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Report of the Chairperson-Rapporteur of the Working Group on the Right to Development pursuant to Human Rights Council resolution 15/25

**Compilation of submissions received from stakeholders other than
Member States**

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I. Introduction

1. The Human Rights Council, in its resolution 15/25, requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to seek the views of States Members of the United Nations and relevant stakeholders on the work of the high-level task force on the implementation of the right to development and the way forward, taking into consideration the essential features of the right to development, using as reference the Declaration on the Right to Development and resolutions of the Commission on Human Rights, the Human Rights Council and the General Assembly on the right to development. It also requested OHCHR to post on its website all written contributions by Member States and other stakeholders.

2. In resolution 15/25, the Human Rights Council also requested the Chairperson-Rapporteur of the Working Group on the Right to Development, assisted by OHCHR, to prepare two compilations of the submissions received from Governments, groups of Governments and regional groups, as well as the inputs received from other stakeholders, and to present both compilations to the Working Group at its twelfth session, to be held from 14 to 18 November 2011.

3. OHCHR received inputs from the following stakeholders: Amis des Etrangers au Togo; Centre africain de recherche interdisciplinaire; Disabled Peoples International; Fundación Intervida; Light for the World; New Humanity; Indian Council of America, Indigenous peoples and Nations Coalition, International Council for Human Rights (joint submission); Human Rights Advisory Council of Morocco; National Human Rights Commission of India; Committee on Economic, Social and Cultural Rights; the United Nations Educational, Scientific and Cultural Organization (UNESCO); the United Nations Children's Fund (UNICEF); the World Trade Organization (WTO); and Dr. Rajesh Sampath.¹

4. Inputs of a general information type not explicitly addressing the work of the task force are not included in the present summary, but are available on the webpage of OHCHR.

II. Compilation of inputs received from stakeholders other than Member States

A. Right to development criteria and operational sub-criteria

5. The section below contains comments received on the attributes, criteria, corresponding operational sub-criteria and indicators that the task force developed and presented to the Working Group. They are designed to assess the extent to which States are individually and collectively taking steps to establish, promote and sustain national and international arrangements that create an enabling environment for the realization of the right to development. The three attributes are comprehensive and human-centred development policy, participatory human rights processes and social justice in development.

6. One submission underlined the fact that the definition of the right to development by the task force was extremely debatable and that the constant improvement of the well-being

¹ See www.ohchr.org/EN/Issues/Development/Pages/12thSession.aspx

of peoples and individuals required paying attention to both inter- and intra-generational perspectives. Sustainable development implied that today's well-being could not compromise the well-being of future generations. The model of well-being proposed by the current concept of development was a consumer-based model, oriented to create conditions for every State to become a market able to compete in the global market. Well-being was not just a matter of economic growth; the dignity of a simple way of life, the possibility of expressing one's attitudes, the possibility of building a family or of contributing to social growth through a job were all indicators of real well-being. Making well-being sustainable and achievable for every human person in the present and the future required a wider perspective, including in the context of defining criteria, sub-criteria and indicators.

7. The same submission suggested the inclusion under attribute 3 of a new criterion regarding inter-generational social justice that entails sustainability and the following sub-criteria/indicators:

(a) Internal and international non-economic-oriented activities to promote development, such as education, for a more equitable lifestyle;

(b) Presence of activities to reduce dependence on international aid, such as education, active citizenship and personal entrepreneurship.

8. The submission emphasized that human relations could not be based exclusively on the economic aspects of personal or national benefit, but should be based primarily on the "spirit of brotherhood". This principle could become a real opportunity for every society to find its own way to development, respecting its cultural awareness and offering its specific contribution to global sustainable development. In this perspective, every nation could be considered a "developing country", committed to find its own contribution to the development of the entire human family through the best possible use of local and personal capabilities. In this way, the right to development could not be fulfilled by pursuing a single non-sustainable model based on economic needs, but would have to find different ways, depending on the specific history, culture, traditions and expectations of each context.

9. With regard to indicators in general, another contribution underlined the need for a more holistic view. The high level of public expenditure on public services like health and education might be meaningless unless accompanied by efficient systems for their delivery.

10. One contribution recommended the recognition of persons with disabilities in the criteria for the right to development. In addition to specifically including persons with disabilities in the set of indicators (for example, under education, recognizing that one third of children without access to primary education are children with disabilities), the criteria should also reflect the principle of accessibility, as well as inclusion. Accessibility should be understood in a multifaceted way and not be limited to physical access, but should also incorporate social, communications and intellectual aspects in line with the Convention on the Rights of Persons with Disabilities. The fact that the Convention was recognized as both a human rights treaty and a development tool should be utilized in the context of the criteria of the right to development. Equally, use should be made of the first stand-alone provision on international cooperation in a human rights treaty, namely article 32 of the Convention. The lack of data on people with disabilities, obstacles to inclusion and barriers compounding exclusion should also be taken into account, in particular with regard to the respective indicators.

