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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Report of the Open-ended Working Group on the Right to Development on its twelfth session (Geneva, 14–18 November 2011)

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

Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction	1–3	3
II. Organization of the session	4–7	3
III. Summary of proceedings	8–30	4
A. Opening statements	8–16	4
B. Review of progress in the implementation of the right to development	17–30	7
IV. Conclusions and recommendations	31–34	13
Annexes		
I. Agenda		15
II. List of attendance		16

I. Introduction

1. The open-ended Working Group on the Right to Development was established by Commission on Human Rights resolution 1998/72 and by Economic and Social Council decision 1998/269 with a mandate to monitor and review progress made in the promotion and implementation of the right to development, as elaborated in the Declaration on the Right to Development, at the national and international levels, providing recommendations thereon and further analysing obstacles to its full enjoyment, focusing each year on specific commitments in the Declaration; to review reports and any other information submitted by States, United Nations agencies, other relevant international organizations and non-governmental organizations on the relationship between their activities and the right to development; and to present for the consideration of the Commission on Human Rights a sessional report on its deliberations, including advice to the Office of the United Nations High Commissioner for Human Rights (OHCHR) with regard to the implementation of the right to development, and suggesting possible programmes of technical assistance at the request of interested countries with the aim of promoting the implementation of the right to development.
2. The Human Rights Council, in its resolution 9/3, decided to renew the mandate of the Working Group until it completes the tasks entrusted to it by the Council in its resolution 4/4, and that the Working Group would convene annual sessions of five working days and submit its reports to the Council.
3. The Working Group accordingly convened its twelfth session in Geneva from 14 to 18 November 2011.

II. Organization of the session

4. At an organizational meeting of the Working Group, held on 7 September 2011, the Working Group elected by acclamation Tamara Kunanayakam (Sri Lanka) as Chairperson-Rapporteur.
5. The twelfth session of the Working Group was opened and closed by the Chairperson-Rapporteur. The United Nations High Commissioner for Human Rights delivered an opening statement.¹
6. At its first meeting, on 14 November 2011, the Working Group considered its agenda (A/HRC/WG.2/12/1) and adopted it as amended (see annex I) as well as its programme of work.
7. At the session, the Working Group considered the reports of the Chairperson-Rapporteur containing synthetic summaries of the submissions received from Governments, groups of Governments and regional groups as well as the inputs received from other stakeholders pursuant to Human Rights Council resolution 15/25 (A/HRC/WG.2/12/2 and 12/3). The Working Group also had before it the summary of Human Rights Council panel discussion on “The way forward in the realization of the right to development: between policy and practice” (A/HRC/WG.2/12/4) submitted in accordance with Council decision 16/117.

¹ For the text of the statement, see <http://www.ohchr.org/EN/Issues/Development/Pages/12thSession.aspx>

III. Summary of proceedings

A. Opening statements

8. Egypt, speaking on behalf of the Non-Aligned Movement, congratulated the Chairperson-Rapporteur on her election and the High Commissioner for Human Rights for her presence at the opening of the session. Egypt noted that in receiving the outcome of the activities of the task force, the Working Group, at its eleventh session, decided to bring back the discussions to the intergovernmental context for further reflection, while Governments, groups of Governments, regional groups and other stakeholders submitted their views and comments on the work of the task force, which were the subject of discussions at the current session. The Non-Aligned Movement had embarked upon an exercise of refining the criteria and sub-criteria submitted by the task force in accordance with the articles of the Declaration. It had to be underlined that the Declaration constituted the only frame of reference and basis for discussions and the elaboration of standards for implementation of the right to development. It was reiterated that such standards were to evolve into an international instrument of a legally binding nature on the right to development. In monitoring and ensuring the implementation of the right to development, an honest assessment of the impact of development and development-related strategies and programmes was required at both the national and international levels. The standards being evolved here would serve, in addition to their potential normative contribution, as a measurement tool for impact assessments. The Non-Aligned Movement further invited OHCHR to reflect the right to development separately and independently in the Office's thematic priorities and strategies in the upcoming strategic management plan.

