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RIGHT TO DEVELOPMENT

**Report of the Working Group on the Right to Development
on its fifth session
(Geneva, 11-20 February 2004)**

Chairperson-Rapporteur: Mr. Ibrahim Salama (Egypt)

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Introduction

1. In its decision 1998/269, the Economic and Social Council, taking note of Commission on Human Rights resolution 1998/72, endorsed the Commission's recommendation to establish a follow-up mechanism to make further progress towards the realization of the right to development as elaborated in the Declaration on the Right to Development, initially for a period of three years. The mechanism included the establishment of an open-ended Working Group with a mandate: (a) 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; (b) 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; (c) 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. The mechanism would include the appointment by the Chairperson of the Commission of an independent expert with high competence in the field of the right to development, with a mandate to present to the Working Group at each of its sessions a study on the current state of progress in the implementation of the right to development as a basis for a focused discussion, taking into account, inter alia, the deliberations and suggestions of the Working Group. In its resolution 2003/83, the Commission decided to extend the mandate of the Working Group for one year. The Economic and Social Council subsequently endorsed this decision in its decision 2003/261.

2. In the same resolution, the Commission also requested the High Commission to convene a two-day high-level seminar immediately prior to the next session of the Working Group and within its 10 working days, inviting all the relevant actors from the human rights, trade, financial and development fields to review and identify effective strategies for mainstreaming the right to development in the policies and operational activities of the major international organizations/institutions. Accordingly, the Working Group on the Right to Development convened its fifth session in Geneva from 11 to 20 February 2004, immediately following a two-day high-level seminar on the right to development entitled "Global partnership for development", held on 9 and 10 February 2004. The note on the high-level seminar will be issued as document report E/CN.4/2004/23/Add.1.

I. ORGANIZATION OF THE SESSION

A. Opening of the session

3. The fifth session of the Working Group on the Right to Development was opened by the Acting High Commissioner for Human Rights. In his address, he urged the delegates to bring a sharper focus to the debate on the right to development with a view to making progress in improving the lives of people. He pointed out that the Working Group had succeeded in covering

substantial ground in taking forward the notion of the right to development from its conceptualization to implementation. He called upon the participants to work on developing partnerships with institutions shaping global policies and with practitioners. The Acting High Commissioner reiterated the commitment of the Office to provide the highest levels of support to the Working Group towards meeting the challenges ahead.

B. Election of the Chairperson-Rapporteur

4. At its first meeting, on 11 February 2004, the Working Group elected by acclamation H.E. Mr. Ibrahim Salama (Egypt) as Chairperson-Rapporteur. In his statement following the election, the Chairperson-Rapporteur urged the Working Group to overcome the political and conceptual dissensions and to refocus the debate from rhetoric to reality. He stressed the responsibility of the Working Group to achieve progress. He noted the need for an incremental approach and insisted that concrete steps would have to be taken at the end of the debate. He observed that while the right to development could not change the world, it could help to make it better.

C. Organization of work and adoption of the agenda

5. At the second meeting, on 11 February 2004, the agenda of the fifth session of the Working Group, as amended, was adopted on the basis of the provisional agenda (E/CN.4/2004/WG.18/1). The agenda as adopted is contained in annex I.

D. Attendance

6. Representatives of the following States members of the Commission on Human Rights attended the meetings of the Working Group: Argentina, Australia, Austria, Bahrain, Bhutan, Brazil, Chile, China, Congo, Costa Rica, Cuba, Dominican Republic, Egypt, Eritrea, Ethiopia, France, Germany, Guatemala, India, Ireland, Italy, Japan, Mexico, Nepal, Netherlands, Nigeria, Pakistan, Paraguay, Peru, Republic of Korea, Russian Federation, Saudi Arabia, South Africa, Sweden, Uganda, United Kingdom of Great Britain and Northern Ireland and United States of America.

