encompassing regular meetings by donors to monitor spending of reconstruction funds, and regular reporting by donors of their fulfillment of their funding pledges
  - Higher is better

## V. NATIONAL LEVEL INDICATORS OF THE RIGHT TO DEVELOPMENT

### A. What is to be assessed?

154. The preambular paragraph of the *Declaration on the Right to Development* sets forth a comprehensive concept of development. Indicators are needed to assess whether structures are in place to support a process of development that fully embodies human rights principles and results in the fulfillment of all human rights and fundamental freedoms—economic, social, and cultural as well as political and civil. As noted by the former High Commissioner for Human Rights, Louise Arbour, “While human rights standards and principles have to provide the parameters for the articulation and the conduct of the development policies and programs, the process has to lead to enforceable human rights and the relevant political, legislative and administrative institutions to ensure that the benefits of this process will reach the poorest and the most vulnerable” (Arbour 2006 p. iv). Thus, in addition to structural indicators, which address formal legal and political standards and policies, two additional sorts of indicators are needed to monitor the right to development: 1) indicators assessing processes of development including implementation of the rights-based approaches to development, which encompasses substantive civil, cultural, economic, political and social rights and rights requiring that all development-related planning, implementation, monitoring and evaluation be participatory, inclusionary, empowering, non-discriminatory, transparent, and accountable; and 2) indicators specific to rights attainments of individuals and peoples that are contextually relevant to the country concerned.

155. The individual rights are interdependent both between classes of rights—political and civil versus economic, social and cultural—as well as within classes. For example, the extent to which people are able to freely and meaningfully exercise their civil and political rights depends importantly on the degree to which economic, social, and cultural rights are fulfilled. Education influences a person’s ability to access, interpret, and act on information relevant to exercising political and civil rights. But in addition, the benefit one gains from a given level of education depends on one’s attainment of the right to health. The interactions are also reciprocally related; one’s education level influences one’s ability to access the right to health and benefit from the structures in place to promote the attainment of the right to health.

156. The recognition of these interdependencies is at the heart of the right to development; advancing the right to development requires that a degree of harmony in the level of fulfillment of the individual rights be achieved. As noted by Marks and Andreassen, “[s]tate obligations

concerning human rights should reflect this interrelationship among rights and guide the process of their operationalization.” (Andreassen and Marks 2006 p. xv). Thus in assessing the extent to which the right to development is being met, it is necessary to look at the interrelationship among indicators of the achievement of individual rights. The precise order in which particular rights must be fulfilled is imperfectly defined and is dependent on the particular context. The fulfillment of political and civil rights is immediately actionable; however the fulfillment of economic, social and cultural rights is subject to progressive realization in recognition of the fact that the ability to fulfill these rights depends on the level of resources available.

157. The fact that economic, social and cultural rights are subject to progressive realization does not relieve states from the duty of making consistent progress toward their fulfillment. Some dimensions of economic, social and cultural rights do not require significant resources; the cost of registering the land of smallholders or indigenous peoples with uncertain land titles is not high, but the respect of and protection provided to their resource ownership substantially enhances their ability to fulfill on their own accord their right to food, and right to decent work, among other rights. The decision about which of the particular economic, social, and cultural rights to prioritize at any given time depends on a number of factors, including cost differences and the extent to which expenditures directed to fulfilling one right spill over into enhancing the level of fulfillment of other rights. This of course will be country specific, and under international human rights standards is properly decided as part of a participatory political process, within the broad requirements of the human rights framework.

158. The interdependence between rights poses challenges to defining outcome indicators. One ideally wants a single indicator that reflects the extent to which the right to development is fulfilled. It is tempting to fall back to assessing development progress on the basis of per capita income growth. But while expanding productive capacity facilitates fulfilling economic, social, and cultural rights, and is essential to their progressive realization in poor countries in particular, this confuses a means for development with the goals of development. The right to development “is not synonymous with increased resources, but instead relates resources to the respect and protection of the individual’s ability to utilize those resources in right enhancing ways” (Andreassen and Marks 2006 p. xviii). Further, it is seldom the case that it is infeasible to enhance rights fulfillment within the confines of the current resource base.

159. It is not possible to define a single indicator that adequately and fully reflects the extent to which the right to development as a whole is realized in all countries, given the interdependence between classes of rights, rights within a class, aspects of rights and how these play out in different countries. Further, the right to development not only encompasses realization of the full set of human rights, but also broader processes and aspects of well-being that enhance human dignity and flourishing. These other aspects, however, necessarily differ across countries at any given time given heterogeneity in values across countries, and the endogenous nature of value formation (Sen, 1988).

160. The right to development entails setting in place a process that recognizes and responds to value heterogeneity and endogeneity and accordingly monitoring some outcomes that differ across countries and within countries over time. However, fulfilling civil, cultural, economic, political, and social rights in a manner that is consistent with the rights based approach to development is one of the three central components of the right to development and comprises the first priority for development at the national level. As such, the indicators proposed for

monitoring the right to development at the national level focus on this central component. Each country then needs to augment their monitoring effort to incorporate those development goals that uniquely conform to their current values.

161. This still leaves the problem of whether one can determine the extent to which the right to development as a whole is being fulfilled, and if one can, how one can do so in any given country. Sengupta (2006) describes the right to development as a vector of rights whose value improves when there is an increase in the extent to which fulfillment of at least one of the rights comprising the vector increases provided the level of fulfillment of none of the rights comprising the vector decreases. This claim will surely receive wide agreement. But what happens if the level of fulfillment of one right comprising the vector deteriorates while others increase? Should one judge the value of the vector as a whole to have decreased? While we contend that this method of judging whether there progress or regress fails to adequately take into account the full richness and complexity of the right to development—if people are enjoying substantial gains in the fulfillment of several of the constituent rights and only a slight decline in one of them it seems misplaced to judge the outcome as regress—we agree that monitoring the right to development requires indicators of the level of fulfillment of each of the main constituent rights comprising the vector. As Sen (2006) notes, the right to development can be viewed as a “conglomeration of a collection of claims” for which there is “ambiguity of obligation” both morally and legally. While the concept of the right to development focuses on instigating a particular kind of process (human rights based development process) and fulfilling a particular set of rights (in some cases immediately and in others progressively), and accordingly imposes some corresponding obligations on the state, when it comes to specifying the precise set of obligations that are included as part of the right to development, some of the obligations are imperfect.

162. There will be differences in views about how to assess a particular constellation of progress (or lack thereof) in the fulfillment of the rights that together constitute the right to development. We concur with Sen. “What is demanded is nothing like an automatic agreement on some pre-determined formula, but a commitment to participate in a process, which includes an exercise of social ethnics, within each country and across borders” (Sen 2006 p.8). It is within this spirit that we propose a set of indicators for use in monitoring the fulfillment of the right to development at the national level. The different indicators can be aggregated into a composite indicator of the right to development, and we make some suggestions in that regard. But as Sengupta notes, to convert the elements into a scalar or index measuring the extent to which the right to development as a whole is realized requires averaging or weighting the different elements and the only way this can be done is “to build a consensus through open public discussion about the relative importance of the different levels of achievement” (Sengupta 2006 p. 32). In specifying one such methodology, we hope to foster just such a discussion.

163. The indicators we propose focus on three broad aspects of the right to development 1) civil and political rights, 2) economic, social and cultural rights, including associated procedural rights to participation, access to information, and means of remedy and 3) the rights to non-discrimination and to equitable distribution of the benefits and burdens of development. In each case, structural, process, and outcome indicators are proposed. With regard to civil and political rights on the one hand, and economic, social and cultural rights on the other, our indicators focus on the primary rights articulated in the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR),

respectively. To keep the assessment project manageable, we select a limited number of indicators for each substantive right. In addition to the previously noted criteria for indicator selection, we focus on indicators from internationally harmonized data sources with broad country coverage that are collected with reasonable frequency. We also suggest a methodology for constructing an overall summary index of civil and political rights on the one hand and economic, social and cultural rights on the other. Each state may want to extend its monitoring endeavor to include other aspects of the substantive rights. A much more exhaustive set of indicators for monitoring the substantive rights is provided in the Office of the High Commissioner for Human Rights' "Report on Indicators for Promoting and Monitoring the Implementation of Human Rights" (2008).

164. The discussion below identifies specific structural, process, and outcome indicators that could be used to assess the extent to which national institutions, structures, and policies increasingly foster human development along the above three dimensions and that are consistent with our criteria for selecting indicators.

### **B. National Level Right to Development: Structural Indicators**

165. Our structural indicators for the right to development consider whether the various aspects of the right to development are recognized by the country's government. Of interest is the extent to which the government has ratified the various Covenants that are relevant to the Right to Development, whether there are constitutional and/or legal protections for political and civil rights in general, whether there are constitutional and/or legal protections for economic and social rights in general, and whether there are constitutional and/or legal protections for women's political, social, and economic rights in particular.

1. % of the following key conventions ratified (higher is better):

International Convention on Civil and Political Rights (1966)

International Convention on Economic, Social and Cultural Rights (1966)

2. % of the following relevant conventions related to protecting vulnerable populations ratified (higher is better):

Convention Relating to the Status of Refugees (1951)

International convention on the Elimination of All forms of Racial Discrimination (1966)

Convention on the elimination of All forms of Discrimination Against Women (1979)

Convention against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment, (1984)

Convention on the Rights of the Child (1989)

International Convention on the Protection of the Rights of All Migrant Workers and members of their Families (1990)

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime (2000)

Convention on the Rights of Persons with Disabilities (2006)

3. Whether Ratified Convention on Biological Diversity (1992)
4. % of the following Civil and Political Rights for which there are constitutional or legal rights and protections (higher is better):
  - Protection against Arbitrary searches, seizures, arrest or detention
  - Protection against extrajudicial killing
  - Protection against political imprisonment
  - Protection against torture
  - Equal treatment before courts/tribunals,
  - The right to a fair trial, the right to the presumption of innocence until proven guilty according to law, and right to humane treatment when imprisoned.
5. % of the following Civil and Political Rights for which there are constitutional or legal rights and protections (higher is better)
  - Right to freedom of movement within one's country and to and from one's country
  - Freedom of assembly and association
  - Freedom of thought, conscience and speech
  - Freedom of religion
  - Electoral Self-determination
  - Right to confer citizenship to children or a spouse
6. % of the following 3 economic and social rights for which there are constitutional or legal protections (higher is better):
  - Security of property rights
  - Prohibition of Slavery or similar forms of servitude or forced compulsory labor
  - Freedom of Association at one's workplace and the right to bargain collectively with one's employer

7. % of the following 4 economic, social, and cultural rights for which there are constitutional or legal protections (higher is better):

Right to participate in social, cultural and community activities

Right to a free primary education

Freedom to choose a residence or domicile

Freedom from forced sterilization

8. % of the following economic, political, and social rights for which there is constitutional or legal protections specifically for women (higher is better):

Right to equal pay for equal work

Right to free choice of profession or employment without need to obtain one's husband's or male relative's consent

Equality in hiring, job security with maternity protection, and promotion practices

Equality in access to credit practices, including the right to obtain credit without need to obtain one's husband's or male relative's consent

Right to freedom of movement, including travel, without need to obtain one's husband's or male relative's consent

Right to be free from sexual harassment in the workplace

Right to work at night, in occupations classified as dangerous, in the military and in the police force.

Right to equal inheritance

Right to enter into marriage on a basis of equality with men

Right to initiate a divorce

Right to own, acquire, manage, and retain property brought into marriage

9. % of the following economic, political, and social rights for which there is constitutional or legal protections for all citizens, regardless of race or ethnicity (sex, language, religion, disability, other status, e.g., HIV status):

Right to vote

Right to run for political office

Right to hold elected and appointed government positions

Right to join political parties

Right to petition government officials

Right to obtain a passport and travel abroad

Right to participate in social, cultural, and community activities

10. The existence of a strong national (and where relevant, sub-national) Freedom of Information law concerning access to governmental documents

Positive is better

11. % of ministries and other public service providers with published procedures for public participation, public provision of information, and for administrative and other forms of complaint and remedy (see Potts, n.d.)

Higher is better

12. % of ministries publically announcing date and magnitude of funding released to lower administrative units.

Higher is better

13. The existence or not of a published policy requiring trade ministries to conduct prior impact assessments, regarding economic and social impacts on residents of other State Parties, when bringing cases before Dispute Resolution bodies established by international trade and other regimes,

Positive is better

14. The existence or not of a legal or administrative standard requiring prior informed consent by indigenous communities to the exploitation of natural resources on their traditional lands.