9. Several delegations took the floor and associated themselves with the statement made by Egypt. Cuba referred to the right to development as one of the highest priorities of developing countries, and as reaffirmed in the Vienna Declaration and Programme of Action, it is a universal and inalienable human right. There were some recent trends to redefine right to development, circumscribe it to its national dimensions and avoid historical responsibility and this must be opposed. Often domestic efforts are hampered by international actions outside national control and these create obstacles that violate the right to development. The Bolivarian Republic of Venezuela stated that obstacles such as unilateral sanctions on countries in the South, serious global crises, predatory capitalist system and denial of economic resources have all hampered the realization of this right. Nepal made specific reference to the development emergencies that least developed countries (LDCs) faced. It recalled the recently adopted Istanbul Programme of Action, guided by the overarching goals to be achieved by 2020 and the need to support LDCs, especially in their human and institutional capacities and decent work for all. Qatar spoke of the overall national Vision 2030 aiming at sustainable development, which rested on four pillars, but also safeguarded traditions. Pakistan pointed out the difficulties of finding principled, common ground and stated that instead of building on the implementation of the framework, attempts were being made to dilute the Declaration and the international framework in particular. While primary responsibility was with States, this was rendered meaningless without policy space. Thailand stressed a human-centred approach to development, and a balanced, inclusive approach. At the national level, this would require effective development policies, inclusive participation and respect for all rights and mainstreaming into all development actions. At the international level, this would mean the removal of all obstacles, international cooperation and global partnership. The Philippines pointed out that, if the right to development were truly enshrined and respected as a fundamental human right, and if States and the international community adhered to and applied the principles of the Declaration, the world would be a better place, we would be in a better position to fulfil the Millennium Development Goals (MDGs) and the human rights

of all peoples would be better respected and protected. Indonesia stressed that 25 years after the adoption of the Declaration, it was time to move forward despite multifaceted and interlinked challenges in both developed and developing countries in the realization of the right to development. The Working Group should strengthen the social protection dimension targeting the most vulnerable, namely the poor.

10. Senegal, speaking on behalf of the African Group, reaffirmed the Group's firm commitment to the right to development. This right was self-evident and its value did not need to be demonstrated. This right was conceptualized in Africa and was essential for the realization of all other rights. In this regard, reference was made to articles 22 and 24 of the African Charter of Human and Peoples' Rights. After 25 years, hesitations and controversies need to be put to rest, and pragmatic, concrete action should be taken to implement this dormant right. Statements associated with the position of the African Group, included that made by Morocco, which pointed out the need for balancing national and international responsibilities and that local development needs could only be met by cooperation, capacity-building and technical assistance from the international community. Morocco also highlighted the fact that the right to development was highly economic, social and cultural, and considered that any attempt to overcome this fact was not a guarantee of success or of the right way to move forward in the realization of this right. The Moroccan delegation also added that evoking indivisibility of rights to manipulate and instrumentalize some political concepts such as self-determination would certainly undermine the whole exercise. Algeria stated that it was vital that the normative implications of this right be taken into account, while noting the lack of political will or of an enabling environment for development.

11. The European Union reiterated its congratulations to the Chairperson-Rapporteur for her election, as well as its continued constructive support for the work of the Working Group. The European Union remained strongly committed to achieving sustainable development and eradicating poverty; promoting respect for all human rights and fundamental freedoms; ensuring security, conflict prevention and resolution; and encouraging good governance, gender equality, human development, accountability and equitable globalization. Reiterating its objection to the elaboration of an international legal standard of a binding nature, the European Union supported the implementation of the right to development through the elaboration of benchmarks and indicators for States to empower individuals as active agents in the development process. Further work will be required in order to make right to development operational. Only when the criteria and sub-criteria had been properly assessed and refined should appropriate instruments, such as guidelines, templates or checklists be developed, in order to help all relevant stakeholders and human rights mechanisms and procedures to assess progress in the implementation of this right and to mainstream right-to-development considerations in their work, policies and programmes. Sub-criteria and indicators should be formulated in such a way that they can be applied to all countries; further clarification was needed on the three levels of responsibility identified by the task force; clarification is also needed on the issue of global partnership for development, as used in Millennium Development Goal 8.

12. Having associated itself with the statement made by the European Union, Italy pointed out that an integrated approach in relation to the right to development should be adopted, one which harmonized essential elements such as national ownership and international cooperation. From a broader perspective, recurrent loss of national skills and capacity from developing countries, led to losses. While ensuring that immigrants were treated with respect for their human rights in countries of destination, it was important to also ensure how they might find opportunities in their own countries. As regards international cooperation, the present economic and financial turmoil led to growing poverty and clear curtailment of financial resources devoted to international cooperation. There was a need to turn challenges into opportunities and invest in new instruments such

as social corporate schemes, aid for trade, partnerships between local authorities in different countries and a current redefinition of global governance. The impact of disarmament was important as resources freed from this could be allocated to economic and social development. Germany supported progress in the realization of the right to development, through concrete measures and fruitful approaches. Right to development consisted of a wide number of goals such as security, conflict prevention and good governance. Specific reference was made to human rights to water and sanitation and adequate housing and the realization of economic, social and cultural rights which will lead to a higher level of development. Efforts should be concentrated in these areas and also support for the achievement of the MDGs.

