

**THE FOURTEENTH SESSION**

**OF THE WORKING GROUP ON THE RIGHT TO DEVELOPMENT**

**Palais des Nations, Room XXVI**

**13-17 May 2013**

**ORAL REPORT ON THE INFORMAL INTERSESSIONAL MEETING OF THE WORKING GROUP AND THE INFORMAL CONSULTATIONS HELD BY THE CHAIRPERSON-RAPPORTEUR OF THE WORKING GROUP**

**13 May 2013**

Excellencies,

Distinguished delegates,

Ladies and gentlemen,

I am pleased to report on the informal intersessional meeting of the Working Group on the Right to Development, which was held from 18-19 April 2013 and the two informal consultations I had with the coordinators of the regional groups and the relevant political groupings of the United Nations on 28 November 2012 and 17 January 2013.

The informal intersessional meeting was organized pursuant to Human Rights Council resolution 21/32, which in paragraph 9 (e) requested the Working Group to convene an informal two-day meeting "with a view to improve the effectiveness of the Working Group at its fourteenth session". With regard to the agenda of the 14th session, the Human Rights Council endorsed the recommendation of the Working Group to pursue consideration of the draft operational sub-criteria.

Prior to the intersessional meeting, as requested by the Working Group at its 13th session and endorsed by Human Rights Council resolution 21/32, I held two rounds of informal consultations with coordinators of the regional groups and the coordinators of NAM, the OIC and the EU, to discuss preparations for the 14th session. Apart from the timing of the inter-sessional meeting, the consultations focused on its programme of work for the intersessional meeting, on the question of considering indicators simultaneously with the draft sub-criteria, and on expert contributions to the work of the Working Group.

At the start of the intersessional meeting, I recalled the parameters set by the Human Rights Council for the intersessional meeting.

The purpose of the intersessional meeting was to find ways of improving the effectiveness of the Working Group at its fourteenth session.The agenda for its 14th session had been agreed upon by the Working Group at its 13th session – i.e., to pursue its work on the consideration of the draft operational sub-criteria. Subsequently, by resolution 21/32, the Human Rights Council had endorsed this recommendation. The consideration of the draft operational sub-criteria would take place within the framework of the larger mandate given to the Working Group by Human Rights Council resolution 19/34, which was “to consider, revise and refine the draft right to development criteria and corresponding operational sub-criteria.”

As for substantive input, the Working Group, at its 13th session, had acknowledged the need for expert contributions, a recognition that was subsequently endorsed by the Human Rights Council. In this context, the importance of engaging further relevant UN System organisations, as well as other multilateral institutions and fora, international organizations and NGOs, was also re-emphasized. Consequently, the Working Group had invited the High Commissioner and requested its Chairperson-Rapporteur to further their efforts to encourage their active participation in the work of the Working Group. This recommendation was also endorsed by the Human Rights Council.

Discussions at the inter-sessional meeting centred on (1) the issues to be discussed at its 14th session; (2) the experts to be invited; and, (3) the methodology to be adopted to ensure their effective participation, taking into account the time constraints.

There was general agreement that, at its 14th session, the Group would undertake its first reading of the draft operational sub-criteria. There was also general agreement on the importance of expert contributions to the process of considering the draft right to development criteria and the operational sub-criteria.

However, positions diverged as to whether the indicators listed in the report of the high-level task force should be reviewed along with the draft operational sub-criteria, the kind of experts to be invited, and the methodology to be adopted for expert contributions.

With regard to indicators, those in support of their inclusion argued that it was not possible to separate them from the operational sub-criteria, since inficators constituted the operational part of the sub-criteria, which – in their current formulation - were not operational. While addressing concerns relating to nomenclature or substance of the indicators with a view to refinement or amendment would not pose a problem, indicators were necessary to grasp the full content of the proposed sub-criteria for implementation of the right to development. The right to development, like all other human rights, had a universal character. Hence, one State or a group of States, on its own, cannot decide upon the content.

A group of non-governmental organizations suggested finding a balance between experts from academia, UN agencies and NGOs.

Other States, representing developing countries, argued that the Working Group had no mandate to consider indicators and that neither did the high-level task force have a mandate to elaborate indicators. The right to development was a basic right of developing countries, not a tool for judging their performance or for imposing conditionalities on developing countries. As such, indicators were not pertinent for the drafting of a legally binding instrument, which was the eventual objective of the exercise, and which should be built upon the Declaration on the Right to Development. Moreover, at its last session; the Working Group had agreed to adopting a systematic and logical approach to reviewing the draft criteria and operational sub-criteria, which was undertaking a first reading of the draft criteria and then pursuing with a first reading of the draft operational sub-criteria, an exercise which may take three years.