7. The following States were also represented at the Working Group: Albania, Algeria, Andorra, Angola, Azerbaijan, Bangladesh, Belarus, Belgium, Benin, Bulgaria, Cameroon, Canada, Côte d'Ivoire, Czech Republic, Denmark, Ecuador, El Salvador, Estonia, Finland, Ghana, Greece, Haiti, Iran (Islamic Republic of), Israel, Jordan, Kenya, Kyrgyzstan, Latvia, Lebanon, Libyan Arab Jamahiriya, Lithuania, Madagascar, Malaysia, Malta, Mauritius, Morocco, New Zealand, Nicaragua, Norway, Philippines, Poland, Portugal, Romania, Slovakia, Switzerland, Thailand, Turkey, Uruguay, Venezuela and Zambia. The Holy See was also represented.

8. The following United Nations bodies were represented: United Nations Children's Fund (UNICEF), United Nations Conference on Trade and Development (UNCTAD), United Nations Development Programme (UNDP), and World Food Programme (WFP).

9. The following specialized agencies were represented: International Labour Organization (ILO), International Monetary Fund (IMF), United Nations Educational, Scientific and Cultural Organization (UNESCO), World Bank, World Health Organization (WHO), World Intellectual Property Organization (WIPO) and World Trade Organization (WTO).

10. The following intergovernmental organizations were represented: African Union, European Commission, League of Arab States, and Organization of the Islamic Conference.

11. The following non-governmental organizations in consultative status with the Economic and Social Council were represented:

General status

Agence internationale pour le développement (AIDE), Europe-Third World Centre (CETIM), Franciscans International and World Federation of United Nations Associations (WFUNA).

Special status

General Conference of Seventh-Day Adventists, Indigenous World Association, Interfaith International, International Federation of University Women, International Organization for the Development of Freedom of Education (OIDEL), International Service for Human Rights (ISHR), and New Humanity.

Roster

International Federation of Rural Adult Catholic Movements (FIMARC).

E. Documentation

12. The Working Group had before it a number of pre-session and background documents to inform its deliberations. A complete list of documents is attached at annex II.

II. SUMMARY OF THE PROCEEDINGS

A. Consideration of the ideas and proposals raised at the high-level seminar on the right to development

13. The Working Group was preceded by the high-level seminar on the right to development entitled "Global partnership for development", held on 9 and 10 February 2004, which was organized by the Office of the High Commissioner for Human Rights (OHCHR) in pursuance of Commission resolution 2003/83. The seminar addressed the following themes: (a) the contribution of United Nations agencies and programmes to the right to development; (b) country experience in operationalizing the right to development; (c) partnership for development; (d) international trade and development; and (e) national perspectives on the right to development, through an interactive discussion between a panel of invited experts in the fields of human rights, trade and development; representatives of United Nations agencies and programmes and

international financial, trade and development organizations; the independent expert on the right to development; the expert of the Sub-Commission on the Promotion and Protection of Human Rights working on the right to development; and the State and NGO delegations.

14. Many delegations welcomed and commended the role of the high-level seminar in providing useful inputs for the Working Group to take forward and to identify concrete steps for the realization of the right to development. In particular, the participation and inputs of the international financial institutions and WTO were welcomed. The need for shared responsibility and accountability, at the national and international levels, was the leitmotiv of the interventions. It was suggested that there was a need to identify and prevent the negative impacts of policies, including through social impact assessments, the integration of human rights into poverty reduction strategies and the implementation of the Millennium Development Goals. The need to explore debt relief was mentioned, as external debt represented a major obstacle to the right to development. The independent expert recalled his proposal on the “development compact” with the idea of creating a special callable fund for furthering the implementation of the right to development.

15. During the consideration of the summary of ideas and proposals raised at the high-level seminar, a number of delegates described the development experience of their respective countries, highlighting, *inter alia*, the importance of decentralization, civil society participation, free elections and a free press in the realization of the right to development. One delegation outlined the country’s approach to development assistance programmes based on human-centred development, human security, partnership and ownership and a focus on the areas of poverty reduction, sustainable development, peace and other global issues. There was a strong emphasis on the need for development partnerships to be forged in a spirit of cooperation. It was recognized that the realization of the right to development and the effective establishment of global partnerships required political will.