13. Norway referred to the substantive documents before the Working Group as an indication of the willingness of States from all regions to contribute constructively to the realization of the right to development. Affirming its commitment to the right to development, the delegation welcomed all efforts to bring the right to development from an academic and political discussion to developing of operational criteria for implementation. Equally important were efforts made to secure an enabling environment and favourable framework for the implementation of all human rights, including the right to development. Many policy fields in developed countries affected poverty reduction in the developing world and for this reason policy coherence was crucial. The United States of America recalled its position stated at the panel discussion held at the eighteenth session of the Human Rights Council and reiterated that the right to development should be a unifying rather than divisive issue. The United States of America suggested that the Working Group should be feeding its own recommendations into the MDG process, rather than setting up a parallel process or duplicating work. Careful consideration should be provided as to how the task force's product should be used. Application of the criteria should be focused at the national level and on the human person. The delegation reiterated that they were not prepared to join consensus on the possibility of negotiating a binding international agreement on this topic.

14. Brazil noted that the deadlock at the intergovernmental setting and the challenge we faced was a political one, what was missing was the political will to move forward but the question was: where? There was a polarization as to how we understand the right to development; all parties in the political spectrum should avoid being trapped in a Cold War discussion. It was not just the right to development, but also the Vienna Declaration and Programme of Action and the message of the streets. If we could define the right to development, it would be as democracy with social inclusion. Honduras, considering the anniversary year as an important opportunity to think about new courses of action, viewed the right to development as a cross-cutting issue, including citizen security. This was a serious concern, requiring the generation of opportunities among youth. Costa Rica called upon the Working Group to step clear of its traditional positions and to focus on policy coherence. It stressed the importance of resource allocation. It emphasized the importance of sustainable development and the link between disarmament and development. It referred to the abolishment of its army as a permanent institution more than 60 years ago. .

15. China reiterated that the right to development was an inalienable and basic human right and achieving it was a long and arduous task. Multiple crises, disasters and instability only made realizing international goals such as the MDGs more arduous. The international community had to focus on important areas of work such as closer international cooperation, a just, fair, inclusive international order and democratization of international relations, protection of vulnerable groups with attention focused on women, children, disabilities and equal opportunities and removing political confrontation through using dialogue and eliminating sanctions. The Republic of Korea stated that we required practical and beneficial outcomes. The right to development was multidimensional and interlinked with other rights; it was both a pre-condition and consequence. The current criteria

provided a good reference point, though there were some overlaps and further points need to be elaborated. Turkey spoke on the challenges posed by globalization which required more international cooperation and noted the relevance of the right to development to follow-up to the 4th United Nations Conference on LDCs held in Istanbul in May 2011.

16. The Indian Council of South America and several supporting NGOs representing peoples and indigenous peoples highlighted the importance of the inclusion of self-determination in operationalizing the right to development. There could never be universality, interdependence without inclusion and application of self-determination as it applied to peoples, including to indigenous peoples as individuals of a collective who had the right to govern. Indigenous peoples should not be locked into a traditional exercise of their rights that denies their right to development as peoples; indigenous peoples found themselves locked in existing human rights mechanisms taking a limited view of self-determination. The intergovernmental process on the right to development was not conducive to civil society participation; peoples and indigenous peoples vested with the right to self-determination must have a higher level of participation and it should be inclusive, involving non-Economic and Social Council NGOs and all peoples. New Humanity stressed that the crucial point in promoting development was to maintain a vision open to the wider meaning of development and to make the human person the owner of this right. They supported an operative and open dialogue on right to development. The Friedrich Ebert Foundation welcomed the fact that the Working Group was substantially dealing with the work of the task force. The Foundation had engaged actively in this anniversary year, starting with a symposium in Berlin, supporting a briefing for treaty bodies and special procedures, and a side event on a reality-check on right to development during this Working Group session. The International Centre for Trade and Development stated that economic austerity and the general state of poverty and limited resources of the public sector led us to redefine development. Dignity International believes that the anniversary was an important marker for all to reflect, learn and take new actions. The right to development was a moral and authoritative political instrument because it was centred on the principle of sustainability and human rights-based approach to development. It sought to analyse inequalities which lay at the heart of development problems and redressed discriminatory practices and unjust distributions of power that impeded development.