11. On the same issue, another contribution recommended the inclusion of all people, whatever their abilities, in the right to development criteria and sub-criteria, with the objective of measuring the potential of individuals and the barriers that restrict them in reaching their potential (for example, the income of adults with disabilities compared with national and international poverty rates) and to ensure that all citizens' needs and potentials are taken into account in national statistics, data collection or population census.

12. One submission underlined the need to ensure that the rights of indigenous peoples and all other peoples, with a particular focus on the right to self-determination, were not omitted when setting standards in operationalizing the right to development. In its view, the political dimension of the right to self-determination has been erroneously recorded and reduced in the scope and application of the final reports, specifically in the current criteria and sub-criteria in terms of the right to development. More had to be included so that the issues relevant to all stakeholders could be included, especially for peoples vested with the right to self-determination, including for those under colonial domination and foreign occupation. The right to development had to be met by recognizing that all peoples, including indigenous peoples, must be allowed to enjoy the rights elaborated in the Declaration on the Right to Development and to relief when they are violated, and by creating the proper mechanisms to implement the rights without politicization and selectivity. It was necessary to first recognize and identify the rights, then to provide for the mechanisms beyond the current means and methods available. There was a need for an effective implementation process to address violations of the right to self-determination in association with all other rights. Particular sectors of the right to development needed special attention, including the political will for the operationalization of the instrument. It was necessary to stop denying the application of the right to development to indigenous peoples and all other peoples.

13. With regard to attributes 1 and 3, one submission encouraged greater international dialogue about what “equitable globalization” meant and how that could be operationalized, in particular with regard to the question of prioritization of various dimensions pertaining to development, such as sustainable development/poverty eradication over human rights/fundamental freedoms, global security and conflict prevention and resolution, governance and human development. The question was raised as to what means were required to achieve a coherent combination of all these ends in a cohesive and unified process, as opposed to a causal link of priorities where one aspect led to the development of others based on the perceptions of priority rankings of individual nations’ self-interests.

14. Another contribution noted that nearly all of substantive articles 1 to 15 of the Covenant on Economic, Social and Cultural Rights touched upon the substance of the right to development, most notably article 11, on the right to an adequate standard of living. It noted that the right to development criteria and sub-criteria built upon the rights contained in the Covenant and contributed in this way a set of criteria that could be used in assessing the way in which States parties observed the rights contained in the Covenant.

15. A few more specific comments on indicators were made with regard to:

(a) Attribute 1, criteria 1 (a): the indicators of sub-criteria 1 (a) (i), 1 (a) (ii), 1 (a) (iv) and 1 (a) (v) should be distributed in a systematic manner by population groups (men/women) and particularly by zones (urban/rural);

(b) Attribute 2, criterion 2 (e): the indicators of sub-criteria 2 (e) (i), 2 (e) (ii) and 2 (e) (iii) should be further developed;

(c) Attribute 3, criterion 3 (a): the indicators of sub-criterion 3 (a) (iv) should be further developed and clarified. The indicator “Proportion of urban population living in slums” of sub-criterion 3 (c) (iv) is a repetition of the identical indicator “slum populations” of sub-criterion 1 (a) (iii). The indicators of sub-criterion 3 (c) (v) should be further developed and clarified.

16. One submission stated that the indicators contained in criterion 1(a) concerning public spending on education, school enrolment rates, school completion rates and international scores for student achievement were essential to assess the extent to which States individually and collectively take steps to realize the right to education for all. The submission recommended the inclusion in criterion 1 (a) of a new sub-criterion 1 (a) (vi)

culture. It also proposed the addition of media development indicators to the context of criterion 2 (c), sub-criterion 2 (c) (iii), with a clear recognition of freedom of expression and freedom of the press as basic preconditions for the fulfilment of the right to development. The indicator that measured mainline and cellular telephones as proposed in sub-criterion 1 (g) (vii) would seem insufficient, given the importance of the availability of diverse content and of the inclusion of new languages in the digital world, the creation and dissemination of content in local languages, and multilingual access to digital resources in cyberspace.