Positive is better

15. The existence or not of legal standards mandating equal protections in all aspects of work for all workers, regardless of citizenship status

Positive is better

### **C. National Level Right to Development: Process Indicators**

166. Process indicators focus on the extent to which there is a process in place 1) to promote a comprehensive process of development, 2) to protect and ensure the fulfillment of political and civil rights, 3) to progressively protect and fulfill economic, social, and cultural rights, and 4) to ensure non-discrimination and protection of vulnerable groups. Country benchmarks need to be set for each of the indicators below.

*Development Strategy:*

167. To our knowledge, there is no indicator available that rates the adequacy of the development strategy on the basis of the extent to which it adopts a human rights approach and respects, protects, and promotes human development. Currently, the Paris Declaration uses the World Bank's Country Policy and Institutional Assessment, CPIA, Score. As stated in the World Bank Website:

<http://web.worldbank.org/WBSITE/EXTERNAL/EXTABOUTUS/IDA/0,,contentMDK:20941073~pagePK:51236175~piPK:437394~theSitePK:73154,00.html> (accessed November 11, 2009), "the CPIA measures the extent to which a country's policy and institutional framework supports sustainable growth and poverty reduction, and consequently the effective use of development assistance.... The CPIA consists of 16 criteria grouped in four equally weighted clusters: Economic Management, Structural Policies, Policies for Social Inclusion and Equity, and Public Sector Management and Institutions... For each of the 16 criteria, countries are rated on a scale of 1 (low) to 6 (high). The scores depend on the level of performance in a given year assessed against the criteria, rather than on changes in performance compared to the previous year. The ratings depend on actual policies and performance, rather than on promises or intentions. In some cases, measures such as the passage of specific legislation can represent an important action that deserves consideration. However, the manner in which such actions should be factored into the ratings is carefully assessed, because in the end it is the *implementation* of legislation that determines the extent of its impact."

168. The CPIA as a whole is not sufficiently focused on issues relevant to the right to development to be adopted wholesale as an indicator; its emphasis is on assessing the extent to which the development strategy promotes growth and whether government processes are efficient and facilitate private business. Further, each country's score on each component of the indicator is based on the "expert judgement" of a very limited number of "experts". Although raters are instructed to use a number of published data sources, it is not specified what information is to be used or precisely how to use that information. Although the basis on which scores are assigned is far from transparent, the rating scales are meaningful and could well be adapted to a more transparent rating system. Having said that, several of the criteria comprising the CPIA are attractive for the purpose at hand. Until a better indicator can be constructed, and this needs to be done to effectively monitor the right to development, one could adapt this indicator. The document describing the rating system can be found at: <http://siteresources.worldbank.org/IDA/Resources/73153-1181752621336/CPIA08CriteriaB-rev.pdf>.

169. To adapt the CPIA one could collapse the first 5 criteria—Macroeconomic Management, Fiscal Policy, Debt Policy, Trade, Financial Sector-- in to a single criterion by averaging them. The criterion, "Business and Regulatory Environment" emphasizes the regulatory burden on private sector business and would need to be adapted to focus on the environment for small scale business and smallholders. The rating scale for the criterion "Gender equality" is appropriate, but the data they suggest be used for rating seems to focus on outcome indicators rather than process indicators, and as such is not appropriate. Criteria 8 through 13, "Equity of Public Resource Use", "Building Human Resources", "Social Protection and Labor", "Policies and Institutions for Environmental Sustainability", and "Transparency, Accountability, and Corruption in the Public Sector" seem appropriate to adopt in the interim. The criteria "Property Rights and Rule-based Governance" and "Quality of Budgetary and Financial Management" could be averaged and used as a single indicator. Criteria 14, "Efficiency of Revenue Mobilization" is an issue of concern, but the emphasis is on whether the bulk of revenue is raised from less distortionary

sources and no emphasis is placed on the progressiveness of the tax base. Criteria 15, the “Quality of Public Administration” is also a relevant issue, but the emphasis is almost exclusively on policy coordination and efficiency; it entirely misses the key rights based dimensions of transparency, participation, access to information and accountability.

*Political and Civil Rights:*

170. Process indicators focused on political and civil rights would include the following:

% smallholders and indigenous peoples with clear land titles or use rights. (Probable source: administrative data.)

- o Higher is better

The extent to which there is an independent judiciary. The CIRI data base <http://ciri.humanrightsdata.org/> provides an indicator of this [INJUD] that is comparable across countries. Although the coding is based on “expert judgment”, the criteria are transparent and reproducible.

- o Higher is better

Expenditures on the judiciary and administration of justice as a % of GNI. [Should be available from administrative data.] A bench mark would need to be set relative to the expenditure share in countries with excellent political and civil right outcomes and efficient administration systems.

- o Higher is better

Expenditures on police protection as a % of GNI. [Should be available for administrative data.] A bench mark would need to be set relative to the expenditure share in countries with low violent crime rates and efficient administration systems.

- o Higher is better

*Economic and Social Rights:*

Process indicators focused on economic, social, and cultural rights include:

The existence of published periodic national benchmarks, indicators and monitoring systems, established through a participatory and open process, for each of the core economic, social and cultural rights (e.g., food, highest attainable standard of health, housing, education, work and social security).<sup>7</sup>

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<sup>7</sup> Note the following language from the Draft Principles and Guidelines on Economic, Social and Cultural Rights in the African Charter of Human and Peoples' Rights by the African Commission on Human and Peoples' Rights:

19. The Obligation to design and implement a national policy.  
For each protected right a strategy and plan of action should be devised, and periodically reviewed, on the basis of a participatory and transparent process. This should include information on indicators, timeframes and benchmarks, by which progress can be closely monitored.

- o Positive is better

The existence of published, detailed national and sub-national budgets, along with expenditure reports

- o Positive is better

The existence of participatory processes for budget analysis and review

- o Positive is better

% of providers of core public services (health care services, water companies, utility companies, educational institutions, etc.), whether public or private, for which there exist functional administrative or judicial means of remedy if standards are violated

- o Higher is better

Percentage of national and sub-national ministries and core service (health, water, utilities, etc.) providers with published procedures to support public participation in the different stages assessment, planning, implementation, and evaluation) of programmes and policies

- o Higher is better

Public expenditures on primary health care as % GNI

- o Higher is better

Public expenditures on primary education as % GNI

- o Higher is better

Public expenditures on public service provision (electricity, water supply, etc.) as % GNI

- o Higher is better

Public expenditures on basic research and development as % of GNI

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Indicators designed to monitor the implementation of the national plan should include structural indicators (that measure the legal and administrative structures created for the implementation of the rights), process indicators (which measure the progressive realization of the rights in terms of the process adopted and outcomes indicators (which relate to the realization of the enjoyment of a protected right). Indicators should include analysis of budget allocation and implementation. Data analyzed during the monitoring of national plans should be disaggregated according to a number of criteria including sex, origin, economic status, race and ethnicity. The state should ensure, through political and financial support, the greater effective participation of the population in all phases of policy and programme design, implementation, monitoring, and review. [Footnotes deleted]

- o Higher is better

Expenditures on Social Security as % of GNI

- o Higher is better

*Non-Discrimination:*

Process indicators focused on non-discrimination and protection of vulnerable groups.

% of sectoral ministries that can provide all of the following for each of its core programmes and projects:

1. An assessment of relevant vulnerable groups in the context of the programme or project, including groups that are vulnerable to discrimination and groups that are vulnerable for other reasons,
2. Baseline assessment data of the current state of access to the relevant services, broken down to reflect relevant vulnerable groups (e.g., might include rural/urban breakdown; breakdown by indigenous/non-indigenous, breakdown by gender, etc.)
3. Monitoring systems for the programme or policy that provide information broken down by the relevant vulnerable groups
4. Evaluation systems for the programme of policy that provide information broken down by the relevant vulnerable groups

- o Higher is better

Existence of a published annual national State of the Environment Report that includes an analysis of environmental burdens borne by particular groups (e.g., indigenous, national minorities, etc.)

- o Positive is better

Existence of formal plans and processes (national or sub-national) to address social stigma related to HIV status and/or to other sources of social exclusion

- o Positive is better

% 1 year olds vaccinated against measles (MDG Indicator 4.3)

- o Higher is better

% population with advanced HIV infection with access to antiretroviral drugs (MDG Indicator 6.5)

- o Higher is better

% children under 5 with fever treated with appropriate anti-malarial drugs (in countries where malaria is endemic; MDG 6.8)

- o Higher is better

Public expenditures on economic infrastructure and services benefiting smallholders, small business owners as % GNI

- o Higher is better

Public expenditures on social safety net as % of GNI

- o Higher is better

Public expenditures related to increasing smallholder yields as % of GNI

- o Higher is better

The share of the population of different ethnic groups incarcerated relative to their share in the population.

- o Lower is better (eventual goal = 1)

% of international agreements entered into for which a published analysis is available of expected domestic benefits and burdens, including by which sectors of society

- o Higher is better

#### **D. National Level Right to Development: Outcome Indicators**

*Indicators of civil and political rights:*

171. The data source for these indicators is the CIRI Human Rights Data Set [Cingranelli, David L. and David L. Richards. 2008. *The Cingranelli-Richards Human Rights Dataset Version 2008.03.1*, viewed November 10, 2009, at <http://ciri.humanrightsdata.org> ] In all cases, higher scores are better.

Physical Integrity Rights

- o Disappearance
- o Extrajudicial Killing
- o Political Imprisonment
- o Torture

Empowerment Rights

- o Freedom of Assembly and Association

- o Freedom of Foreign Movement
- o Freedom of Domestic Movement
- o Freedom of Speech
- o Electoral Self-Determination
- o Freedom of Religion
- o Worker's Rights

#### Women's Rights

- o Women's Political Rights
- o Women's Economic Rights
- o Women's Social Rights

172. The CIRI data set is the only data set that provides consistent annual information on a wide range of physical integrity and empowerment rights. The choice of the CIRI data set may be controversial given that US State Department Reports are one of the primary information sources used for coding the variables. The fact of the matter is, the United States State Department Reports are the only data source available that provides systematic (same rights, every country, every year) information. They are considered authoritative by scholars. Although the data set uses the "Expert Judgment" methodology, unlike the other data sources using this methodology the conceptualization of the terms is concrete and transparent, the operationalization is concrete and transparent, multiple coders code each variable for each country and their rankings are compared for reliability, and the actual data are replicable. Finally, CIRI makes no money off this and is unaffiliated with any government, so their judgments are likely to be less prone to bias. The CIRI indicators can readily be aggregated across rights to construct a composite index. The weighting of the different political and civil rights indicators needs to be subjected to public debate.

#### *Economic and Social Rights:*

173. The Economic and Social Rights Indicators focus on the six primary Economic and Social Rights: the right to health, the right to education the right to work, the right to food, the right to housing, and the right to social security. Countries at different income levels face different challenges with regard to each right. In concert with this fact, countries at different income levels collect data on different socio-economic indicators. As such, some of the indicators assessing economic and social rights outcomes differ between developing countries and high income countries. Economic and social rights are subject to progressive realization so it is crucial to monitor whether economic and social rights are being fulfilled to the maximum of available resources. We propose using a methodology such as that developed by Fukuda-Parr, Lawson-Remer, and Randolph (2009) to this end. The weighting of indicators comprising a given economic or social right as well as the weighting of the different rights constituting a

composite index, however need to be subjected to public debate. Unless otherwise noted, higher scores are better.

174. Right to Health: Concern is focused on the health and longevity of the whole population as well as the most vulnerable population. The health indicators specified below are all available from World Bank's *World Development Indicators Online* as well as from a number of other sources.

*High Income Country Indicators:*

- o Live Expectancy

Higher is better

- o Under 5 mortality rate (MDG 4.1)

Lower is better

- o % Low Birth Weight Babies

Lower is better

*Developing Country Indicators*

- o Life Expectancy

Higher is better

- o Under 5 mortality rate (MDG 4.1)

Lower is better

- o % Births Attended by Skilled Health Personnel (MDG 5.2)

Higher is better

175. Life expectancy is the selected indicator of the health and longevity of the population as a whole. Its coverage is nearly universal among countries across all income classes. An alternative indicator is the probability of surviving to age 65, but this indicator is not compiled annually in widely available statistical data sources (although it could be). Life expectancy can also be disaggregated along a number of dimensions (and the probability of surviving to age 65 potentially could be as well) facilitating monitoring of vulnerable groups along this dimension. The under-5 mortality rate, % low birth weight babies, and % births attended by skilled health workers, reflect the health status of two vulnerable populations, children, and mothers. The under-5 mortality rate is relevant for countries across income classes and is also MDG indicator 4.1. Maternal mortality is a key problem for developing countries, and is among the MDG indicators. However, data on maternal mortality is both sparse and often inaccurate. Data on the percentage of births attended by skilled health personnel are considered more reliable and so are recommended for developing countries; this indicator is also an MDG indicator (MDG 5.2). Maternal mortality is not a primary health issue in high income countries, since the bulk of births

occur in hospitals; even home births are virtually always attended by skilled health workers in high income countries. The main health issue related to child birth in high income countries is pre-mature births. As such, for high income countries we propose using the percentage of low birth weight infants.