16. A delegate pointed out that by broadening the scope of the Working Group’s discussions to include mainstreaming of all human rights and the rights-based approach to development, the Working Group would deviate from its principle task of focusing on the implementation of the right to development. On the same issue, another delegate felt that the rights-based approach to development represented a new shift in the identification and formulation of appropriate development policies and that it included the right to development.

17. The needs to create an enabling environment at the national and the international levels, to proceed on the basis of partnerships, and to expedite the implementation process of the right to development were repeatedly highlighted, together with the need for political will and commitment. The necessity of systematic monitoring and social impact assessments of policies was also highlighted. Several delegations pointed to the need for a legally binding instrument on the right to development in order to move forward with its implementation in a concrete manner.

18. Many speakers saw the Millennium Development Goals as a possible framework for the implementation of the right to development. It was underlined that there was no single model framework for implementing the right to development, and that due recognition had to be given to the different levels and stages of development in different countries. In seeking additional resources for development to meet the global development goals and targets, a suggestion was

made to encourage debt for expenditure swap for increasing and sustaining public expenditure on social sectors. There was also a need for constant reform at the national level and for a coherent and coordinated approach to development at the international level. In developing partnerships for complementing the national efforts, one delegation pointed out that there were no contradictions between bilateral and multilateral efforts in that regard.

19. In the context of discussion on the approach of international development and financial institutions in formulating their policies and programmes, one delegation felt it was a positive development that those institutions were acknowledging some of the shortcomings of their past efforts and were reviewing their own processes and policies. Another delegation highlighted two major encouraging signs emerging from the discussions at the high-level seminar, namely the full awareness of international institutions and Governments of the complex nature of the development process and the inclusion of human rights principles in formulating development policies and programmes. However, there was still a need to address the question of the value added that the right to development framework brought to the prevalent policies and practices of Governments and agencies. If a convincing answer to this question was not available, then the right to development debate would remain confined to the human rights forums, without entering the operative space of policy planners and development practitioners. The Chairperson-Rapporteur, giving his personal view on the matter, suggested that the value added of the right to development was in its appeal for greater coherence in policies and efforts directed at attaining development outcomes consistent with the realization of the right to development and in identifying the complementarity in the actions of various stakeholders, in particular, the complementarities between the actions of the international community with respect to the national efforts.

20. Some delegations mentioned additional issues for consideration, including: the responsibility and accountability of international institutions for their policy prescription if they should fail; the impact of foreign banking practices with respect to secrecy on the implementation of the right to development; the negative impact of mass culture on development; the problem of brain drain; and the role played by the corporate sector. It was pointed out that the very notion of partnership needed further elaboration. There was also a need to clarify the roles, responsibilities and obligations of the State for its own development, in view of the diminishing policy autonomy and flexibility of the State in an increasingly globalized world.

21. One speaker raised the issue of self-determination and the right to development in relation to the indigenous people. Another speaker suggested that the right to development should be a tool for the empowerment of women, who are often seen as belonging to vulnerable groups rather than catalysts for change.

22. In the course of the debate references were made to concrete examples that constituted models for the implementation of the right to development. Articles of the Cotonou Agreement on cooperation and development assistance between the European Union and the African, Caribbean and Pacific Group of States (ACP) was mentioned as an example of such a partnership. Another example was the dialogue between Latin American and Caribbean countries with the Inter-American Development Bank to encourage the latter to incorporate rule of law, judicial reform and environmental concerns in its portfolio of activities. It was suggested that in

the future, the Working Group could bring together these disparate initiatives, review them, identify the best ones and develop a framework that the World Bank, IMF, the United Nations agencies and programmes and WTO could draw from in pursuing their respective policies and programmes.