B. Consolidation of findings

17. The section below contains comments received on the summary of main findings of the task force's work with regard to obstacles and challenges to the implementation of the Millennium Development Goals in relation to the right to development, social impact assessments in the areas of trade and development at the national and international levels, and global partnerships for development in the areas of development aid, trade, access to medicines, debt sustainability and transfer of technology. In its conclusions and recommendations, the task force further addressed the strengths and weaknesses of the Goals, structural impediments to economic justice, resistance to addressing trade and debt from a human rights perspective, the ambiguity of "global partnership", the lack of policy coherence and incentives to move from commitment to practice and the necessary balance between national and international responsibilities for the right to development.

18. One contributor underlined the fact that democratic ownership of development strategies by the people through representative, transparent and accountable institutions was the main mechanism for achieving the effective governance of development. Implementation of the principle of democratic ownership required the necessary democratic policy space, and national parliaments and civil society, including women's organizations and other development actors, must have a say in defining development strategies.

19. With regard to the obstacles identified by the task force for moving the right to development from political commitment to development practice, another contributor called for greater international dialogue between academic experts, policy-shapers and Governments, particularly their chief economists, to take note of the nature of "economic justice" and "structural impediments" to its realization, the moral, political and economic pressures against rethinking trade and lending from the "right to development perspective", and the "ambiguity of global partnerships."

20. Another submission suggested including data on disability within the consolidation of findings of the task force. For example, with regard to free primary school education for all, the number of children with disabilities enrolled in primary education should be taken into account.

1. Social impact assessments

21. One submission encouraged broadening the concept and methodology of social impact assessments to explicitly include human rights. The integration of human rights standards and principles into the normative framework and methodology could benefit not only practitioners and policymakers at the international level (such as the Organization for Economic Cooperation and Development and the World Bank) but also at the national level. These practitioners and policymakers at both levels should be encouraged to undertake independent assessments of the impact of trade agreements on poverty, human rights and other social aspects.

2. Development aid

22. One contributor recommended that development aid should refer to the Convention on the Rights of Persons with Disabilities and, in particular, to article 31 (on statistics and data collection) and article 32 (on international cooperation).

3. Strengths and weaknesses of the Millennium Development Goals

23. One submission shared the view expressed by the high-level task force that the Millennium Development Goals were “divorced from a human rights framework”, while underlining that the Goals allowed for tangible progress to be made in the realization of economic and social rights, depending generally on the right to development. Another contributor underlined the need to place human rights at the centre of all efforts to achieve the Goals and to revise the mechanisms of accountability in the Millennium Development Goal context. These mechanisms should apply to both States and multinational corporations.

24. With a view to achieving the increased intersection of the Millennium Development Goals and human rights, it was emphasized that only through a process of global moral reasoning was it possible to link the Goals with the effective force for implementation and realization that comes with the realization of rights.

25. One organization suggested expanding this section to incorporate persons with disabilities, in line with the outcome document of the High-level Plenary Meeting of the General Assembly on the Millennium Development Goals,² in which the need to remedy the lack of focus on persons with disabilities was noted: “policies and actions must focus on the poor and those living in the most vulnerable situations, including persons with disabilities, so that they benefit from progress towards achieving the Millennium Development Goals”. It was also recommended that clear mechanisms for greater Goal localization at country or regional levels be developed with appropriate implementation mechanisms/instruments, for example, in Government public expenditure planning, in policy formation and implementation and to promote ownership of development processes and capacity-building.

26. The relative importance of foreign aid in the development process relative to the principle of national ownership and to the compatibility of national policies with the right to development was pointed out.

27. With regard to the capacity of national human rights institutions to promote and defend economic and social rights, the view was expressed that this depended on the interest they attached to the question of development and their willingness to scrutinize the models currently in place.

28. With regard to the concept of poverty and article 8 of the Declaration on the Right to Development, it was emphasized that the concepts of “development” and “poverty alleviation” had to be seen broadly to include more variables than income, such as equality of opportunity to have access the resources of education and health services. Attention was drawn to the more comprehensive multidimensional poverty index developed by the Oxford Poverty and Human Development Initiative and the United Nations Development Programme. Understanding how enhancements of political and civil rights could address multiple intersections of deprivation and their overlap would give a more subtle and complex view of the living reality of poverty, and of possible solutions to its alleviation.

² General Assembly resolution 65/1, para. 28.

The question of income distribution and inequalities, and more broadly, of distributive justice, was raised.