176. Right to Education: Both access to education and the quality of education received are of concern. Access indicators are widely available, internationally and inter-temporally comparable data on education quality are scarce, especially for developing countries, since only a handful of developing countries participate in international student assessment programs. This is an issue that needs addressing to effectively monitor the right to education in developing countries.

Unless otherwise indicated, data are available from UNESCO Institute for Statistics ([http://stats.uis.unesco.org/unesco/TableViewer/document.aspx?ReportId=143&IF\\_Language=en](http://stats.uis.unesco.org/unesco/TableViewer/document.aspx?ReportId=143&IF_Language=en)) and World Bank's *World Development Indicators Online*

#### *High Income Country Indicators*

- o Net Secondary School Enrollment Rate

Higher is better

- o Average Score on the Program for International Student Assessment (Data from OECD Program for International Student Assessment: [http://www.oecd.org/pages/0,3417,en\\_32252351\\_32236130\\_1\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/pages/0,3417,en_32252351_32236130_1_1_1_1_1,00.html))

Higher is better

#### *Developing Countries*

- o % pupils starting grade 1 who reach the last grade of primary school (MDG2.2)

Higher is better

- o Net Secondary School Enrollment Rate

Higher is better

- o When data are available, an indicator of student performance.

177. Right to Food: Ideally, indicators reflecting the level of food security, nutritional adequacy and food safety would be used to assess the right to food. Available internationally comparable food security data use food balance sheets that are subject to wide margins of error and fail to identify which people are food insecure. Food security data such as the USDA's food security indicator could be adapted (and has been successfully adapted) to other country contexts, but is not yet widely adapted. The selected indicator, the child (under 5) stunting rate captures both micronutrient deficiency as well as macronutrient deficiency for children. Children's access to food is preferentially protected so high child stunting rates reflect severe food insecurity of all household members. Unfortunately the child stunting rate is also influenced by access to clean water, medical, and prevalence of endemic diseases and so cannot be exclusively linked to a failure to fulfill the right to food. Data on the child Stunting rate are

available from the World Health Organization at <http://www.who.int/whosis/indicators/2007StuntedUnderweightOverweightChild/en/index.html> as well as from World Bank's *World Development Indicators Online*.

*All Countries:* Child (under 5) stunting rate.

- o Lower is better

Right to Housing:

*High Income Countries:*

- o Homeless rate  
Lower is better)
- o % renters spending more than 30% of household income on housing  
Lower is better)

*Developing Countries:*

- o % population with access to improved drinking water (MDG 7.8)  
Higher is better
- o % population with access to improved sanitation facility (MDG 7.9)  
Higher is better
- o % urban population living in slums (MDG 7.10)  
Lower is better
- o % of households having access to electricity or other source of non-smoke producing fuel

Right to Work: [Discussion needs to be added along with reference to ILO's KILM database]

*High Income Countries*

- o Long term unemployment rate (% of labor force)  
Lower is better
- o % employed working part time involuntarily  
Lower is better
- o % population with less than 50% of median income

Lower is better

*Developing Countries*

- o % labor force in vulnerable employment (MDG 1.7)

Lower is better

- o % population living on less than \$1.25 (2005 PPP\$) per day (MDG 1.1)

Lower is better

Right to Social Security:

- o % population below national poverty line (lower is better)
- o Proportion of the labor force participating in a social security scheme

Higher is better

*Non-discrimination and Vulnerable Groups:*

178. The economic and social outcome indicators specified above disaggregated by the following categories: sex, relevant racial/ethnic group, income quintile, rural-urban location, disability status. Although many of the above indicators are available disaggregated by sex, only a few countries collect the above data disaggregated by relevant racial/ethnic group, income quintile, rural-urban location or disability status. This is a priority data collection concern. Beyond disaggregating the main socio-economic outcome indicators, the following additional indicators are proposed to monitor economic and social rights outcomes.

Right to Health:

HIV prevalence rate among population age 15-24 years. (MDG 6.1)

- o lower is better

Malaria prevalence and death rate associated with malaria. (MDG 6.6; to be used only in countries where malaria is endemic.)

lower is better

Incidence TB (MDG 6.9)

- o lower is better

Health expenditures as a share of poor household's income, national poverty line (Data on this indicator would need to be compiled from household budget surveys)

- o Lower is better

Right to Education:

Female/Male Adult (over 15) illiteracy rate,ratio of 1 desired (Data available at <http://hdr.undp.org>)

- o Data available at <http://hdr.undp.org>
- o Higher is better

Ratio of percentage school-aged children with disabilities in school to percentage school-aged children without disabilities in school (Administrative data)

- o Higher is better

Education expenditures as a share of poor household's income ,national poverty line. (Data on this indicator would need to be compiled from household budget surveys)

- o Lower is better

Right to Work:

Gender Empowerment Measure (Data available at <http://hdr.undp.org>)

- o Higher is better

Percentage of persons with disabilities who are unemployed

- o Lower is better

Right to Housing: (Data would need to be compiled from household budget surveys)

Water expenditures as share of poor household's income (national poverty line)

- o Lower is better

Electricity or other fuel expenditures as a share of poor household's income (national poverty line)

- o Lower is better

**VI. PROPOSED CRITERIA AND SUB-CRITERIA FOR ASSESSING IMPLEMENTATION OF THE RIGHT TO DEVELOPMENT, ALONG WITH THE PROPOSED INDICATORS FOR 2009-2010**

**A. Technical Introduction**

179. In April 2009 the United Nations Intergovernmental Working Group on the Right to Development requested its High Level Task Force on the Right to Development to assist it in drafting criteria, sub-criteria and indicators that could be used in assessing implementation of the Declaration on the Right to Development. The High Level Task Force, in turn, commissioned a

background paper to examine the issue in the light both of international human rights standards and practice and of international development economics standards and practices.

180. The proposed criteria, sub-criteria and indicators below were devised in accordance with that mandate.

181. Three sets of technical decisions underlie the proposed text: one set addresses the substantive content of the Right to Development, one set addresses practical issues around implementation of the right, and one set addresses the methods for choosing criteria, sub-criteria and indicators.

### **The substantive content of the Right to Development**

182. Building on the Declaration on the Right to Development (DRtD), on other international human rights standards and jurisprudence, earlier work of the Working Group and Task Force, and on scholarly and other writing, the text adopts the following working understanding of the substantive right:

183. Member States of the United Nations, in agreeing to implement the Declaration on the Right to Development, undertake to act individually and collectively to ensure continual improvement in the well-being of peoples and individuals. (DRtD Preamble, art.1.1, art. 2.2., art. 2.3, art. 4, art.10)

184. To this end, they undertake to ensure, at both national and international levels, an enabling environment that, by removing obstacles and creating opportunities, fosters the ongoing, sustainable and equitable development of individuals and peoples in an environment of peace and security, and in accordance with internationally recognized human rights standards. (TF attribute 2; art. 2(2), art. 2(3), art. 7, TF criterion (f)).

185. Specifically, they agree to establish, promote and sustain national and international arrangements, including economic, social, political and cultural policies, institutions, systems, and processes, that:

- o Promote and ensure sustainable, comprehensive human development in an environment of peace and security (TF attribute 1; art. 2(2,3), art. 4, art. 7, art. 8, TF criteria f, n, p).
- o Are shaped by, and act in accordance with, the full range of international human rights standards, while also promoting good governance and the rule of law (art.2. art. 3(3), art. 6, art. 9(1), TF criteria k, l, m)
- o Adopt and implement equitable approaches to sharing the benefits of development and to distributing the environmental, economic, and other burdens that can arise as a result of development (art. 2, art. 8(1), TF criteria f, h, i, o, r, s, t, u)

186. Major elements of **ensuring sustainable, comprehensive human development in a environment of peace and security** include ensuring and promoting, at both national and international levels, the following: a stable economic and financial system (TF criterion j); a rule-based, open, predictable and non-discriminatory trading system (TF criterion h); access to adequate human and financial resources (art. 3(3), art. 4. Art. 6, TF criterion g); access to the

benefits of science and technology (art. 3(3), art. 4, Art. 6, TF criterion g); an environment of peace and security (including in contexts of armed conflict, post-conflict situations, and personal security from gender-based violence and other forms of violent crime) (art. 7, TF criteria n, o, p); environmental sustainability and sustainable energy policies and practices (TF criterion f); the existence of a development strategy (national level only) (art. 2 (3), art.10, TF criteria k, m; economic, social and cultural rights jurisprudence);and constant improvement in economic and social well-being (art. 2(3)).

187. Major elements of **ensuring that policies, institutions, systems and processes are shaped by, and act in accordance with, the full range of international human rights standards at both national and international levels and promote good governance and rule of law** include, first, implementation of the full scope of internationally recognized substantive civil, cultural, economic, political and social rights, including the right to self-determination (art. 1, art. 3(3), art. 6, art 9(2), TF criteria a, b, c); second, implementation of the “cross-cutting” human rights norms of participation, non-discrimination, access to information, and access to means of effective remedy (art. 3(3), art. 6, art. 9, TF criteria a, b, c, d, i, m) noting that the rights are relevant both to goals and processes and should be reflected in all stages—assessment, planning, implementation, and evaluation—of development-related policy and programming; and third, attention to good governance, rule of law and anti-corruption measures (art. 2, art.3, art. 10 [*per* the TF criteria]; TF criteria l, m).

188. Major elements of **ensuring that policies, institutions, systems and processes adopt and implement equitable approaches to sharing the benefits of development and to distributing the environmental, economic, and other burdens that can arise as a result of development** include the following: ensuring that the benefits stemming from of trade, economic growth, scientific advancement, etc., do not accrue purely in proportion to the political or economic bargaining power of particular parties or groups (art. 2, art. 8(1), TF criteria f, h, i, o, r, s, t, u); ensuring that any burdens caused by development, including environmental and other damages and costs of economic transformations, are equitably distributed (art. 2, art. 8(1), TF criteria f, h, i, o, r, s, t, u); and finally ensuring attention to and care for the needs of the most vulnerable or marginalized individuals, groups of individuals, or peoples. (art. 2, art. 8(1), TF criteria f, h, i, o, r, s, t, u).

189. More detailed discussion of the substantive content of the right can be found in Section III. of the background paper, above.

### **Practical principles concerning implementation of the right to development**

190. Assessment of implementation of the right is based on the following underlying principles, all of which are either explicit in or consistent with the text of the Declaration:

1. The right is a right of peoples and of individuals. There is a rebuttable presumption that in international transactions and contexts states represent the collective rights of the peoples and individuals under their jurisdiction.
2. The right entails obligations on all states, regardless of their level of development.
3. State obligations under the right include: 1) obligations of collective action at regional and global levels, 2) obligations of individual action with regard to peoples

and individuals within the state's jurisdiction, and 3) obligations of individual action with regard to peoples and individuals outside of the state's jurisdiction.

4. Implementation of the right includes not only establishing and implementing formal structures for the improvement of well-being, but also choices of action within those structures (that is to say, the right involves not just the rules of the game but also the practice on the field).
5. Implementation of the right is properly assessed through examination both of conduct and of result.
6. The right does not exist in isolation either from other aspects of international human rights law and practice, or from international consensus around effective development policy and practice, and implementation at any given time is appropriately shaped by current developments in both.
7. Particular focus areas for assessment of the implementation of the right will vary from time to time in accordance with changing priority areas of concern at national and international levels.

191. The arguments behind adoption of these principles are discussed in more detail in Section III., above.

#### **Principles underlying the choice of criteria, sub-criteria and indicators**

192. The criteria, sub-criteria and indicators included below were chosen in accord with four principles:

193. First, the fundamental purpose of the criteria, sub-criteria and indicators is to aid Member States and other actors in operationalizing the Right to Development. For this reason, the nature, organization and content of the criteria, sub-criteria and indicators must provide clear and action-oriented guidance as to the obligations entailed by the right. That is, these are not purely monitoring tools, but also tools meant to be useful for decision-makers in the full range of development partners, including states, international institutions, and civil society, as they plan, implement, monitor and assess their development-related policies, projects and processes.

194. Second, the broad criteria for assessing implementation of the right, and the sub-criteria that illuminate them, should be firmly anchored in a) the Declaration on the Right to Development and the secondary jurisprudence and analysis put out by UN bodies or agencies (including especially the Working Group on the Right to Development and its High Level Task Force), scholars, and practitioners; b) other contemporary international human rights laws, standards, theories and practices; and c) contemporary international development standards, theories and practices.