B. Review of progress in the implementation of the right to development

17. Craig Mokhiber, Chief, Development and Economic and Social Issues Branch, OHCHR, presented an update of activities and events related to the twenty-fifth anniversary of the Declaration on the Right to Development. OHCHR, in consultation with Member States and other relevant stakeholders, embarked in early 2011 on a far-reaching programme for the commemoration of the anniversary pursuant to Human Rights Council resolution 15/25 and General Assembly resolution 65/219. A number of landmark developments and pioneering initiatives emerged: a joint statement by nine human rights treaty bodies stressing the importance of the right to development to their work; a joint statement endorsed by 17 United Nations bodies, system agencies and other international organizations on the need for policy coherence in the implementation of the right to development and global partnership for development; and the Economic and Social Council coordination segment of its substantive session devoted to considering the right to development in relation to the global partnership for development. At Headquarters in New York, the High Commissioner chaired a special event on 8 November 2011 which was addressed by the Secretary-General, the President of the General Assembly and the Chairpersons of the First, Second and Third Committees of the General Assembly. They all stressed the importance of policy coherence in the implementation of the right to development and global partnership for development founded on the three pillars of the

United Nations work: peace and security, development and human rights. OHCHR also released several publicity materials and a video aimed at increasing awareness and support of the right to development. He concluded with an assurance of the continued dedicated efforts and commitment of the Office in advancing the implementation of the right to development and full support to the Working Group.

18. In accordance with Human Rights Council resolution 15/25, the Chairperson-Rapporteur of the Working Group presented her two reports (A/HRC/WG.2/12/2 and 12/3), representing respectively the submissions received from Governments, groups of Governments and regional groups, as well as the inputs received from other stakeholders. In total, 13 submissions were received from Member States and groups of States (Cameroon, Canada, Cuba, Egypt (on behalf of the Non-Aligned Movement), the European Union, Guatemala, Japan, the Netherlands, Paraguay, Portugal, Qatar, Thailand and the United Kingdom of Great Britain and Northern Ireland); 14 submissions were received from other stakeholders. The Chairperson-Rapporteur highlighted the general comments made on the work of the task force and on the way forward. She pointed out that the comments received varied widely in terms of qualitative assessment of the work of the task force, its orientation, and conclusions and recommendations. Some of the highlights were that many submissions disagreed with the reformulation of the scope and content of the right to development, and especially with the overemphasis on national responsibilities, neglecting the basic notion of international cooperation. It was felt that the criteria should address the structural imbalances and hence impediments to equitable development on a global scale. As for the criteria and sub-criteria, some submissions noted that they were a good basis for operationalizing the right to development, but emphasized the need for further work and refinement, and its application to all Member States, not only developing countries. Concern was expressed over the possible use of indicators to monitor the State at the national level. Some submissions pointed out that the current criteria should include issues pertinent to all stakeholders (i.e., peoples vested with the right to self-determination). Other issues raised in the submissions were the need to focus on the national level and on the individual, the importance of obtaining civil society inputs on the criteria and that in determining sub-criteria, the need for an improved balance between civil, political and economic, social and cultural rights. The submissions also covered the issue of integrating and mainstreaming right to development and consultations with regional institutions. On the way forward, submissions ranged from express support for the elaboration of a legally binding instrument to those submissions opposed to this, advocating a step-by-step approach and logical sequencing and other submissions stressing the need for agreement on the content of the right to development and a clarification of the collective and individual responsibilities of States at the international level.

19. In the discussion that followed, Egypt (on behalf of the Non-Aligned Movement), Norway and Qatar took the floor. It was stressed that the implementation of the right to development implied, inter alia, mainstreaming human rights into the development process, in order to further improve the capacity of states to ensure the full enjoyment of all human rights. The right-to-development agenda can strengthen efforts to bring human rights and development more closely together. In such an approach, the fulfilment of social, economic and cultural rights as well as civil and political rights and women's and children's rights are key elements. Japan and Norway supported the approach of considering the outcome to the task force's work as well as a structured discussion of the compilation, with the belief that the work of the task force viewed as the sound basis for further consideration for the work ahead. Egypt pointed out that it would share comments on the compilations in the ensuing discussions on the criteria, but did clarify that in the document the Non-Aligned Movement contribution was referred to as one submission although the Movement represented more than 100 Member States. The Secretariat clarified that it was the established practice of intergovernmental reports to provide synthetic summaries of submissions, also guided by

the General Assembly rules with regard to documentation and its word limit. The original submissions are available on the website of the OHCHR as requested by the Working Group.²