With regard to experts to be invited to the 14th session and methodology for their participation, one view was expressed that experts from outside the system should be invited and that time should be set aside, half a day for instance, for a dedicated discussion or panels based onselected themes to be identified, allocating time for short presentations by the experts followed by an interactive dialogue.

Another group of States pointed out that invitations to experts must be considered within the framework of the mandate given to the Working Group and that experts from within the UN System should be asked to report on their efforts to mainstream the right to development into their activities. While the Working Group was always open to expert participation, the real problem was reluctance on the part of specialized agencies to participate. As for methodology, concern was expressed about the overall shortage of time available for consideration of the right to development sub-criteria. The 5 working days currently allocated to it for its annual session would not permit a dedicated discussion or a panel discussion. Therefore, it reiterated a previous suggestion for a separate two-day expert workshop to be organised outside the framework of the time allocated for the Working Group. It also suggested that the Working Group be allocated 5 additional working days for its annual session, which would allow it to devote one day, for instance, to an expert panel.

However, these proposals were not supported by another group of States, which pointed out that the Working Group did not have a mandate to decide on additional time and that the matter under consideration was improving the effectiveness of the 14th session.

With regard to the programme of work and the methodology for considering the sub-criteria, an observation was made on the difficulty of discussing sub-criteria without first reaching agreement on draft criteria.

Following the exchange of views, in my capacity as Chair, Imade the following proposals:

1) with regard to the question of indicators, I proposed that, in the absence of a mandate from the Human Rights Council or consensus within the Group, the Working Group pursue consideration of the draft operational sub-criteria, as decided and mandated by the Council.

2) with regard to expert contributions, I suggested that the Group identify from among the organisations and institutions mandated by the Human Rights Council, those whose work was of particular relevance for the sub-criteria under review, and to receive a special invitation to send an expert, who would be given, for instance, 3 to 5 minutes for a focused contribution.

3) as for methodology to be adopted, I proposed that the Group continue with the methodology it had adopted for consideration of the draft criteria, namely in the order listed by the high-level task force, with the aim of completing a first reading of at least one third of the sub-criteria at its 14th session. In order to facilitate the work of the Group, I suggested that a more detailed Programme of Work be drafted listing the draft sub-criteria to be considered at each meeting, along with a list of the relevant UN System organisations, international organisations and institutions, whose work would be of particular relevance for the sub-criteria under discussion.As for the methodology to be adopted for expert contributions, I suggested that interventions be made in accordance with the procedure of the Human Rights Council, first groups of States, followed by individual Member States, inter-governmental bodies and specialized agencies, and, then, non-governmental organizations.

At the end of the informal intersessional meeting, the Working Group reached agreement on the following:

1) the draft Programme of Work for the 14th session, with a list of sub-criteria to be reviewed at each meeting, which was made available to us this morning by the Secretariat for formal adoption. In the absence of a mandate from the Human Rights Council or consensus within the Working Group, the Group would proceed with consideration of the draft operational sub-criteria, as decided by the Working Group at its 13th session and endorsed by the Human Rights Council.

2) a list of UN System organisations and other relevant international organisations to receive a special invitations to contribute to the sub-criteria directly relevant to their work. The Chairperson-Rapporteur, with the support of the Secretariat, would send out specific invitations to those on the list, as well as to relevant NGOs to be identified by the Chairperson with the assistance of the Secretariat, inviting them to contribute actively to the discussion at its 14th session. The Working Group being open-ended, participation was also open to all UN agencies, funds, and programmes, international institutions and organisations, and NGOs, in accordance with Human Rights Council rules and procedures.

3) the procedure and methodology adopted for consideration of the draft sub-criteria, including expert contributions by UN system organisatons and other international organisations and institutions, and NGOs, would be that adopted at its 13th session for consideration of the draft criteria. Experts from organisations that had received a special invitation for expert contributions would be given 3 to 5 minutes for their presentation. The order of interventions will be in accordance with established Human Rights Council procedure.

4) The regional groups, the EU, NAM and OIC would revert to the Secretariat by Tuesday 23 April afternoon with comments and additional proposals with regard to the tentative list of organizations to be invited.

In conclusion, I would like to take this opportunity to thank all of you for your tireless dedication and commitment to move this process forward, through consensus. Should there be a need for us to meet informally during the course of this week, I shall be more than happy to do so.

Thank You.