23. The Chairperson summarized the discussion on the agenda item by identifying the following three main issues that had emerged, namely: (a) how to reflect and support the growing awareness and positive attempts inside and outside the United Nations system to concretely integrate the right to development in development and related work of international institutions; (b) how to formalize the partnerships between the human rights community and those institutions that had a prominent role in implementing the right to development, and had in many instances already done so without identifying the activities concerned as such; and (c) how to develop a methodology and conduct social impact assessments that included and addressed the human rights concerns.

B. Consideration of the report of the United Nations High Commissioner for Human Rights

24. The Working Group had before it the annual report of the High Commissioner for Human Rights (E/CN.4/2004/22), which was introduced by the secretariat. The report contained a summary of the activities undertaken by OHCHR, separately or jointly with other partners, with regard to the implementation of the right to development, with particular importance accorded to those activities which related to right to development issues identified in resolutions of the General Assembly and the Commission on Human Rights, as well as in the conclusions contained in the report of the Open-Ended Working Group on the Right to Development on its third session (E/CN.4/2002/28/Rev.1). In particular, the report highlighted the activities of the Office with regard to the preparation of a concept paper that elaborates on the linkages between human rights and the Millennium Development Goals, and the piloting of draft guidelines on a human rights approach to poverty reduction strategies prepared in 2002. The Office also continued to extend administrative, technical and substantive support to the Working Group and its independent expert. The report also highlighted a number of seminars, workshops and training programmes that the Office had organized during the period covered by the report, many of which were implemented in cooperation with other United Nations agencies. Particular emphasis was placed on the recent initiative in support of national human rights promotion and protection systems at the country level within the overall framework of the report of the Secretary-General on strengthening the United Nations: an agenda for further change (A/57/387 and Corr.1).

25. The Chair welcomed the cross-sectoral work done by the Office for the implementation of the right to development. He highlighted in particular the recent report of the High Commissioner (E/CN.4/2004/40) which analyzed the principle of non-discrimination from the perspectives of international trade and human rights. He encouraged the Working Group to provide further support and guidance to the Office in developing future activities in support of the right to development. In their comments, delegations welcomed the work undertaken by the Office as highlighted in the report, inter alia, the preparation of the paper on linkages between human rights and the Millennium Development Goals; the piloting of draft guidelines on human rights and poverty reduction strategies; revision of the United Nations Development Group

(UNDG) Guidelines for the United Nations country teams for the preparation of the Common Country Assessment (CCA) and United Nations Development Assistance Framework (UNDAF); the adoption of an inter-agency statement of common understanding on the human rights-based approach to development in cooperation with UNDG; the inter-agency plan of action to strengthen the capacity of the United Nations system to support national human rights promotion and protection systems; and the development of the voluntary guidelines to support the progressive realization of the right to adequate food in the context of national food security. One delegation indicated that OHCHR should provide more analytical work on globalization and devote more attention to the violations of human rights associated with the impact of globalization on national economies. Another delegation pointed out that the mainstreaming of human rights or the human rights-based approach, including right to development, should not be confused with the specific work in support of right to development, which was the focus of the Working Group.

C. Consideration of the reports of the independent expert on the right to development

26. The independent expert introduced his country studies on the right to development, covering his missions to Argentina, Chile and Brazil (E/CN.4/2004/WG.18/3). He pointed out that through his report he had attempted to show how the right to development could make a difference in the development of countries. Argentina, Chile and Brazil had been selected as examples from the Latin American region of countries that had adopted the liberal policy framework commonly known as the Washington Consensus. Though these countries appeared to have benefited from economic growth initially, they also all went through severe downturns with a resulting increase in the incidence of poverty, rising unemployment and widening inequality. He concluded from the experience of those countries that well-directed public expenditure policy could go a long way in alleviating the hardship suffered by the poor and vulnerable segments of the population, particularly in times of crisis. He also noted that the implementation of the right to development would require the judicious use of public policies and well-directed expenditures to address income and asset inequalities and to establish an effective social safety net, since economic growth alone, however robust, could never suffice to overcome poverty.