4. Structural impediments to economic justice

29. With regard to economic justice, one contributor recommended that, in order to reduce aid dependency, low-income countries that could not fund programmes aimed at achieving the global development goals from domestic resources should have their debt cancelled without any economic policy conditionalities. The creation of a fair and transparent mechanism for sovereign debt restructuring and cancellation and a review of the legitimacy of the debt were recommended, to help to overcome the arbitrary approach with which the problem had been addressed in the past and would make debt management a rules-based component of global economic governance.

5. Resistance to addressing trade and debt from a human rights perspective

30. One submission underlined the need to provide greater technical assistance, as well as training and resources, to allow developing countries to participate more fully in trade negotiations and dispute settlement procedures. It was also recommended that the impact of trade negotiations on the developing world should be assessed from a variety of public policy perspectives.

6. Imperatives and pitfalls of measuring progress

31. One contribution recommended studying the feasibility of a convention on development cooperation to strengthen commitments to internationally agreed development goals; enhancing policy coherence for development (from the international level down to the national level); addressing common standards for adherence; and improving international coordination among all actors towards effective responses to both immediate and long-term development challenges and demands.

7. Ambiguity of “global partnership”

32. With regard to the difficulty in ascertaining clearly the meaning of the term “global partnership for development”, one contributor identified a twofold ambiguity, in terms of who should create, interpret and enforce the call of Millennium Development Goal 8 for “an open, rule-based, predictable, non-discriminatory trading and financial system” to address the special needs of least developed countries and how a process of dealing equitably with their debt problems should be structured to meet the criteria for global economic justice in a way that does not require a complete restructuring and revolution of the current international economic order and its trade relations. The need for greater cross-border and international dialogue on to how Goal 8 could be realized was underlined.

33. Another contributor recommended that there should be a practical approach to operationalizing the right to development through assessment tools for global partnerships from the perspective of this right, so that the impact of this approach could lead towards the ultimate objective of contributing to the transformation of the principles underlying the right to development into development practice.

8. Lack of policy coherence and incentives to move from commitment to practice

34. It was observed that effective development required an equitable, democratic and inclusive multilateral architecture where the interests of the peoples of all countries worldwide were taken into account and where donors and developing country Governments could mutually agree on policies and priorities for development. The need for fundamental reform in the internal governance of existing intergovernmental organizations, especially

the International Monetary Fund, the Financial Stability Board, the World Bank and WTO, was underlined. The voice of developing countries in these organizations needed to be enhanced, together with transparency, democracy and consultation in their decision-making processes.

9. Necessary balance between national and international responsibilities for the right to development

35. With regard to the primary responsibility of States, one contributor underlined the responsibility of States to create both “national and international conditions favourable to the realization of the right to development”. While highlighting the need to “enabling greater justice in the global political economy”, attention was drawn to the questions of what the trade-offs and repercussions of putting primary responsibilities on individual States as opposed to new configurations, entities and institutions that could inform legally sound international federations were, and how distinctions between primary and secondary responsibilities could be drawn and measured.

36. Another contributor saw the right to development as an individual right in principle and in purpose but that was collective in its implementation. While the primary responsibility for the realization of the right to development fell on the State, the onus fell on the international community. The contributor emphasized that there should be a balance between national and international responsibilities in addressing the right to development, and that there was a need for consistency in policies and for an agenda to reach an enabling international environment for impoverished countries to achieve the right to development. Creating the conditions to break the circle of dependence was capital. More participatory approaches and equality-based mechanisms of decision-making at the international level should be developed.

37. It was also observed that development cooperation by national and international bodies should be about supporting conditions in which people can exercise sovereignty over their own process of realizing the right to development. It should be in support of ordinary people striving to create economic, social, political and cultural institutions that are accountable, inclusive, participatory and democratic.

C. Conclusions and recommendations of the task force, in particular with regard to suggestions for further action on the criteria, thematic areas of international cooperation for consideration, and mainstreaming the right to development

38. **The section below contains comments received on the suggestions by the task force for further action on the criteria, thematic areas of international cooperation for consideration, including issues not covered by the Working Group to date, and mainstreaming the right to development.**

1. Further development of a comprehensive and coherent set of standards

39. **One contributor stated that it would support actions to advocate in favour of a legally binding instrument on the right to development.**

2. Thematic areas of international cooperation for consideration

40. **With regard to the recommendation by the task force on thematic areas of international cooperation for consideration, more precisely with regard to the United Nations development agenda and the aspect of “an enabling international environment”, which includes international trade, one submission found it hard to**

justify limiting examination of the “environment” to the work of organizations in isolation or to isolated aspects of their structure. It was recommended that the practical framework for realizing the right to development and applying the criteria be concentrated on, as well as the position and interaction of different inter-governmental organizations, including WTO, within that system.