1. Consolidation of findings

20. Egypt (on behalf of the Non-Aligned Movement) referred to the consolidation of findings on a global partnership on development and the degree to which they were in adherence with the right to development and how far we should mainstream the right to development. It stated that in the findings the international perspective was insufficiently addressed. As an illustration, when it comes to national responsibility, this cannot be done without reference to trade rules or debt sustainability. This is essential to ensure ownership of national development plans and strategies. There are also problems with sustainability, how we can address the problems of developing States affected by the financial crises that are originated in developed countries. Policy space was required to implement national obligations, empowerment rather than donor-recipient relations. The detailed response to the consolidation of findings has already been provided and is uploaded on the website of the OHCHR.³

21. The European Union, in its comments on the consolidation of findings highlighted its position, which is that each country has primary responsibility for its economic and social development and only States can move the right to development from commitment to development practice. As stated in the outcome document of the New York Millennium Development Goals summit, “Development efforts at the national level need to be supported by an enabling national and international environment that complements national actions and strategies”. The European Union also pointed out that poverty is a broader concept than not having enough income and requires, as stated in article 8 of the United Nations Declaration on the Right to Development, “equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income”. It also included the protection and promotion of civil and political rights, which contribute to the empowerment of individuals and lifting people out of poverty. The European Union also shared the view of the high-level task force that the Goals are divorced from the human rights framework and welcomed efforts of the High Commissioner to promote the intersection of the MDGs and human rights. There is a need to look at aid effectiveness, which implies that States also have the right and the duty to formulate policies that aim at good governance and at the constant improvement of the well-being of all individuals on the basis of their active, free and meaningful participation and the fair and transparent distribution of benefits. Recipient countries should also combat corruption and try and achieve peace. From the point of view of donor countries, aid provided should be channelled to key institutions with the full involvement of civil society. Developing a comprehensive framework or template would facilitate the participation of organizations such as the World Trade Organization, the United Nations Conference on Trade and Development, the World Bank, the International Monetary Fund, the European Union and the Southern Common Market (MERCOSUR). Reference was also made to cross-regional partnerships and South-South cooperation, policy coherence and incentives, and the need to create good governance at national and international levels.

22. Statements were also made by Algeria, Cuba, Norway, Sri Lanka, the Philippines and the United States of America, and an observer representative of the Indian Council for America. It was suggested that future work should include input from civil society and the

² See <http://www.ohchr.org/EN/Issues/Development/Pages/12thSession.aspx>.

³ Ibid.

private sector. The MDGs had achieved global consensus and it was important not to duplicate work done in other forums. Suggestions were made namely that the Working Group could feed its recommendations into the MDG process and that it would be worthwhile to consider best practices in public/private partnerships on right to development. Delegations agreed with the European Union that the primary responsibility to create national and international enabling environment lies with the States. However, it was also important to see how national actions could impact those outside their jurisdiction. Delegations asked how to ensure that bilateral agreements did not impose conditionalities. On the reporting template, many delegations felt that this was a premature step and it was not clear who had to report, to whom and why. A reporting mechanism might be developed later and the discussion had to be expanded beyond the United Nations system. Some delegations stressed the importance of developing countries having access to resources and participation in decision-making. One delegation referred to the need for an international democratic and equitable order and the need to focus on conditions to make this possible. Another delegation suggested that the right to development was a balancing right, balancing the national and the international, individuals and groups and peoples. A view was also expressed that the right to development is unique, as an intersection between development and promotion of all human rights, which renders them mutually reinforcing. For example, European Union Neighbourhood Policy was revised due to findings of failure of recipients regarding how human rights were respected. An observer pointed out the need to recognize peoples' right to self-determination, balanced with the rights of States. In this context, reference was made to the "Western Spring" and occupations of Wall Street. The inclusion of the political dimension of the right to development was crucial, not only by States but nations and peoples as distinct from civil society. Sri Lanka indicated that the right to self-determination in the Declaration on the Right to Development was defined in the historical context of decolonization and includes, subject to relevant provisions of both International Covenants on Human Rights, the exercise of the right of the people to sovereignty over their natural wealth and resources.