27. Following the introduction of the study by the independent expert, the concerned countries made preliminary comments, generally in appreciation of the study, while indicating that detailed comments would be provided at the forthcoming session of the Commission on Human Rights. In the ensuing discussion, participants commented on various issues raised in the study, generally in support of the conclusion drawn by the independent expert that development was not only a process of economic growth but should also be a process of promoting social inclusion. Economic growth could increase available resources, but was not a guarantee of development if it was accompanied by social measures to reduce disparities, protect the most disadvantaged and build individual capabilities. The need for the international community to cooperate with national efforts in a spirit of solidarity, as well as the need for closer cooperation between the international financial institutions and other intergovernmental organizations, were also highlighted. Priority attention should be paid at the national level to reducing large income disparities, reducing poverty, promoting access to food, and improving employment opportunities and health. One speaker referred to the close link between international trade and the enjoyment of human rights, highlighting that distortions in free trade through subsidies for agriculture and manufactured products had negative effects and needed to be addressed. Another

speaker addressed the impact of external debt on development and the need to protect the most disadvantaged, particularly in severe economic crises.

28. The independent expert, commenting on the statements made, stressed that economic growth was neither necessary nor sufficient to achieve the realization of the right to development, but that it was a facilitator. There was a vital role for development cooperation as demonstrated in the case of the three countries studied in his report. It was also necessary to define the rules on the role of the international community in sustaining trade and development. He pointed out that Chile, because of stable resources, had been better placed to adopt a long-term social policy and to empower people in the informal sector. Both Argentina and Brazil had developed multidimensional grass-roots approaches to monitoring and reviewing policies, which provided possible scope for the application of the right to development. Income inequalities were, however, still very deep in those countries and programmes should specifically address the issue by addressing the plight of vulnerable people.

29. The independent expert then introduced his study on implementing the right to development in the current global context (E/CN.4/2004/WG.18/2), which built upon the analysis contained in his preliminary study on the impact of international economic and financial issues on the enjoyment of human rights (E/CN.4/2003/WG.18/2) submitted in 2002. He identified three characteristics of the current phase of globalization: (a) the speed of the process over the last 20 years, which had prevented many countries from adjusting to benefit from globalization; (b) the changed policy environment, characterized by a decrease in tariff-based trade barriers and an increase in norms-based barriers, volatile capital and a new exchange-rate regime; in this context, he noted that the import-substitution industrialization that occurred from the 1950s to 1970s had happened at a time when the growth rate of international trade was higher than in more recent times; and (c) the growing awareness of the social impact of globalization and the nature of social response have bearing on capital flows. Countries that are bypassed by investors due to their policies and response to the globalization process will have difficulties in attracting foreign investment.

30. The independent expert underlined that the nexus between trade and growth, as well as the one between growth and poverty, were not simple and required guidance or correction, through socially appropriate redistribution. The growing recognition that accelerated growth could actually aggravate inequalities implied the need for micro-finance schemes, targeted social policies and reduction of the skill gaps within the labour force, particularly when those benefiting from the globalization process were the more skilled segments of the labour force. The independent expert also drew attention to the narrowing of policy flexibility for developing countries. There was also widespread acknowledgement of the need for management and regulation of the development process at both the national and international levels if countries were to benefit from the current phase of globalization. The independent expert revisited his proposal on the development compact as a means of supporting and encouraging the developing countries in adopting development policies that were in keeping with the implementation of the right to development.

31. In the ensuing discussion, it was recalled that each country had the primary responsibility for its own economic and social development and that the international community was supplementing and reinforcing those efforts, including through the elaboration of country-owned

frameworks for development cooperation and donor coordination such as the Poverty Reduction Strategy Paper (PRSP) and UNDAF. Statements stressed that the neo-liberal model was not a panacea and had not always been successful in reducing poverty. There was a need for better management of technology transfers, regulations, social safety nets and international support. The need to acquire special capacities and to re-educate and reorient people to transparent and democratic institutions – and their costs – were also highlighted. Also mentioned were the calls for a fair, equitable and non-discriminatory multilateral trading system and for effective participation in international decision-making. One delegation recommended that States keep in mind their duty to implement the right to development when negotiating and acceding to the WTO agreements.