195. Third, the criteria and sub-criteria should be timeless, i.e., capable of providing guidance on action even as national and international development circumstances, priorities, needs and capacities continue to evolve. They should be suitable for inclusion in a set of guidelines or a legally binding instrument that development actors can use over the long term in assessing whether their own or others' obligations are being met.

196. Fourth, the indicators proposed to help in assessing compliance with the criteria and sub-criteria should be specific to their current year and global development context. That is, the indicators for measuring compliance at any given time should be sensitive to various factors, including a) pressing contemporary concerns as identified by the international community in the form of international agreements (e.g., debt, trade, poverty, climate, etc.) or by general consensus among development scholars and practitioners; b) currently prevailing theories about the most effective means of addressing issues of underdevelopment or inequity at sub-national and national levels; and c) the existence of already-established processes of measurement and data collection, and the current capacities of governments and international institutions to gather additional data. Within this broad frame, three sorts of indicators are included: structural, process, and outcome indicators.

197. The indicators below are selected from among the much larger set of relevant indicators set out in sections V and VI of the paper, as well as from several additional data sets proposed by participants in the December 2009 expert consultation on this project. Several factors influenced the selection of indicators in this section: first, preference was given to indicators that are likely to show variations among countries and over time, and thus likely to illustrate changes in human well-being; second, attention was paid to including a mix of indicators that are primarily useful for describing development outcomes and indicators that are primarily useful in providing guidance for future action; and finally care was taken to ensure, to the extent possible, that indicators included did not overlap: that is, when multiple indicators were available to address a specific issue, only the one closest to the essence of that issue was included.

198. Ultimately, the decision of what indicators will be used to assess implementation of the right to development is normative as well as technical: what is measured has an impact on behavior. The indicators given below are meant to provide a solid basis for serious discussions among stakeholders as final decisions are being made.

199. Note that in this section “Tier 1” indicators are the primary indicators selected through the process described above, while “Tier 2” indicators are secondary indicators selected through that process. “Tier 3” indicators can be thought of as place holders: they are the best indicators that could be identified within the time frame, but further search is needed to identify more satisfactory indicators in the areas they address.

200. A discussion of technical criteria for selecting the illustrative quantitative indicators provided below, including their validity, reliability, and inter-temporal and international comparability, as well as technical criteria for selecting the illustrative thematic indicators, appears in Section IV., above.

## **B. Proposed Criteria, Sub-Criteria, and Indicators for the Right to Development 2009-2010**

201. *Member States of the United Nations, in agreeing to implement the Declaration on the Right to Development, undertake to act individually and collectively to ensure continual improvement in the well-being of peoples and individuals.*

202. *To this end, they undertake to ensure, at both national and international levels, an enabling environment that, by removing obstacles and creating opportunities, fosters the*

*ongoing, sustainable and equitable development of individuals and peoples in an environment of peace and security, and in accordance with internationally recognized human rights standards.*

203. *Specifically, they agree to establish, promote and sustain national and international societal arrangements, including economic, social, political and cultural policies, institutions, systems, and processes, that:*

- *Promote and ensure sustainable, comprehensive human development in an environment of peace and security;*
- *Operate in accordance with the full range of international human rights standards, including civil, cultural, economic, political, and social rights, with due attention to the rights to participation and self-determination, while also promoting good governance and the rule of law; and*
- *Adopt and implement equitable approaches to sharing the benefits and burdens of development.*

204. *These elements of the Right to Development entail obligations both of **collective** action by States and of **individual** action by States. The obligations of individual action by States include **actions with impacts on individuals and peoples under their own jurisdiction, and actions with impacts on individuals and peoples not under their jurisdiction.***

205. **Collective implementation by States** can be assessed by the extent to which global and regional arrangements, including economic, social, and political policies, institutions, systems, and processes, 1) serve to promote and ensure sustainable, comprehensive human development in an environment of peace and security; 2) operate in accordance with the full range of international human rights standards, and 3) adopt and implement equitable approaches to sharing the benefits and burdens of development.

206. **Individual implementation by states with regard to those under their jurisdiction** can be assessed by the extent to which each State acts to ensure that its national economic, social, and political policies, institutions, systems, and processes 1) serve to promote and ensure national sustainable, comprehensive human development in an environment of peace and security; 2) operate in accordance with the full range of international human rights standards, and 3) adopt and implement equitable approaches to sharing the benefits and burdens of development among individuals and peoples under its jurisdiction.

207. **Individual implementation by States with regard to those not under their jurisdiction** can be assessed by the extent to which each State acts to ensure that its national economic, social, and political policies, institutions, systems, and processes, including its votes and other participation in international forums, while duly taking into account the due needs of those under their jurisdiction, also 1) serve to promote global sustainable, comprehensive human development in an environment of peace and security; 2) serve to promote global implementation of the full range of substantive and procedural human rights, including in the operations of international and regional institutions; 3) adopt and implement equitable approaches to sharing the benefits and burdens of development among nations.

208. To assist States and others in assessing the implementation of the right, the following criteria and sub-criteria, along with illustrative indicators for 2009, are proposed below.<sup>8</sup>

### *Collective Obligations of States*

209. Implementation of the collective obligation can be assessed by the extent to which global and regional arrangements, including economic, social and political policies, institutions, systems and processes, meet the criteria and sub-criteria listed below.

#### **A. Promote and ensure sustainable, comprehensive human development in an environment of peace and security, through:**

##### **1. Promoting and ensuring a stable global economic and financial system.**

- Reducing the risks and mitigating the impacts of international economic and financial crises:
  - Macro-policy coordination:
    - [Tier 3] Percentage of coordinated macro-policy decisions by G-8 and G-20 countries (separately) that incorporate analysis of their human development impact. {Higher is better}
  - Counter-cyclical official financial flows:
    - [Tier 3] Year to year percentage change in total IMF credit and loans disbursed (net transfer IBRD and IDA loans outstanding, official net transfer) in proportion to percentage change the GNI growth rate averaged across developing (least developed, landlocked, small island developing, post conflict, low income, middle income) countries. {Larger negative value is better}
  - Stability of Private Capital Flows:
    - [Tier 1] Ratio of Current Year Net transfer private non-publically guaranteed external debt to Average over past 5 years net transfer; for all

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<sup>8</sup> Note that the criteria, sub-criteria and indicators set out in Section VII. are organized by the nature of the state obligation (collective, individual/internal, individual external). This was done on the assumption that most readers would be looking primarily for criteria relevant to their own work, *i.e.* that officials at international organizations would look primarily at the criteria, sub-criteria and indicators related to collective obligations; that national officials in domestically focused ministries like Finance, Health or Education would look primarily at the criteria, sub-criteria and indicators related to individual/internal obligations, and that national officials in internationally-focused ministries like Trade would look primarily at the criteria, sub-criteria and indicators related to individual/external obligations. However, it is equally possible, and may in some contexts prove more convenient, to organize the same information not by the nature of the obligation but rather by the substantive criterion, listing under each criterion and sub-criterion the indicators that apply to collective, individual/internal and individual/external actions respectively. For an extensive discussion of the implications of the different kinds of obligations see sections III.B.1, III.B.3 and III.C, above.

(least developed, landlocked, small island developing, post conflict, low income, middle income) countries. {Ratio closer to 1 is better}

- [Tier 1] Ratio of Current Year Portfolio equity flows as percent of GNI to Average past 5 years portfolio equity flows as percent of GNI; for all (least developed, landlocked, small island developing, post conflict, low income, middle income) countries. {Ratio closer to 1 is better}
- Global Liquidity:
  - [Tier 3] Indicator of global liquidity that could be rapidly mobilized desirable, but none readily available.
- Protecting against volatility of commodity prices:
  - Agricultural commodity prices:
    - [Tier 1] Existence of global or globally coordinated institutions or systems capable of mediating price swings on key staple foods (corn, oilseed, soybean, rice, wheat), e.g., by operating a global physical or virtual buffer stock system of key staples. {Positive is better}
    - [Tier 1] Existence of a global monitoring system of rate of change in global stocks of key staple foods. {Positive is better}
    - [Tier 1] Ratio average annual value FAO food price index to average value FAO food price index over past 5 years. {Ratio closer to 1 is better}
  - Non-agricultural commodity prices:
    - [Tier 1] Ratio of average value price index for non-agricultural raw materials (minerals, ores & metals, crude petroleum) this year to the average value of the same price index over the past 5 years. {Ratio closer to 1 is better}
    - [Tier 2] Ratio of highest value price index for non-agricultural raw materials (minerals, ores & metals, crude petroleum) in past 12 months to the lowest value price index for non-agricultural raw materials. {Ratio closer to 1 is better}

## **2. Promoting and ensuring a rule-based, open, predictable and non-discriminatory international trading system.**

- General:
  - [Tier 1] Percentage of all (least developed, landlocked, small island developing, post conflict, low income, middle income, high income) countries that are members of one or more trading arrangement that is conducive to the Right to Development. {Higher is better}

- Market Access:
  - [Tier 1] Value exports as a percentage share of all (least developed, landlocked countries', small island developing, post conflict, low income, middle income, high income) countries' global trade. {Higher is better}
  - [Tier 1] Agricultural support estimate for OECD countries as percentage of the value of OECD agricultural output. {Lower is better}
  - [Tier 1] Value agricultural imports from developing (least developed, landlocked, small island developing, low income, middle income) countries as a percentage of value of agricultural consumption in OECD countries. {Higher is better}
  - [Tier 1] Average tariff rate on manufactured goods in OECD (low income, middle income) countries. {Lower is better}
  - [Tier 1] Average tariff revenues received from countries with lower per capita income levels. {Lower is better}
  - [Tier 1] Number of manufactured products subject to tariff peaks in some OECD country. {Lower is better}
  - [Tier 1] Average across developing (least developed, landlocked, small island developing, post conflict, low income, middle income) countries of the share of manufactured exports in total merchandise exports. {Higher is better}
- Movement of persons:
  - [Tier 1] Percentage of countries with net in-migration (net out-migration) that have ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. {Higher is better}
  - [Tier 1] Center for Global Development's Indicator: Average value Migration Index across rich countries. {Higher is better}

### **3. Promoting and ensuring access to adequate human and financial resources.**

- Magnitude and terms of official bilateral capital flows:
  - [Tier 1] Net ODA total as percentage OECD/DAC donors' gross national income—MDG indicator 8.1. {Higher is better}
  - [Tier 1] Net ODA as percentage recipient countries' GNI to developing (least developed, land locked, small island developing, post conflict, low income, middle income) countries. {Higher is better}
  - [Tier 1] Percentage of aid provided as programme-based approaches and accordingly using common arrangements or procedures in developing (least developed, landlocked, small island developing, post conflict, low income, middle

income) countries—Paris Declaration on Aid Effectiveness indicator 9. {Higher is better}

- [Tier 2] Center for Global Development’s Indicator: Ratio across rich countries of (Quality Adjusted official & + Quality adjusted charitable giving credited to policy) to rich country GNI. {Higher is better}
- [Tier 2] Proportion total bilateral, sector-allocable ODA of OECD/DAC donors to basic social services (basic education, primary health care, nutrition, safe water and sanitation)—MDG indicator 8.2. {Higher is better}
- Magnitude and terms of official multilateral capital flows:
  - [Tier 1] number of times that innovative proposals for financing (e.g., Tobin tax, Airline tax) feature on the agenda of inter-governmental institutions. {Higher is better}
  - [Tier 1] Total IMF Credit under the Flexible Credit Line (pre-approval) as percentage total fund credit and loans outstanding for developing (least developed, landlocked, small island developing, post conflict, low income, middle income) countries. {Higher is better}
- Debt sustainability:
  - [Tier 1] Ratio of Debt to exports for developing (least developed, small island developing, landlocked, post conflict, low income) countries—simple average of country ratios. {Lower is better}

#### **4. Promoting and ensuring access to the benefits of science and technology.**

- General:
  - [Tier 2] Percentage of bilateral trade agreements and regional trade agreements that include “TRIPS-plus” conditions (conditions enhancing intellectual property rights protection beyond the agreed levels of the TRIPS Agreement)—elevate to Tier 1 should ready means of collection be identified. {Lower is better}
- Agricultural technology:
  - [Tier 1] Share of ODA dedicated to agricultural development. {Higher is better}
- Manufacturing technology:
  - [Tier 2] Percentage of bilateral trade agreements and regional trade agreements that include Trade Related Investment Measures (TRIMS) that prohibit developing countries from using performance criteria (local content requirements, tech transfer requirements, local employment requirements, research and development requirements, etc. ) to maximize the benefit of direct foreign

investment (elevate to Tier 1 should ready means of collection be identified).  
{Lower is better}