2. Right-to-development criteria and operational sub-criteria

23. Norway considered that the task force had found a good balance between national responsibility and international cooperation in the formulation of the criteria and sub-criteria. The realization of the right to development would be difficult without both national and international commitments to create an enabling environment. They found that some criteria were too narrowly defined in terms of indicators and some too widely defined. More work could be done in further exploring possible sources of data for monitoring progress where this is currently lacking. The role of women's rights and gender equality in the development process was highlighted. On this point, there is room for improvement in the current set of outcomes and indicators, to make them more gender-sensitive. We should also consider integrating more development policy discourse in terms of Organization for Economic Cooperation and Development-Development Assistance Committee (OECD-DAC) terminology, which would serve to bring the culture of human rights and development closer together. It was suggested that concepts such as "desired impact" and "desired outcome" be used, rather than criteria and sub-criteria, making the desired outcomes or sub-criteria more consistent, so that complex outcomes that consisted of several reporting elements were split up. This will help properly monitor the right to development, supported through the elaboration of baselines to monitor progress.

24. Egypt (on behalf of the Non-Aligned Movement) made a presentation of the views of the Movement on the possible revision and refinement of the criteria and operational sub-criteria in comparison to the specific articles of the Declaration to ensure that they covered all its aspects and to identify gaps that may require the elaboration of further criteria and sub-criteria, including through the adequate reflection of the international

dimension. The Movement reformulated a number of the criteria and sub-criteria. It also proposed new language to address a number of areas of concern. These included but were not limited to the incorporation of the right to development as a legal norm at both the national and international levels in institutions, mechanisms, legislation and policies; mainstreaming the right to development in all development and development-related forums; the full participation of developing countries in international decision-making; the establishment and implementation of operational arrangements and modalities for international cooperation in support of national efforts towards the right to development; mechanisms for the fulfilment of international commitments in support of developing countries, including in finance and technology, trade, innovation, climate change, and sustainable development; strengthening of South-South and trilateral cooperation as a complement to North-South cooperation; international debt relief workout mechanisms; removal of international obstacles to the exercise by developing countries of their policy space to define and implement their development objectives and policies; assessment mechanisms to see how far United Nations coordinated action in the development area had incorporated and respected the right to development; and good governance at the international level.

25. The European Union agreed that the work of the task force was a good basis to make the right to development operational. However, it remains unfinished business and further work needs to be done. The position was to call for more expertise as it would be difficult for the Working Group to evaluate the criteria and sub-criteria, as there were limits on what could be achieved within the Working Group. In terms of content, they felt that the sub-criteria needed to be assessed to see if they covered what each criterion encompassed. It also had some questions on the three levels of responsibility as outlined by the task force. In response to the proposal by the Non-Aligned Movement for mapping the criteria onto articles in the Declaration, the European Union recalled that work should be based on the criteria elaborated by the high-level task force and not aim at developing a completely new set of criteria.

26. Algeria, Brazil, Cuba, China, Côte d'Ivoire, Germany, India, Japan, Mauritius, Morocco, Norway, Senegal (on behalf of the African Group), Sri Lanka, the Philippines, the United Kingdom, the United States of America and Zimbabwe, as well as the observer from the Indian Council of America, also took to the floor on the discussion of the criteria, sub-criteria and indicators, particularly on the issue of the structure and methodology to be adopted in assessing the criteria at the session. Some delegations supported the view of the Non-Aligned Movement and pointed to the need to balance national and international responsibilities in the criteria and to maintain a strong link with the Declaration, while other delegations agreed with the European Union that the discussion should be broader and the basis for discussion should be the high-level task force report on the criteria, not the Declaration. In this discussion, references were made to Human Rights Council resolution 15/25 and how it should be interpreted in any exercise for further deliberation on the criteria. A few delegations pointed out that it did not make a difference what the starting point was as long as the criteria were discussed and the Declaration was considered as a backdrop and a foundational document. The criteria were viewed of as a work in progress, subject to the deliberations of the Working Group and open to amendment and change. One delegation mentioned that the review should be focused at the national level, and that, issues of transparency, accountability, and the empowerment of women and the vulnerable were priorities. It suggested removing the criteria on the transfer of technology and on international assistance and the sub-criteria on the World Bank, the IMF and WTO. One delegation stated that the right to development entailed the freedom to live in dignity, free from want and fear. Owing to the World Bank, the IMF and WTO, all developing countries had been through difficult fiscal measures and structural adjustment. The right to development needed to be seen against this backdrop, in a globalized world. Delegations

urged caution on the language of the sub-criteria, which should be used to measure progress and should not read like a political declaration. Civil-society representatives pointed out the need for references to women and structural discrimination, the need for the current criteria to reflect the core norm adopt more human rights language and focus on the enabling environment for development.