32. Some delegations identified the following three issues, highlighted in the report of the independent expert, as critical to the realization of the right to development: (a) that globalization did not always lead to economic growth and that economic growth in the wake of globalization did not always result in less poverty; (b) that the opportunities offered by globalization were not distributed evenly and that liberalization could lead to inequality and disparities, and that a global impact assessment of globalization was therefore necessary; and (c) that there was a need to regulate and guide the market, in order to ensure that the outcomes of market liberalization did not violate the right to development. In that context, it was pointed out that the shrinking room for manoeuvre and flexibility of developing countries in adopting policies at the national level had to be addressed. In addition, it was highlighted that there was a need for a global partnership which placed the human person at the centre of development.

33. The independent expert, elaborating on comments made on his report, stressed that the present focus should be on how to manage globalization on the basis of the requirements and assessment of the right to development. A case-by-case approach taking into account the individual country situation would be more appropriate than the application of uniform policy prescriptions. The independent expert also welcomed the increased acceptance of human rights by the World Bank and the IMF, although there was scope for encouraging this further. He underlined that the relationship between national and international action for the realization of the right to development was a matter of simultaneous action, not of sequencing; what a State could do depended, *inter alia*, on the readiness of the international community to provide assistance.

34. He pointed out that the notion of development compacts did not necessarily imply the creation of new institutions; it was rather a proposal for implementing the right to development in a consistent manner, in keeping with the stated principles and based on the notion of shared responsibility. A crucial element in the development compact was to have a national monitoring body, which could be modelled on the national human rights institutions. With reference to the peer review mechanism of the New Partnership for Africa's Development (NEPAD), each country should have a mechanism for evaluating its own performance in realizing human rights, in which civil society could play a major role. Similarly, he suggested that the international community should have its own review or monitoring mechanism. In this context he recalled his proposal for a support group, comprising the donors, the international financial and development institutions and the recipient country, for the implementation of the development compact. When a particular development programme was accepted, the support group would provide the assurance to the State in question that the international community was prepared to assist in the

implementation of the agreed plan. The development compact proposal would include the establishment of a contingency fund or a callable fund, based on the commitments of donors, that could be invoked by the country when the implementation of the agreed plan was constrained by the availability of resources.

35. In summing up the discussion under this agenda item, the Chairperson identified the following points that had emerged from the debate:

(a) The study of the independent expert was helpful in consolidating a right to development approach to development that was not in contradiction to other efforts within or outside the United Nations system;

(b) It was possible for the Working Group to have a well-defined human rights perspective and to have highly technical, as opposed to general and politicized debates; studies focusing on the human rights perspective should be on the Working Group's agenda;

(c) The advantage of such an approach was that instead of assessing the process of globalization, which was inevitable to some extent, it focused on steps to manage the process in a manner so as to facilitate the progressive realization of all human rights, including the right to development;

(d) Globalization reduced the role of the State, on the one hand, and, on the other, added to its responsibilities to address the dislocative effects of this process by minimizing the adverse impact on poverty and income inequalities;

(e) National policy flexibility needed to be enhanced if the globalization process was to be managed through the identification and implementation of complementary measures at the national and international levels;

(f) There was a need for a certain element of management of globalization in order to reduce its negative social impact;

(g) In the light of the interdependence generated by globalization and its speed, the notion of national and international dimensions of the right to development, and their sequencing, had become outdated; it was not a question of either/or, now or later, but of simultaneous national and international action;

(h) Follow-up at this stage could not be based on rigid norms; instead, there had to be a case-by-case approach mainstreaming and implementing the right to development;

(i) There was no need for a new institutional mechanism, only an arrangement for jointly agreeing and acting on a policy framework for the realization of the right to development;

(j) There was a need for progressively identifying and focusing on issues or areas that were more likely to be implemented than others.