- Green energy technology:
  - [Tier 1] Share of ODA dedicated to promoting green technologies. {Higher is better}
  - [Tier 3] Number of countries that have utilized TRIPS flexibilities to acquire of green technologies—elevate to higher tier should ready means of relevant data collection be identified. {Higher is better}
- Health Technology:
  - [Tier 1] Share of ODA dedicated to health technologies. {Higher is better}
  - [Tier 1] Percentage of WTO member states that have ratified the amendment to the TRIPS agreement allowing WTO members to issue compulsory licenses to export generic versions of patented medicines to countries with insufficient or no manufacturing capacity in the pharmaceutical sector. {Higher is better}
  - [Tier 1] Proportion of global population with advanced HIV infection with access to antiretroviral drugs—MDG indicator 6.5. {Higher is better}
- Information technology:
  - [Tier 1] Telephone lines per 100 population plus cellular subscribers per 100 population in developing (least developed, landlocked, small island developing, post conflict, low income, middle income) countries—sum of MDG indicator 8.14 and MDG indicator 8.15. {Higher is better}
  - [Tier 1] Internet users per 100 population in developing (least developed, landlocked, small island developing, post conflict, low income, middle income) countries—MDG indicator 8.16. {Higher is better}

## **5. Promoting and ensuring an environment of peace and security conducive to development.**

- Preventing conflict, including over natural resources:
  - [Tier 1] Creation and entry into force of an international legal standard addressing trade in arms—e.g., the planned Arms Trade Treaty. {Positive is better}
  - [Tier 1] Percentage of countries committing to private or public international legal regimes or certification schemes to restrict consumer access to products that are sources of, or provide financing for, armed conflict (e.g., the Kimberle Process on so-called “blood diamonds”), or of a single overarching regime for this purpose. {Higher is better.}

- Protection of the vulnerable during conflict:
  - [Tier 1] Percentage of UN Member States that have adopted a National Action Plan on UN Security Council Resolution 1325 regarding participation of women in decision-making and peace processes. {Higher is better}
- Post-conflict:
  - [Tier 2] Percentage of total annual ODA/DAC for disarmament, rehabilitation and reintegration directed specifically at issues affecting women. {Higher is better}
  - [Tier 3] Percentage of post-conflict countries receiving aid for which there exists a two-sided aid monitoring system encompassing regular meetings by donors to monitor spending of reconstruction funds, and regular reporting by donors of their fulfillment of their funding pledges—elevated to Tier 1 if adequate data collection system established. {Higher is better}

## **6. Promoting and ensuring environmental sustainability and the sustainable use of natural resources.**

- Access to natural resources:
  - [Tier 1] Value natural capital (natural capital includes energy resources, mineral resources, timber resources, non-timber forest resources, cropland, pastureland, and protected areas) per capita among all (low income, middle income, high income) countries. { Higher is better}
- Sustainable energy policies and practices:
  - [Tier 1] Share of renewable energy supply in total primary energy supply among all (low income, middle income, high income) countries. {Higher is better}
- Enabling mitigation of and adaptation to negative impacts of climate change:
  - [Tier 1] Global CO<sub>2</sub> emissions. {Lower is better}
  - [Tier 1] Average (population weighted) CO<sub>2</sub> emissions, kg. per \$1000 (2005 PPP\$) of GDP, among all (low income, middle income, high income) countries. {Lower is better}
  - [Tier 1] Average annual change in the percentage of forested area over previous 5 years. {Higher positive value is better}
- Ensuring globalization promotes environmental sustainability:
  - [Tier 3] Ratio of CO<sub>2</sub> emissions from foreign invested enterprises to domestic enterprises averaged across all (low income, middle income, high income) countries—elevated to Tier 1 upon creation internationally harmonized data source. {Lower is better}

## **7. Promoting and ensuring constant improvement in social and economic well-being.**

- Health:

- [Tier 1] Global under 5 mortality rate and separately as population weighted average for least developed (landlocked, small island developing, post conflict, low income, middle income, high income) countries. {Lower is better}
- [Tier 1] Global HIV prevalence rate among population 15-24 years and separately as population weighted average for least developed (landlocked, small island developing, post conflict, low income, middle income, high income) countries—MDG indicator 6.1. {Lower is better}
- Education:
  - [Tier 1] Global net secondary school enrollment rate and separately as population weighted average for least developed (landlocked, small island developing, post conflict, low income, middle income, high income) countries. {Higher is better}
- Housing/Water:
  - [Tier 1] Global percentage population with access to improved drinking water and separately as population weighted average for least developed (landlocked, small island developing, post conflict, low income, middle income, high income) countries. {Higher is better}
- Work/Social Security:
  - [Tier 1] Global percentage population living on less than \$1.25 (2005 PPP\$) per day and separately as population weighted average for least developed (landlocked, small island developing, post conflict, low income, middle income, high income) countries—MDG indicator 1.1. {Lower is better}
- Food:
  - [Tier 1] Global percentage children under 5 that are low height for age and separately as population weighted average for least developed (landlocked, small island developing, post conflict, low income, middle income, high income) countries. {Lower is better}

**B. Are shaped by, and act in accordance with, the full range of international human rights standards including the right to self-determination, as well as principles of good-governance, *i.e.*:**

**1. Drawing on all relevant international human rights instruments in elaborating development goals.**

- [Tier 1] For each multilateral development institution: Does the institution explicitly take a rights-based approach to its work? {Positive is better}

- [Tier 1] Creation by States of a clear international standard concerning States' duties with regard to regulation of extraterritorial infringement of human rights by business enterprises incorporated under their jurisdiction. {Positive is better}
- [Tier 1] Percentage of all (least developed, landlocked, small island developing, post conflict, low income, middle income, high income) countries party to the WTO for which the WTO Secretariat has undertaken human rights impact assessments of WTO proposals on the table (agreements reached). {Higher is better}
- [Tier 1] Percentage of stabilization loan proposals (agreements reached) for which the IMF has undertaken a prior (post-completion) human rights impact assessment. {Higher is better}
- [Tier 1] Percentage of World Bank structural adjustment (project) loans for which the WB has undertaken a prior (post-completion) human rights impact assessment. {Higher is better}

**2. Integrating cross-cutting norms of non-discrimination, participation, access to information, and effective complaint and remedy into their policies, systems and programming, including into project assessment, planning, implementation and evaluation.**

- [Tier 1] Percentage of human rights impact assessments of WTO (other regional arrangements, bilateral arrangements) proposals on the table (trade agreements) that are made publically available via the web. {Higher is better}
- [Tier 1] Percentage of stabilization loan proposals (agreements reached) for which the IMF has undertaken a prior (post-completion) human rights impact assessment that are publically accessible via the web a prior (post-completion). {Higher is better}
- [Tier 1] Percentage of World Bank structural adjustment (project) loans for which the WB has undertaken a prior (post-completion) human rights impact assessment that are made publically available via the web. {Higher is better}
- [Tier 2] % of Aid flows recorded in country budgets of developing (least developed, small island developing, landlocked, post conflict, low income, middle income) countries—Paris Declaration on Aid Effectiveness indicator 3. {Higher is better}
- [Tier 2] Percentage of aid channeled through recipient Public Financial Management System (Indicator 5a monitoring implementation of Paris Declaration on Aid Effectiveness.) in developing (least developed, landlocked, small island developing, post conflict, low income, middle income) countries—Paris Declaration on Aid Effectiveness indicator 5a. {Higher is better}.
- [Tier 3] Existence [for each institution, as relevant] of a formal system of complaint and remedy for stakeholders concerning violation of the institution's internal policies.

**3. Promoting good governance at the international level, including promoting the democratization of the system of international governance and promoting effective participation of all countries in international decision making.**

- Incorporating Aid recipients' voice in Aid programming and evaluation:
  - [Tier 1] Percentage of donor capacity-development support provided through coordinated programmes consistent with partners' national development strategies for developing (least developed, small island developing, landlocked, post conflict, low income, middle income) countries—Paris Declaration on Aid Effectiveness indicator 4. {Higher is better}
  - [Tier 1] Percentage of country analytic work, including diagnostic reviews on aid that are joint (Indicator 10b monitoring implementation of Paris Declaration on Aid Effectiveness) in developing (least developed, landlocked, small island developing, post conflict, low income, middle income) countries—Paris Declaration on Aid Effectiveness indicator 10b. {Higher is better}
- Participation at global level:
  - [Tier 1] Ratio of percentage IMF quotas developing (least developed, landlocked, small island developing, post conflict, low income, middle income, high income) countries to percentage share in global trade. {Value closer to 1 is better}
  - [Tier 1] Ratio of the average number of WTO representatives per developing [least developed, landlocked, small island developing, post conflict, low income, middle income] country that is party to the agreement to the average number of WTO representatives per high income country that is party to the agreement. {Value closer to 1 is better}
  - [Tier 2] Ratio of percentage of WB votes of developing (least developed, landlocked, small island developing, post conflict, low income, middle income, high income) countries to percentage share in global GNI. {Value closer to 1 is better}
  - [Tier 2] Percentage of IMF (WB) staff that is female. {Value closer to 50 percent is better}
- Effective anti-corruption measures:
  - [Tier 1] Percentage of all (least developed, landlocked, small island developing, post conflict, low income, middle income, high income) countries that have ratified the United Nations convention against Corruption . {Higher is better}

**C. Adopting and implementing equitable approaches to sharing the benefits of development and to distributing the environmental, economic, and other burdens that can arise as a result of development by:**

**1. Providing for a fair and equitable distribution of the benefits of development by ensuring (and helping partners to ensure) that the benefits of development are shared in an equitable fashion among individuals, groups of individuals, and peoples, including special attention to the needs of vulnerable or marginalized groups or peoples (including least**

**developed countries, small island countries, landlocked countries, and post-conflict countries).**

- Equitably meeting needs of vulnerable countries:
  - [Tier 1] Ratio of average per capita GDP growth rate of the poorest quintile of countries to the average per capita GDP growth rate of the wealthiest quintile of countries. {Greater than 1 is better}
  - [Tier 1] Ratio of the under five mortality rate averaged (population weighted) across least developed, landlocked, and small island developing countries to the under five mortality rate for high income averaged across all countries. {Lower is better}
  - [Tier 1] Ratio of the net secondary school enrollment rate averaged (population weighted) across least developed, landlocked, and small island developing countries to the average net secondary school enrollment rate averaged across all countries. {Higher is better}
  - [Tier 1] Ratio of the percentage population with access to improved drinking water averaged (population weighted) across least developed, landlocked, and small island developing countries to the percentage of the population with access to improved drinking water averaged across all countries. {Higher is better; target=1}
  - [Tier 1] Ratio of the percentage of children under 5 that are low height for age averaged (population weighted) across least developed, landlocked, and small island developing countries to the percentage of children under 5 that are low height for age averaged across all countries. {Lower is better; target=1}
  - [Tier 1] Ratio of the percentage of the population living on less than \$1.25 (2005 PPP\$) per day averaged (population weighted) across least developed, landlocked, and small island developing countries to the percentage of the population living on less than \$1.25 (2005 PPP\$) per day averaged across all countries. {Lower is better; target=1}
  - [Tier 1] Ratio of the percentage AIDs/HIV sufferers being treated with effective drugs the averaged (population weighted) across least developed, landlocked and small island developing countries to the percentage AIDs/HIV sufferers being treated with effective drugs averaged across all countries. {Higher is better; target=1}
  - [Tier 2] Ratio of the percentage of malaria suffers being treated with effective drugs averaged (population weighted) across least developed, landlocked, and small island developing countries with endemic malaria to the percentage of malaria sufferers being treated with effective drugs averaged across all countries with endemic malaria. {Higher is better; target=1}
- Equitably meeting the needs of marginalized groups and individuals:

- [Tier 1] Ratio of global under 5 mortality rate for females to males {Closer to 1 is better}
- [Tier 1] Ratio of global net secondary school enrollment rate for females to males. {Closer to 1 is better}
- [Tier 1] Ratio of global percentage female children under five that are low height for age to male children that are low height for age.
- [Tier 1] Ratio of percentage AIDs/HIV sufferers being treated with effective drugs for females to males. {Closer to 1 is better}
- [Tier 1] Percentage of countries that have ratified the Convention on Bio-diversity (CBD) according knowledge property rights protection. {Higher is better}
- [Tier 2] Percentage (in value terms) of OECD agricultural imports sourced from smallholders (elevated to Tier 1 upon development reliable data source). {Higher is better}

**2. Promoting the fair and equitable distribution of the burdens of development by ensuring (and helping partners to ensure) that the burdens caused by development advances, including environmental burdens and shocks caused by economic or industrial transitions, are shared in an equitable fashion among peoples and individuals and address the needs of vulnerable and or marginalized individuals, groups of individuals, and peoples.**