27. The Chairperson-Rapporteur of the Working Group asserted that it was necessary to examine the criteria and sub-criteria elaborated by the task force against the Declaration in order to insure that they remained true to the spirit and intention of the drafters of the Declaration, which was the basic point of reference.

3. 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

28. With regard to further action on the criteria, the Chairperson-Rapporteur of the Working Group pointed out that a methodology had to be worked out on the exercise of how to refine the criteria, and also inter-sessional mechanisms that could be proposed for this purpose. The European Union and Japan commented that the Working Group had deprived itself of the task force and expertise, which had hampered its work. Egypt (on behalf of the Non-Alignment Movement) suggested that the Chairperson-Rapporteur could continue work on the criteria and sub-criteria by holding inter-sessional informal consultations with States and group of States and with submissions from other stakeholders. Other participants added that the discussions on the compilations and the criteria were not substantive enough, resulting from a lack of participation by agencies and international organizations and that feedback was also required from task-force members on the compilations and they found merit in extending the mandate of the task force or relying on a group of experts to further refine the criteria.

29. With regard to thematic areas of international cooperation for consideration by the Working Group, the European Union pointed out that the task force report was now out of date in relation to many thematic issues. They requested the Secretariat to provide a list of forthcoming events, conferences and meetings, whose outcome would be relevant to the Working Group, for example the follow-up to the Istanbul Programme of Action. Egypt (on behalf of the Non-Aligned Movement) referred to the preliminary views they had submitted in relation to this and reiterated the need for aspects related to international cooperation to be identified, as the items mentioned in the task force report did not fall clearly under the purview of international cooperation. The Secretariat made available a list of forthcoming major United Nations events.

30. With regard to mainstreaming of the right to development, Egypt (on behalf of the Non-Aligned Movement) agreed with the gist of the conclusions and recommendations of the task force. However, they proposed an impact assessment in the United Nations system as to how the right to development was incorporated in programmes at the country level and the obstacles caused by existing institutional mandates. The other proposal was to identify and compile right to development-relevant provisions in existing human rights instruments. In relation to the universal periodic review, they felt this was to limit discussion to the national responsibility. In addition, it is a voluntary exercise and that not all States would want to reflect it in their peer reviews. Further elaboration was required to see how it could be incorporated in the universal periodic review. A speaker supported the view of the Non-Aligned Movement, adding that right to development should be included in the work of UNCTAD and at UNCTAD-XIII, to be held in Doha in April 2012.

IV. Conclusions and recommendations

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

Conclusions

(a) The Working Group took note of the reports of the Chairperson-Rapporteur (A/HRC/WG.2/12/2 and 12/3) submitted pursuant to Human Rights Council resolution 15/25;

(b) The Working Group expressed appreciation to all those who contributed with their submissions and inputs, and to the Chairperson-Rapporteur for her presentation of the two reports mentioned in the preceding paragraph;

(c) The Working Group welcomed the participation of the High Commissioner for Human Rights at its opening session, which attested to her commitment to the promotion and protection of the realization of the right to development and to enhancing support from relevant bodies of the UN system for this purpose, consistent with General Assembly resolution 48/141;

(d) The Working Group acknowledged the efforts of OHCHR in commemorating the twenty-fifth anniversary of the adoption of the United Nations Declaration on the Right to Development, which aimed at mainstreaming and raising awareness about the right to development;

(e) Having considered documents A/HRC/WG.2/12/2 and 12/3, as mandated by resolution 15/25, the Working Group acknowledged the need to further consider, revise and refine the right-to-development criteria and operational sub-criteria contained in document A/HRC/15/WG.2/TF/2/Add.2.