D. Consideration of further initiatives

36. The Chairperson-Rapporteur, building on suggestions made during the seminar and discussions in the Working Group on the outcomes of the seminar, presented his ideas on a possible way forward. It was generally recognized that the Working Group could not, in its current form, operationalize or implement the right to development, but it could serve to bring together all the relevant actors involved in the implementation of the right to development and assist them by sending a common message. He outlined a proposal to establish a forum that would allow the injection of expertise into the Working Group in the form of an institutionalized group of experts and representatives of relevant agencies that would have a more direct role in the implementation of the right to development. He was guided in his proposals by the idea of creating an institutional memory, maintaining continuity and creating a partnership among the agencies that were pursuing development at the country level in order to implement the right to development collectively. Such a forum could help in setting up a regular dialogue with United Nations agencies and programmes, regional development institutions and international financial institutions that would facilitate a periodic assessment and review of specific country experiences and identify gaps in the existing development partnerships.

37. Conscious of the need for innovative ideas and new methods of work, the Working Group had an active exchange of views and proposals for the way forward, in particular with regard to the mandate, composition, objectives and the expected outcomes of proposed forums or appropriate structures for the follow-up and its relationship and link with other existing bodies and their mandates, including the Sub-Commission and the Working Group, as well as with UNDG and the Economic and Social Council. It was also suggested that any new procedure should allow for appropriate consultation with civil society. One delegation felt it was better to bring the agencies to the existing format, have a dialogue with them and design an implementation plan without changing the mandate of the Working Group.

38. The Chair invited delegations to consider the various proposals that were on the table and add further ideas where the current proposals could be supplemented. One delegation pointed out that among the additional ideas and suggestions emerging from the seminar would be the question of national ownership, upon which the success of the realization of the right to development hinged, as well as the need to restructure the multilateral trading system, in particular with regard to agriculture. There was a suggestion that the Working Group should analyze further the link between the Millennium Development Goals and the implementation of the right to development. Another participant felt that there was clear agreement that all development partnerships should be founded on human rights. The importance of paying due attention to the phenomenon of movement of people and the migration of labour, and the possibility of social unrest in the event of the failure to realize the right to development was also raised.

III. CONCLUSIONS AND RECOMMENDATIONS

39. Based on the discussions in the Working Group, the Chairperson circulated a working document on the possible conclusions and recommendations of the fifth session of the Working Group. This document was negotiated, amended and agreed upon by the members. At its final

meeting in the afternoon of 20 February 2004, the Working Group adopted by consensus the agreed conclusions and recommendations as reproduced in paragraphs 41 to 54 of this report. The Working Group also took note of its discussions during the eight-day session and decided to entrust the Chairperson-Rapporteur with the finalization of the present report.

40. Statements welcoming and endorsing the agreed conclusions and recommendations of the fifth session of the Working Group were made by delegations prior to and after their adoption. One delegation, expressing its support for the agreed conclusions and recommendations, stressed the importance of the rights of women and a gender perspective as a cross-cutting issue, as well as the rights of the child and the role of civil society and non-governmental organizations. Delegations supported the establishment of a high-level task force as a new and fresh basis for future deliberations of the Working Group, and hoped that the consensual approach, as demonstrated during the present session, would be carried forward to the forthcoming session of the Commission on Human Rights. The Chairperson-Rapporteur concluded the session by commending the work of the delegations in reaching the agreed conclusions and recommendations through fruitful dialogue and compromises made by some delegations, which reflected a genuine political will to make progress. The Chairperson-Rapporteur and delegations commended the support provided by the secretariat for the high-level seminar and the Working Group.

A. Conclusions and recommendations

41. In relation and in addition to the agreed conclusions and recommendations of the third session of the Working Group on the Right to Development (E/CN.4/2002/28/Rev.1), and having due regard to the positive outcomes of the high-level seminar on “Global partnership for development” held on 9 and 10 February 2004, the fifth session of the Working Group agrees on the importance of establishing partnerships, within the framework of the Working Group, between the Commission on Human Rights and United Nations agencies, funds and programmes, multilateral financial and development institutions, and the World Trade Organization for the implementation of the right to development. To this end, the Working Group views as its priority the development of proposals for the implementation of right to development based on the agreed conclusions of the third session of the Working Group and in keeping with the consensus that has emerged from the interactive discussions at the present session.