- Mitigating differential bargaining & adjustment costs of trade liberalization:
  - [Tier 1] Percentage of least developed (landlocked, small island developing, post conflict, low income) countries party to the WTO for which the WTO Secretariat has undertaken and made accessible human development impact assessments of WTO proposals on the table (agreements reached). {Higher is better}
  - [Tier 1] Proportion of total OECD country imports (by value and excluding arms) from least developed (landlocked, small island developing, post conflict, low income) countries admitted free of duty—Tracks MDG indicator 8.6. {Higher is better}
  - [Tier 1] Percentage regional and bilateral trade arrangements involving a developing country that permit developing countries to restrict market access for agricultural products when import levels threaten food security and rural livelihood. {Higher is better}
  - [Tier 1] Time period permitted by WTO for implementation of liberalization measures by developing (low income, middle income) countries upon joining the WTO. {Longer is better}
  - [Tier 2] Percentage of developing countries that are involved in a regional or bilateral trading agreement that fail to provide any scope for the implementation of industrial policy. {Lower is better}

- [Tier 2] Average time period permitted for implementation of liberalization measures by developing (low income, middle income) countries upon joining other regional (bilateral) trade arrangements. {Longer is better}
- Equitably sharing environmental burden of development:
  - [Tier 1] Value of Global Fund (sum of ODA and private contributions) as percentage global GNI made available to developing countries for activities mitigating the effects of climate change.
  - [Tier 1] Average across all countries of the percentage of major environmental treaties ratified (e.g., Cartagena Protocol on Biosafety, Framework Convention on Climate Change, Koyoto Protocol to the Framework convention on Climate Change, Vienna Convention for the Protection of the Ozone Layer, Montreal protocol on Substances that deplete the Ozone Layer, Stockhold convention on Persistent Organic Pollutants, convention of the Law of the Sea, Convention to Combat Desertification.)
  - [Tier 1] Ratio of per capita CO2 emissions of high income countries to per capita CO2 emissions developing (least developed, landlocked, small island developing, low income, middle income) countries. {Lower is better}

***Individual actions of States with regard to peoples  
and individuals under their jurisdiction.***

210. Individual implementation of States with regard to those under their jurisdiction can be assessed by the extent to which each state acts to ensure that economic, social, and political policies, institutions, systems, and processes with domestic implications are adequate to meet the criteria and sub-criteria listed below.

**A. Realize sustainable, comprehensive domestic human development in an environment of peace and security, by:**

**1. Establishing a legal framework supportive of sustainable, comprehensive domestic human development.**

- International Conventions Ratified— *N.B.* option: average the scores on the four indicators below:
  - [Tier 1] Percentage of the following key human rights conventions ratified: ICCPR, ICESCR. {Higher is better}
  - [Tier 1] Percentage of key environmental conventions ratified. {Higher is better}
  - [Tier 1] Percentage of the key human rights conventions related to protecting disadvantaged and/or marginalized populations ratified. {Higher is better}

- [Tier 1] Percentage of core international labor conventions ratified. {Higher is better}
- National legal protection mechanisms—*N.B.* option: average the scores on the first two indicators below:
  - [Tier 1] Percentage of core civil and political rights for which there are constitutional or legal protections and adjudicatory mechanisms (to provide remedy). {Higher is better}
  - [Tier 1] Percentage of core economic, social and cultural rights for which there are constitutional or legal protections and adjudicatory mechanisms (to provide remedy). {Higher is better}
  - [Tier 2] Existence of legal protections from forced sterilization. {Positive is better}

**2. Introducing a comprehensive national development strategy and plan of action that is devised, and is periodically reviewed, on the basis of a participatory and transparent process**

- [Tier 1] Collection (and disaggregation by region and disadvantaged or marginalized populations) and provision of public access to essential statistical socio-economic data to devise a development strategy, including: child mortality, maternal mortality, hunger, water, sanitation, life expectancy, primary education coverage, primary education performance, secondary education coverage, secondary education performance, tertiary education coverage, adult literacy rates, poverty rates, income inequality, employment and unemployment—Possible scoring: 1 point for each indicator collected within past 3 years, 1 point for disaggregation within past 3 years of each indicator by rural/urban status, gender (where relevant), relevant ethnic groups, income quintile, sub-national unit for maximum score of 95. {Higher is better}
- [Tier 1] The existence of a plan of action along with a monitoring and evaluation system, to foster the fulfillment of each development goal adopted in the development strategy. {Positive is better}
- [Tier 1] The provision of sufficient political and financial support to ensure effective participation of the population in all phases of the development strategy and plan of action's design, implementation, monitoring, and evaluation. {Positive is better}

**3. Maintaining a stable economic and financial system, to the extent that this falls within the domestic domain.**

- Reducing the risks of domestic financial crises:
  - Regulatory framework:
    - [Tier 1] Existence of a transparent, banking regulatory framework (including adoption of international accounting standards) and supervisory system sufficient to ensure integrity of monetary and banking system,

mitigate systemic risk, protect customers and investors, and ensure fairness and efficiency of markets. {Positive is better}

- [Tier 1] Existence of a transparent, financial regulatory framework (including adoption of international accounting standards) and supervisory system sufficient to prevent destabilizing inward or outward international financial flows. {Positive is better}
- Domestic price stability:
  - [Tier 1] Inflation rate (GDP deflator) below 20%.
- Stability of country investment:
  - [Tier 1] Ratio Current year gross capital formation (% GDP) to Average past 5 years gross capital formation (% GDP). {Ratio close to 1 desired}
- Stability global capital flows:
  - [Tier 2] Ratio current year net transfer private non-publically guaranteed external debt to average over past 5 years net transfer. {Ratio close to 1 desired}
  - [Tier 2] Standard deviation monthly portfolio equity flow as % GNI over past 5 years. {Lower is better}
- Providing against volatility of commodity prices:
  - [Tier 1] Existence of coordinated institutions or systems capable of mediating price swings on key staple foods (corn, oilseed, soybean, rice, wheat), e.g., by operating a global physical or virtual buffer stock system of key staples. {Positive is better}
  - [Tier 1] Existence of domestic key staple food buffer stock of sufficient size relative to average domestic consumption of key staples to prevent large price swings. {Positive is better}
  - [Tier 1] Ratio of current year net per capita food production index to Average past 5 years net per capita food production index. {Ratio close to 1 desired}
  - [Tier 1] Agricultural share in total investment {Two objectives to be balanced: 1) higher in times of food crises, 2) growing in pace with food demand.}
- Reducing risks of external macro imbalance:
  - [Tier 1] Debt to export ratio. {Lower is better}
  - [Tier 1] Reserves/short-term debt. {Ratio of 1 or more desired.}
  - [Tier 1] Reserves/average monthly imports. {Ratio of 4 or more desired}

**4. Promoting an economic regulatory and oversight system to manage risk and to encourage competition.**

- Clear and consistent system of property rights and contract enforcement:
  - [Tier 1] Score on Worldwide Governance Indicator: “Rule of Law” {Higher is better}
- Policies and regulations promoting private sector development:
  - [Tier 1] Score on Worldwide Governance Indicator: “Regulatory Quality”. {Higher is better}

**5. Promoting access to adequate human and financial resources, at national and sub-national levels.**

- [Tier 1] Ratification of the United Nations Convention against Corruption.
- [Tier 1] Score on Worldwide Governance Indicator: “Control of Corruption”. {Higher is better}
- [Tier 1] National per capita GDP growth rate aggregate and at sub-national level. {Higher is better}
- [Tier 1] Public spending on all (primary, secondary, tertiary) education as a percentage of GDP in the aggregate and at sub-national level. {Higher is better subject to setting of benchmark}
- [Tier 2] Percentage of labor force with primary (secondary, tertiary) education—elevate to Tier 1 once coverage is improved. {Higher is better}
- [Tier 3] Percentage of poor with access to micro-finance—elevate to Tier 1 upon identification reliable data source. {Higher is better}

**6. Promoting universal access to the benefits of science and technology—*N.B.* option: combine technology indicators into an index using methodology similar to the UNDP’s Technology Achievement Index by category or overall.**

- Pro-poor technology:
  - [Tier 1] Existence of science and technology policy targeted to poor people’s needs.
- Agricultural technology:
  - [Tier 1] Average % change crop yields basic staple grains (wheat, rice, corn, sorghum)
- Manufacturing technology:

- [Tier 1] High technology exports as percentage of total exports. {Higher is better}
- Technology diffusion:
  - [Tier 1] Sum of telephone lines and cellular subscribers per 100 population—MDG indicators 8.14 and 8.15. {Higher is better}
  - [Tier 1] Internet users per 100 population—MDG indicator 8.16. {Higher is better.}
  - [Tier 2] *For developing countries*: Electricity consumption per capita (kilowatt per capita). {Higher is better}
- Technological Capacity:
  - [Tier 1] Gross enrollment ratio of tertiary students enrolled in science, mathematics, and engineering. {Higher is better}
  - [Tier 1] Number of patents per capita. {Higher is better}
  - [Tier 2] Technicians in R & D per million people. (Elevate to Tier 1 when coverage improves sufficiently.) {Higher is better}

## **7. Promoting an environment of peace and security conducive to development.**

- Preventing conflict, including conflict over natural resources:
  - [Tier 1] Existence of national standards requiring transparency in payment arrangements to one's own or foreign government by businesses engaged in trade in extractive resources (e.g., standards set by the Extractive Industries Transparency Initiative. {Positive is better}
  - [Tier 1] Ratio poverty rate (national poverty line) in sub-national unit with the highest poverty rate to sub-national unit with the lowest poverty rate. {Lower is better}
  - [Tier 2] Ratio poverty rate (national poverty line) ethnic group with highest poverty rate to ethnic group with lowest poverty rate. {Lower is better.}
- Protection of the vulnerable during conflict:
  - [Tier 2] Annual number of civilian deaths per 100,000 population during years of and year following armed conflict—elevated to Tier 1 if reliable data source agreed on. {Lower is better}
  - [Tier 2] Annual number of reported cases of rape per 100,000 population during years of and year following armed conflict. {Lower is better}
  - [Tier 3] Number internally displaced persons as percentage of population—data

from Internal Displacement Monitoring Centre. Note: Place holder for an indicator reflecting policies towards IDP with regard to ensuring their security and facilitating their successful return home. {Lower is better}

- Post-conflict:
  - [Tier 1] Existence of mechanisms of transitional justice within 5 years of cessation of hostilities. {Positive is better}
  - [Tier 3] Percentage of women representative on formal teams negotiating post-conflict governance.
  - [Tier 3] Existence of a budget and plan for reconstruction prepared with representation of people in all of the affected areas and populations, including women—elevated to Tier 2 if reliable source of data becomes available. {Positive is better}
  - [Tier 3] Existence of a two-sided aid-monitoring system encompassing regular meetings by donors to monitor spending of reconstruction funds, and regular reporting by donors of their fulfillment of their funding pledges—elevated to Tier 2 if reliable source of data becomes available. {Positive is better}
- Personal security not in times of armed conflict:
  - [Tier 1] Homicides per 100,000—UN Office of Drugs & Crime. {Lower is better}
  - [Tier 2] Score on Worldwide Governance Indicator: “Political Stability and Absence of Violence”. {Higher is better}
  - [Tier 3] Existence of legislation and/or administrative programs specifically addressing domestic violence. {Positive is better}
  - [Tier 3] Existence of legislation and/or administrative programs specifically addressing violence against women. {Positive is better}

## **8. Promote environmental sustainability and sustainable use of natural resources.**

- Preventing environmental degradation and resource depletion:
  - [Tier 1] Percentage of key environmental conventions ratified. {Higher is better} *Cross-reference with II.A.1.*
  - [Tier 1] Consumption of ozone-depleting substances per capita—component Commitment to Development Index. {Lower is better}
- Enabling mitigation of and adaptation to negative impacts of climate change:
  - [Tier 1] CO2 emissions, kg. per \$1000 (2005 PPP\$) of GDP. {Lower is better}

- [Tier 1] CO2 emissions per capita. {Lower is better}
- [Tier 1] Average annual change in percentage of forested area over the previous five years. {Higher positive value is better}
- Sustainable energy policies and practices:
  - [Tier 1] Share of renewable energy in total primary energy supply. {Higher is better}
- Preventing environmental degradation and resource depletion:
  - [Tier 1] Sum \$ value protected areas, non-forest resources, and timber resources per capita—WDR 2010. {Higher is better}