(f) The Working Group also acknowledged the need to have experts' contributions and, in this context, emphasized the importance of engaging further the relevant United Nations agencies, funds and programmes and institutions as well as other multilateral institutions and forums, and relevant stakeholders;

Recommendations

(a) The Working Group invited Governments, groups of Governments, regional groups and other relevant stakeholders, including United Nations agencies, funds and programmes and institutions, as well as other relevant multilateral institutions and forums to submit further detailed comments and proposals on the right-to-development criteria and operational sub-criteria as per conclusion (v);

(b) The Working Group requested OHCHR to make available on its website, and to make available to the next session of the Working Group in the format of two conference room papers, all written submissions by Governments, groups of Governments and regional groups, as well as inputs by other stakeholders;

(c) The Working Group invited the Chairperson/Rapporteur to hold informal consultations with Governments, groups of Governments, regional groups and relevant stakeholders and report accordingly to the next session of the Working Group.

32. Following adoption of the conclusions and recommendations, Egypt (on behalf of the Non-Aligned Movement), expressed regret that the Working Group was unable to agree on language which would have referred to the mandate of the Working Group and the Declaration on the Right to Development as a basis for assessing the right to development criteria and operational sub-criteria. The Non-Aligned Movement was committed to move this process forward and underlined the importance of mutual responsibility and accountability in a time of multiple crises. The Non-Aligned Movement recalled that the right to development criteria and operational sub-criteria, once revised and endorsed, should be used in the elaboration of a comprehensive and coherent set of standards for the implementation of the right to development, as a basis for a legally binding instrument, in line with the road-map adopted by the Human Rights Council in its resolution 4/4 and subsequent resolutions, most recently Council resolution 18/26. The Non-Aligned Movement expressed support for a call for the full integration of the multidimensional aspects of the right to development as elaborated in the Declaration on the Right to Development into all areas of the work of the United Nations system and international financial and trade institutions as well as in its major processes such as the follow-up to the Fourth United Nations Conference on the Least Developed Countries (LDC IV), UNCTAD-XIII, the United Nations Conference on Sustainable Development, to be held in Rio de Janeiro, Brazil, on June 20-22, 2012 (Rio+20), the Quadrennial Comprehensive Policy Review and United Nations development agenda beyond 2015.

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

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

Annexes

Annex I

Agenda

1. Opening of the meeting.
2. Election of the Chairperson-Rapporteur.
3. Adoption of the agenda and programme of work.
4. Review of progress in the implementation of the right to development.
5. Adoption of conclusions and recommendations.
6. Adoption of the report.

Annex II

[English only]

List of attendance

States Members of the Human Rights Council

Angola, Austria, Bangladesh, Belgium, Botswana, Burkina Faso, Chile, China, Congo, Costa Rica, Cuba, Czech Republic, Djibouti, Guatemala, Hungary, India, Indonesia, Italy, Jordan, Mauritius, Mexico, Norway, Peru, Philippines, Poland, Qatar, Republic of Moldova, Romania, Russian Federation, Saudi Arabia, Senegal, Spain, Thailand, United States of America, Uruguay

States Members of the United Nations

Albania, Argentina, Algeria, Bolivia (Plurinational State of), Brazil, Bulgaria, Colombia, Côte d'Ivoire, Denmark, Egypt, El Salvador, Ethiopia, France, Georgia, Germany, Greece, Honduras, Iran (Islamic Republic of), Ireland, Japan, Korea (Republic of), Morocco, Myanmar, Namibia, Nepal, Netherlands, Pakistan, Democratic People's Republic of Korea, Portugal, Rwanda, Serbia, Singapore, Slovenia, South Africa, Sri Lanka, Sudan, Syrian Arab Republic, Sweden, Tunisia, Turkey, United Kingdom, Venezuela (Bolivarian Republic of), Viet Nam, Zimbabwe

Non-member States represented by an observer

Holy See, Palestine

United Nations funds, programmes, specialized agencies and related organizations

United Nations Children's Fund (UNICEF), United Nations Development Programme (UNDP), World Intellectual Property Organization (WIPO)

Intergovernmental organizations

African Union, European Union

Non-governmental organizations in consultative status with the Economic and Social Council

General

CIVICUS, Indigenous Peoples and Nations Coalition, International Centre for Trade and Development, International Council of Women

Special

African Commission of Health Promoters and Human Rights (CAPSDH), Al-Hakim Foundation, Apprentissage sans Frontières, Asian Forum for Human Rights and

Development, Associazione Comunità Papa Giovanni XXIII, Daughters of Charity, Dignity International, New Humanity

Roster

Association World Citizens, Friedrich Ebert Stiftung Foundation, Indian Council of South America

Other non-governmental organizations

Good Neighbours International, Organisation Internationale pour le droit à l'éducation et la liberté (OIDEI), People's Health Movement, Reso-Femmes International