3. Mainstreaming the right to development

41. One contribution supported the task force’s proposal to include the right to development criteria in universal periodic review reporting and to introduce into the review process the idea that human rights, and in particular the right to development, require an effort that involves global responsibility, the commitment of the State and the mobilization of civil society.

42. Another submission recommended that, for further action on mainstreaming the right to development, an expert representative of disabled people organizations should be nominated to participate in the task force’s work in coordination with the Committee on the Rights of Persons with Disabilities.

D. Way forward in the realization of the right to development

43. The section below contains suggestions received on the way forward in the realization of the right to development other than those already addressed in the previous section.

44. It was emphasized that the effective implementation of the right to development required an equitable, democratic and inclusive multilateral architecture where the interests of the peoples of all countries worldwide were taken into account and where donors and Governments of developing countries could mutually agree on policies and priorities for development.

45. In particular, the following suggestions and recommendations were made:

(a) National and international parties involved in programmes and plans to achieve the Millennium Development Goals should make an explicit commitment to a human rights-based approach to development, consistent with State commitments under human rights law and in promotion of the right to development. An explicit commitment would add to the existing plans for more specific procedures and mechanisms to ensure adherence to human rights principles, and put into motion the necessary requirements for reviewing legislation, administrative procedures, accountability mechanisms and recourse. Explicit recognition of a right to development framework would be invaluable in the arena of international cooperation, within which donor and recipient countries could together articulate the mechanisms and procedures necessary for giving effect to the Declaration and consequently for more effective action towards achieving the Millennium Development Goals;

(b) States should set up long-term social protection systems, address the indebtedness of low- and middle-income countries and consider the establishment of an international debt relief mechanism;

(c) States should guarantee, in law and in practice, the protection of all human rights, which are necessary elements of States’ compliance with the requirement of the Declaration on the Right to Development to ensure conditions favourable to the realization of the right to development;

(d) Research into the effect of transnational corporations’ policies and practices on development efforts in general, and on the achievement of the Millennium Development

Goals in particular, with reference to duties to respect, protect and fulfil human rights and in the context of the right to development should be commissioned;

(e) Donors' and recipients' reports on the Millennium Development Goals should include information on the effects of activities of transnational corporations on poverty reduction strategies and on the global partnership for development, especially where such activities had a particularly positive or negative effect on the enjoyment of human rights in that country;

(f) A global partnership in advocacy training and sharing of experiences, as well as planning and implementation, should be promoted. Millennium Development Goal 8 should be expanded to include building a global civil society by facilitating and providing the resources necessary for bringing together interlocutors from different countries (for example, women, indigenous peoples, human rights proponents, academic researchers and governmental officials) for the purpose of sharing information and strategies along thematic lines with a view to enhance their skills, inform strategies and empower rights-holders to participate more effectively;

(g) International cooperation should be strengthened not only in the context of Millennium Development Goal 8 but also as a matter of holistic and comprehensive approaches defined by the Declaration on the Right to Development. A rights-based approach could help to plan better, target development aid where individual communities and countries need it most, review more effectively and hold all parties to the development process accountable;

(h) Relevant laws and their implementing procedures should be reviewed in order to enable an adequate assessment of the development situation as a whole and progress on each of the Millennium Development Goals from a human rights perspective;

(i) States should be encouraged to add a legal section to their reports on the Millennium Development Goals, describing specifically the legal environment. This could take the form either of specific information on the law within reporting under each of the goals, detailing legal developments and improvement relevant to making progress towards their implementation, or a separate legal section that takes a comprehensive view of the legal environment;

(j) A development effectiveness approach should take advantage of existing monitoring and reporting systems for international human rights standards, gender equality, decent work, sustainable development and anti-corruption commitments, using these standards as a basis for measuring right to development outcomes;

(k) States should guarantee, in law and in practice, the protection of all human rights, ensure equality and non-discrimination, a sustainable and healthy environment, good governance and effective rule of law at all levels.

46. One submission recommended the implementation of the Convention on the Rights of Persons with Disabilities, in particular with a view to ensure equality of outcome; to enable persons with disabilities to work, produce and consume within their own locality and with their peers; to facilitate the participation of persons with disabilities in the implementation of the Convention through inclusive education and universal design; to recognize persons with disabilities living in developing countries; to reinforce the potential of persons with disabilities to participate in the identification, building and use of suitable tools that facilitate the implementation of the right to development; and to train persons with disabilities living in developing countries to enable them to develop their potential, thus ensuring their participation in the implementation of the right to development.