## 9. Promote improvement in social and economic well-being.

- Health—*N.B.* option to combine the outcome indicators below into a single composite index following Fukuda-Parr *et al.* (2009)'s methodology:
  - [Tier 1] Public expenditures on primary health care as % GNI. {Higher is better subject to setting of domestic benchmark}
  - [Tier 1] Life Expectancy at birth. {Higher is better}
  - [Tier 1] Under 5 Mortality Rate—MDG indicator 4.1. {Lower is better}
  - [Tier 1] Proportion of population with access to affordable essential drugs on a sustainable basis—MDG indicator 8.13. {Higher is better}
  - [Tier 1] *For high income countries:* Percentage of low birth weight babies. {Lower is better}
  - [Tier 1] *For developing countries:* Percentage of births attended by skilled health personnel—MDG indicator 5.2. {Higher is better}
- Education—*N.B.* option to combine the outcome indicators below into a single composite index following Fukuda-Parr *et al.* (2009)'s methodology:
  - [Tier 1] Public expenditures on primary education as % GNI. {Higher is better subject to setting of domestic benchmark}
  - [Tier 1] Net secondary school enrollment rate. {Higher is better}
  - [Tier 1] *For high income countries:* Average Score on the Program for International Student Assessment. {Higher is better}
  - [Tier 1] *For developing countries:* Average score on national or international test of student achievement. {Higher is better}

- [Tier 1] *For developing countries*: % pupils starting grade 1 who reach the last grade of primary school—MDG indicator 2.2. {Higher is better}
- Housing/Water—*N.B.* option to combine the outcome indicators below into a single composite index following Fukuda-Parr *et al.* (2009)'s methodology:
  - [Tier 1] Public expenditures on public service provision (electricity, water supply, etc.) as % GNI. {Higher is better subject to setting of domestic benchmark.}
  - [Tier 1] *For high income countries*: Homeless rate. {Lower is better}
  - [Tier 1] *For high income countries*: Percentage of renters spending more than 30% of household income on housing. {Lower is better}
  - [Tier 1] *For developing countries*: Percentage of population with access to improved drinking water—MDG indicator 7.8. {Higher is better}
  - [Tier 1] *For developing countries*: Percentage of population with access to improved sanitation—MDG indicator 7.9. {Higher is better}
  - [Tier 1] *For developing countries*: Percentage of urban population living in slums—MDG indicator MDG 7.10. {Lower is better}
- Social Security—*N.B.* option to combine the outcome indicators below into a single composite index following Fukuda-Parr *et al.* (2009)'s methodology]:
  - [Tier 1] Public expenditures on social security as % GNI. {Higher is better subject to setting of domestic benchmark.}
  - [Tier 1] Percentage of population living below national poverty line. {Lower is better}
  - [Tier 1] Percentage of labor force participating in a social security scheme (public or private). {Higher is better}
- Food:
  - [Tier 1] Child (under 5) stunting rate. {Lower is better}
- Work—*N.B.* option to combine the outcome indicators below into a single composite index following Fukuda-Parr *et al.* (2009)'s methodology:
  - [Tier 1] *For high income countries*: long term unemployment rate (% of labor force). {Lower is better}
  - [Tier 1] *For high income countries*: Percentage of employed working part time involuntarily. {Lower is better}
  - [Tier 1] *For high income countries*: Percentage of population with less than 50% of median income. {Lower is better}

- [Tier 1] *For developing countries*: Percentage of labor force in vulnerable employment—MDG indicator 1.7. {Lower is better}
- [Tier 1] *For developing countries*: Percentage of population living on less than \$1.25 (2005 PPP\$) per day (MDG 1.1)
- Other:
  - [Tier 1] Existence of participatory processes for establishing and monitoring other national development goals. {Positive is better}

**B. Are shaped by, and act in accordance with, the full range of international human rights standards, as well as principles of good governance and rule of law, *i.e.*:**

**1. Draw on all relevant international human rights instruments in elaborating the content of national development goals and strategies:**

- Ensuring the full range of human rights as part of the process of development:
  - Physical integrity rights—*N.B.* option, the four indicators can be combined into the single CIRI indicator “Physical Integrity Rights Index” (PHYSINT) :
    - [Tier 1] CIRI Disappearance Indicator (DISAP). {Higher is better}
    - [Tier 1] CIRI Extrajudicial Killing Indicator (KILL). {Higher is better}
    - [Tier 1] CIRI Political Imprisonment Indicator (POLPRIS). {Higher is better}
    - [Tier 1] CIRI Torture Indicator ((TORT) . {Higher is better}
  - Empowerment Rights—*N.B.* option, the 7 indicators below can be combined into the single CIRI indicator “Empowerment Rights Index” (NEW\_EMPINX):
    - [Tier 1] CIRI Worker's Rights Indicator (WORKER). {Higher is better}
    - [Tier 1] CIRI Freedom of Domestic Movement Indicator (DOMMOV). {Higher is better}
    - [Tier 1] CIRI Freedom of Foreign Movement Indicator (FORMOVE). {Higher is better}
    - [Tier 1] CIRI Freedom of Assembly and Association Indicator (ASSN). {Higher is better}
    - [Tier 1] CIRI Freedom of Speech Indicator (SPEECH). {Higher is better}
    - [Tier 1] CIRI Freedom of Religion Indicator (NEW\_RELFRE). {Higher is better}

- [Tier 1] CIRI Electoral Self-Determination (ELECSD). {Higher is better}
- Economic and social and cultural rights:
  - [Tier 2] Randolph *et.al* (2009) Economic and Social Rights Fulfillment Index. {Higher is better}
  - [Tier 3] The adoption of national economic, social, and cultural rights benchmarks and indicators [as proposed by the General Comments of the UN Committee on Economic, Social, and Cultural Rights]. {Positive is better}
  - [Tier 3] Existence of national standards explicitly mandating respect for cultural identity. {Positive is better}
- Assessing and taking into account the human rights impact of international agreements:
  - [Tier 1] Existence of a requirement to undertake human rights (human development) impact assessments of international agreements on the table. {Positive is better}
  - [Tier 1] Existence of requirement to monitor human rights (human development) impacts of international agreements. {Positive is better}
  - [Tier 1] Proportion of human rights impact assessments of trade and other international agreements made publicly available via the web. {Higher is better}
- Monitoring the full scope of human rights:
  - [Tier 1] Existence of a National Human Rights Institution that includes the full scope of human rights in its mandate. {Positive is better}

## **2. Integrating cross-cutting norms of participation, non-discrimination, access to information, effective remedy, and effective anti-corruption measures**

- Ensuring free, meaningful and active participation at the national level:
  - Establishment of a framework supportive of remedy:
    - [Tier 1] Percentage of core human rights for which there are constitutional or legal protections and adjudicatory mechanisms (to provide remedy). {Higher is better} *Cross-reference with II.A.1.*
    - [Tier 1] Existence of legal protections of human rights defenders. {Positive is better}
  - Establishment of a framework to facilitate participation:
    - [Tier 1] The provision of sufficient political and financial support to ensure effective participation of the population in all phases of the

development policy and programme design, implementation, monitoring, and evaluation. {Positive is better} *Cross-reference with II.A.2.*

- [Tier 1] Percentage of national and sub-national ministries and other public service (health, water, utilities, etc.) providers with published procedures to support public participation in the different stages (assessment, planning, implementation, and evaluation) of programmes and policies. {Higher is better}
- [Tier 1] The existence of a legal or administrative standard requiring free, informed prior consent by indigenous communities to the exploitation of natural resources on their traditional lands. {Positive is better}
- Procedures facilitating participation in social and economic policymaking:
  - [Tier 1] CIRI Freedom of Assembly and Association Indicator (ASSN). {Higher is better}
  - [Tier 1] CIRI Freedom of Speech Indicator (SPEECH). {Higher is better}
  - [Tier 1] CIRI Electoral Self-Determination Indicator (ELECSD). {Higher is better}
  - [Tier 2] Score on Worldwide Governance Indicator: “Voice and Accountability”. {Higher is Better}
- Non-discrimination:
  - Establishment of a legal framework supportive of non-discrimination:
    - [Tier 1] Percentage of the following 9 economic, political, and social rights for which there is constitutional or legal protections specifically for women: Right to equal pay for equal work; Right to free choice of profession or employment without need to obtain one's husband's or male relative's consent; Equality in hiring, job security with maternity protection, and promotion practices; Right to be free from sexual harassment in the workplace; Right to work at night, in occupations classified as dangerous, in the military and in the police force; Right to equal inheritance; Right to enter into marriage on a basis of equality with men; Right to initiate a divorce; Right to own, acquire, manage, and retain property brought into marriage. {Higher is better}
    - [Tier 1] Percentage of the following 7 economic, political, and social rights for which there is constitutional or legal protections ensuring equal rights for citizens regardless of race or ethnicity (sex, language, religion, disability, other status, eg. HIV status): Right to vote; Right to run for political office; Right to hold elected and appointed government positions; Right to join political parties; Right to petition government officials; Right

to obtain a passport and travel abroad; Right to participate in social, cultural, and community activities. {Higher is better}

- Establishment of assessment and evaluation system supportive of non-discrimination:
  - Percentage of sectoral ministries that can provide all of the following for each of its core programmes and projects. {Higher is better}
    - ◇ [Tier 1] An assessment of relevant vulnerable groups in the context of the programme or project, including groups that are vulnerable to discrimination and groups that are vulnerable for other reasons.
    - ◇ [Tier 1] Baseline assessment data of the current state of access to relevant services broken down to reflect relevant vulnerable groups (eg. might include rural/urban breakdown; breakdown by indigenous/non-indigenous, breakdown by gender, etc.).
    - ◇ [Tier 1] Monitoring systems for the programme or policy that provide information broken down by the relevant vulnerable groups.
    - ◇ [Tier 1] Evaluation systems for the programme or policy that provide information broken down by the relevant vulnerable groups.
  - Indicators reflecting likelihood of differential treatment:
    - Marginalized groups (indigenous peoples, marginalized ethnic groups, people with disabilities, etc.):
      - ◇ [Tier 1] Ratio of value of indicators under II.A.9 for marginalized groups (indigenous, marginalized ethnic groups, people with disabilities, etc.) to national average. {Value closer to 1 is better}
      - ◇ [Tier 2] Ratio of percentage of population with advanced HIV infection with access to antiretroviral drugs for marginalized groups to population as a whole—tracks MDG indicator 6.5. {Value closer to 1 is better}.
      - ◇ [Tier 2] Share of the population of marginalized groups incarcerated relative to their share in the population . {Value closer to 1 desired}
      - ◇ [Tier 2] Ratio of unemployment rate for marginalized groups to unemployment rate for population as a whole. {Value closer to 1 is better}
    - Women

- ◇ [Tier 1] Human Development Report's Gender Empowerment Measure. {Higher is better}
- ◇ [Tier 1] CIRI Women's Political Rights (WOPOL). {Higher is better}
- ◇ [Tier 1] CIRI Women's Economic Rights (WECON). {Higher is better}
- ◇ [Tier 1] CIRI Women's Social Rights (WOSOC). {Higher is better}
- Transparency
  - [Tier 1] The existence of a strong national (and where relevant, sub-national) Freedom of Information law concerning access to governmental documents. {Positive is better}
  - [Tier 1] Publication or other relevant means of informing the public of public funding releases to sub-national units. {Positive is better}
  - [Tier 1] The provision of timely web-based notification of trade and other international agreements on the table (concluded). {Positive is better}
  - [Tier 2] The existence of published, detailed national and sub-national budgets, along with expenditure reports. {Positive is better}
- Accountability
  - [Tier 2] Percentage of providers of core public services (health care services, water companies, utility companies, educational institutions, etc.), whether public or private, for which there exist functional administrative or judicial means of complaint and remedy if standards are violated. {Positive is better}

### **3. Promoting good-governance, rule of law, and anti-corruption measures**

- Good governance
  - [Tier 1] Score on Worldwide Governance Indicator: “Government Effectiveness”. {Higher is better}
  - [Tier 1] Score on Worldwide Governance Indicator: “Control of Corruption”. {Higher is better}
  - [Tier 1] Score on Worldwide Governance Indicator: “Rule of Law” {Higher is better} *Cross-reference with II.A.4.*

**C. Adopting and implementing equitable approaches to sharing the benefits of development and to distributing the environmental, economic, and other burdens that can arise as a result of development by:**

**1. Providing for a fair and equitable distribution of the benefits of development at the national level by ensuring that the benefits are shared in an equitable fashion among individuals, groups of individuals and peoples, including special attention to the needs of marginalized groups or peoples.**

- Access to resources and public goods:
  - [Tier 1] Ratio of income growth rate poorest population quintile to income growth rate wealthiest population quintile. {Higher is better}
  - [Tier 1] Ratio of combined school enrollment rate of poorest population quintile to wealthiest population quintile. {Higher is better}
  - [Tier 1] Public expenditures on economic infrastructure and services benefiting smallholders and small business owners as % GNI. {Higher is better}
  - [Tier 2] Health expenditures as a % of poor (national poverty line) household's income—elevate to Tier 1 as reliable data becomes available. {Lower is better}
  - [Tier 2] Water expenditures as a % of poor (national poverty line) household's income—elevate to Tier 1 as reliable data becomes available. {Lower is better}
  - [Tier 2] Electricity expenditures as a % of poor (national poverty line) household's income—elevate to Tier 1 as reliable data becomes available. {Lower is better}
- Equitable Human Development outcomes:
  - [Tier 1] Disaggregation indicators under II.A.9. by gender, major racial or ethnic groups, rural/urban location, region, poverty status. {Greater equality in indicator values between groups is desired.}

**2. Promoting the fair and equitable distribution of the burdens of development by ensuring that the burdens caused by development advances, including environmental burdens and shocks caused by economic or industrial transitions, are shared in an equitable fashion among peoples and individuals and address the needs of vulnerable and or marginalized individuals, groups of individuals, and peoples.**

- Fair sharing of benefits and burdens of economic adjustments:
  - [Tier 1] Existence of publically available (via web) social impact assessments on the location of dams, awarding of natural resource concessions and other policies addressing environmental concerns. {Positive is better}

- [Tier 1] Existence of a publicly available (via web) impact assessment of the trade benefits and burdens likely to arise (that in fact arise) from joining in to each new trade agreement affect different sectors and groups. {Positive is better}
- [Tier 2] Existence of publicly available (via web) annual national "State of the Environment Report" that includes an analysis of environmental benefits and burdens accruing to different sectors and

***Individual actions of States with regard to peoples  
and individuals not under their jurisdiction.***

211. Individual implementation by States with regard to those not under their jurisdiction can be assessed by the extent to which each State takes steps to ensure that its economic, social, and political policies, institutions, systems, and processes, including its votes and other participation in international forums, while taking into account the due needs of their own citizens and others under their jurisdiction, meet the criteria and sub-criteria listed below.

**A. Help to realize sustainable, comprehensive international human development in an environment of peace and security, through promoting the following:**

**1. A stable global financial system.**

- Reducing the risks of international financial crises:
  - [Tier 1] Participation in global fora related to the prevention and mitigation of international financial crises. {Positive is better}
  - [Tier 3] The existence of guidelines and practices that take into account and guard against potential adverse impacts on other countries, especially poorer countries, in the formulation and implementation of domestic macro-economic policy. {Positive is better}
- Providing against volatility of commodity prices:
  - [Tier 1] Participate in coordinated international institutions or systems capable of mediating price swings on key staple foods (corn, oilseed, soybean, rice, wheat) such as global physical or virtual buffer stock systems for key staples. {Positive is better}
  - [Tier 3] The existence of guidelines and practices that take into account and guard against potential adverse impacts on other countries, especially poorer countries, in the formulation and implementation of domestic policies to secure domestic food security. {Positive is better}

**2. A rule-based, open, predictable and non-discriminatory international trading system.**

- Market Access:
  - [Tier 1] Ratio of tariff revenues received from countries with lower per capita income levels to tariff revenues received from countries with higher per capita income levels. {Lower is better}
  - [Tier 1] *High Income Countries*: Score on Trade Component of the Commitment to Development Index. {Higher is better}
- Movement of persons:
  - [Tier 1] *High income countries*: Score on the Migration Component of the Commitment to Development Index. {Higher is better}

### **3. Access to adequate human and financial resources.**

- Financial Resources:
  - [Tier 1] *High and middle income countries*: Net ODA as percentage of GNI—MDG indicator 8.1. {Higher is better}
  - [Tier 1] *High and middle income countries*: Correlation between net per capita ODA and per capita GNI of recipients. {Negative correlation desired}
  - [Tier 1] Ratification of the United Nations Convention against Corruption. {Positive is better}
  - [Tier 2] *High income and middle income countries*: Ratio of “quality adjusted official aid” to GNI (sub-component of Aid component of the Commitment to Development Index). {Higher is better}
  - [Tier 2] Score on the Investment Component of the Commitment to Development Index. {Higher is better}
- Human Resources:
  - [Tier 1] *High and middle income countries*: Value technical assistance and capacity development component of aid as a share of GNI. {Higher is better}

### **4. Access to the benefits of science and technology.**

- General:
  - [Tier 1] Percentage of bilateral trade agreements with poorer countries that include “Trips-plus” conditions (conditions enhancing intellectual property rights protection beyond the agreed levels of the TRIPS Agreement). {Lower is better}

- [Tier 1] *High income countries*: Score on the Technology Component of the Commitment to Development Index. {Higher is better}
- Agricultural technology:
  - [Tier 1] *High and middle income countries*: Share of ODA dedicated to agricultural development. {Higher is better}
- Manufacturing technology:
  - [Tier 1] Percentage of bilateral trade agreements with poorer countries that include Trade Related Investment Measures (TRIMS) that prohibit developing countries from using performance criteria (local content requirements, tech transfer requirements, local employment requirements, research and development requirements, etc.) to maximize the benefits of direct foreign investment. {Lower is better}
- Green technology:
  - [Tier 1] *High and middle income countries*: Share of ODA dedicated to promoting green technologies. {Higher is better}
  - [Tier 2] *High and middle income countries*: Ratio of the value of private contributions to international funds for mitigating adverse impacts of climate change in poor countries to GNI. {Higher is better}
- Health technology:
  - [Tier 1] *High and middle income countries*: Share of ODA dedicated to health technologies. {Higher is better}
  - [Tier 2] *High and middle income countries*: Ratio of the value of private contributions to international funds for transferring benefits of health technology to poor countries to GNI. {Higher is better}
- Information technology:
  - [Tier 1] *High and middle income countries*: Share of ODA dedicated to information technology. {Higher is better}
  - [Tier 2] *High and middle income countries*: Ratio of value of private contributions to international funds for transferring benefits of information technology to poor countries to GNI. {Higher is better}

## **5. Development in an environment of peace and security.**

- Preventing conflict, including over natural resources, and Peacekeeping:

- [Tier 1] Participation in one or more international agreements or standards regulating trade in small arms (eg, Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies). {Positive is better}
- [Tier 1] Existence of national standards requiring transparency in payment arrangements to one's own or foreign government by businesses engaged in trade in extractive resources (e.g., standards set by the Extractive Industries Transparency Initiative) {Positive is better}
- [Tier 1] *High income countries—extend to all countries as supported by data availability*: Score on the “Security” component of the Commitment to Development Index. {Higher is better}
- [Tier 1] *Middle and low income countries*: Contributions to peacekeeping as a percentage of GNI—computed following methodology used in Security component of the Commitment to Development Index. {Higher is better}
- Refugees and asylum seekers.
  - [Tier 1] Value of UNHCR Index of burden shouldered by host countries caring for refugees, asylum seekers, and other populations of concern within borders—sum of “refugees hosted”, “populations of concern hosted” and “asylum applications lodged in year” all divided by per capita GDP. {Higher is better} Note: data source on refugees, asylum seekers & other populations of concern is UNHCR.
- Post-conflict:
  - [Tier 1] For states providing post-conflict aid: percentage of annual national ODA/DAC for disarmament, rehabilitation and reintegration directed specifically at issues affecting women. {Higher is better}
  - [Tier 3] For states providing post-conflict aid: Percentage of countries receiving post-conflict aid from that state that have a budget and plan for reconstruction prepared with representation of people in all of the affected areas and populations, including women—elevate to higher tier upon creation reliable data source. {Positive is better}
  - [Tier 3] For States providing post-conflict aid: proportion of countries receiving post-conflict aid from the State where there is a two-sided aid monitoring system encompassing regular meetings by donors to monitor spending of reconstruction funds, and regular reporting by donors of their fulfillment of their funding pledges—elevate to higher tier upon creation reliable data source. {Higher is better}

**6. Environmental sustainability, including sustainable energy policies and practices (See also III.A.4.: Green technology).**

- Preventing environmental degradation, resource depletion and enabling mitigation of and adaptation to negative impacts of climate change:
  - [Tier 1] *High income countries*: Fishing subsidies per capita (Source: OECD 2005. Review of Fisheries in OECD Countries: Policies and Summary Statistics.) {Lower is better}
  - [Tier 1] Value of tropical timber imports per capita. {Lower is better}
  - [Tier 1] Gasoline taxes (2005 PPP\$) per liter. {Higher is better}
- Promoting and participating in global negotiations concerning global environmental sustainability:
  - [Tier 1] Percentage of key environmental conventions ratified. {Higher is better}
  - [Tier1] Extent of compliance with key environmental conventions over past decade (score as 2 points for complete on-time reporting, 1 point for reporting that is late or contains errors, 0 points for failure to report or ratified the convention). {Higher is better}

**B. Are shaped by, and act in accordance with, the full range of international human rights standards.**

**1. Ensuring that trade ministries are informed by human rights standards when drafting and negotiating bilateral treaties, including investment treaties.**

- [Tier 1] Existence of requirement to provide timely web-based public notice of proposals on the table. {Positive is better}
- [Tier 1] Existence of a requirement to conduct an assessment of a pending treaty's constraints on the ability of the other party to fulfill its human rights obligations particularly with regard to food, health, education, and other economic and social rights. {Positive is better}
- [Tier 1] Proportion of impact assessments made publically available via the web of a pending treaty's constraints on the ability of the other parties to fulfill their domestic human rights obligations. {Higher is better}
- [Tier 1] Proportion of bilateral trading arrangements with poorer countries that exempt agricultural products in poorer countries essential to food security or essential to rural livelihood from any liberalization requirement. {Higher is better}
- [Tier 2] Percentage of bilateral investment treaties to which the State is party that have highly restrictive WTO-plus clauses (e.g., protecting investors from new environmental or social laws), or mandate undue confidentiality concerning the existence, nature and outcome of claims subject to arbitration under the treaty's dispute resolution provisions, and thus potentially unduly limit the other State's ability to make policy decisions

(inspired by Ruggie report 2009d)—elevated to Tier 1 upon further clarification of terms.

**2. Ensuring that trade ministries are informed by human rights standards when considering bringing complaints before trade-related dispute resolution bodies.**

- [Tier 1] Existence of a requirement to conduct prior impact assessment of the complaint remedy sought on human development in the opposing party, as well as domestically. {Positive is better}

**3. Regulation of extraterritorial actions of its citizens and of business enterprises incorporated under its jurisdiction.**

- [Tier 3] Existence of domestic standards regulating involvement in corruption by their officials, citizens, and businesses when operating abroad. {Positive is better}
- [Tier 3] Existence of a domestic regulatory and accountability scheme concerning extraterritorial infringements of human rights by business enterprises incorporated under its jurisdiction. {Positive is better}

**4. Using voting power in the governance of multilateral institutions to ensure that those institutions operate in accordance with the full range of international human rights.**

- Promoting the adoption of an explicitly rights-based approach in multilateral development institutions:
  - [Tier 1] Ratification of the TRIPS agreement allowing WTO members to issue compulsory licenses to export generic versions of patented medicines to countries with insufficient or no manufacturing capacity in the pharmaceutical sector. {Positive is better}

**C. Adopting and implementing equitable approaches to sharing the benefits of development and to distributing the environmental, economic, and other burdens that can arise as a result of development**

- Fair trading regime:
  - [Tier 1] Ratio of tariff revenues received from countries with lower per capita income levels to tariff revenues received from countries with higher per capita income levels. {Lower is better} *Cross-reference with III.A.2.*
  - [Tier 1] *High Income Countries*: Score on Trade Component of the Commitment to Development Index. {Higher is better} *Cross-reference with III.A.2.*
  - [Tier 1] Percentage of bilateral trade agreements with poorer countries that include Trade Related Investment Measures

(TRIMS) that prohibit developing countries from using performance criteria (local content requirements, tech transfer requirements, local employment requirements, research and development requirements, etc.) to maximize the benefits of direct foreign investment. {Lower is better} *Cross-reference with III.A.4. Manufacturing technology.*

- [Tier 1] Percentage of bilateral trade agreements with poorer countries that include “Trips-plus” conditions (conditions enhancing intellectual property rights protection beyond the agreed levels of the TRIPS Agreement. {Lower is better} *Cross-reference with III.A.4. General.*
- [Tier 2] Average local content requirement to qualify for special and differential tariff rates across bilateral trade arrangements with countries at lower per capita income levels. {Lower is better}
- [Tier 2] Percentage (in value terms) of imports from lower income countries admitted duty free.
- [Tier 2] *For high income countries:* Percentage of agricultural imports sourced from smallholders in low and middle income countries.
- Movement of persons:
  - [Tier 1] *High income countries:* Score on the Migration Component of the Commitment to Development Index. {Higher is better} *Cross-reference with III.A. 2.*
- Protection for indigenous groups:
  - [Tier 2] Average across firms registered in country for firms exploiting indigenous knowledge of royalties/compensation paid to indigenous/traditional groups in other countries for use of indigenous knowledge as a percentage of firm profits.

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