42. The focus of the Working Group and its follow-up will be on mainstreaming and implementation of the right to development as established in the Declaration on the Right to Development. While recognizing that States have the primary responsibility for their own economic and social development, lasting progress towards the implementation of the right to development requires effective policies at the national level and a favourable economic environment at the international level. For this, States have the duty to cooperate with each other in ensuring development and eliminating obstacles to development. The international community should promote effective international cooperation for the realization of the right to development and the elimination of the obstacles to development.

43. The conclusions and recommendations of the fifth session of the Working Group on the right to development are as follows:

- (a) There is an emerging consensus among the Member States, development agencies and the international development, financial and trade institutions on the need to strengthen the global partnership for development taking into account the principles of accountability, transparency, non-discrimination, equity participation, rule of law, good governance at all levels and international cooperation;
- (b) For the right to development to be mainstreamed, it has to be global in its reach and integrated coherently in the operational activities, policies and programmes of all relevant development agencies and international financial and trade institutions and of Governments at the national level;
- (c) The changing global context requires a well-coordinated approach to development cooperation that ensures improved coordination, stronger partnerships, results-based approaches and greater coherence in implementing the consensus on development goals as a concrete step towards building partnerships for the realization of the right to development, as established in the Declaration on the Right to Development, keeping in view that the right to development is a universal and inalienable right and an integral part of fundamental rights. These partnerships, including the existing ones like PRSPs and UNDAF, need to be “nationally owned”;
- (d) There is a need for structured action-oriented partnerships, within the mandate of the Working Group, with the United Nations agencies and multilateral financial institutions and relevant experts to implement the right to development;
- (e) In order to address the challenges of globalization highlighted in paragraph 5 of the Millennium Declaration, in particular its impact on poverty and income inequalities, the current phase of globalization requires an integrated approach to the implementation of national and international dimensions of the right to development;
- (f) There is a need to identify and implement complementary measures at the national and the international levels, in order for the globalization process to facilitate the realization of the right to development;
- (g) Implementation of the Millennium Declaration and attainments of international development goals as identified in the outcomes of United Nations conferences and the Millennium Development Goals will contribute to the progressive realization of the right to development;
- (h) Progressive realization of the right to development needs a clear vision, enhanced coherence, effective coordination of policies and programmes, a credible review process, constant assessment and political commitment at the national and international levels;
- (i) Sustained economic growth is an indispensable component of the realization of the right to development;

(j) **Appropriate measures are needed to enable developing countries to effectively participate in and benefit from an open, equitable, rules-based, predictable and non-discriminatory multilateral trading system that would contribute to the implementation of the right to development;**

(k) **There is a need to pursue social impact assessments in the areas of trade and development, at both the national and international levels, that would include the right to development; and**

(l) **In furthering the implementation of the right to development, the knowledge and best practices in implementing the right need to be shared and made more accessible to people and institutions, through the collection and dissemination of good practices and success stories.**

B. High-level task force

44. In the above context, the Working Group recommends to the Commission on Human Rights the establishment of a high-level task force on the implementation of the right to development, within the framework of the Working Group, the details of which are described in the following paragraphs.

Objective

45. The objective of the high-level task force is to assist the Working Group on the Right to Development to fulfil its mandate as contained in paragraph 10 (a) of Commission on Human Rights resolution 1998/72, while ensuring that there is no duplication of other working groups and work in other forums. Its guiding principle should be the strengthening of the global partnership for development. The proposed follow-up will facilitate a collective approach to analysing progress, disseminating best practices and considering possible solutions for the implementation of the right to development on a continuing basis.

Structure of the task force

46. The task force should be limited in size and well defined. Participants would be those persons directly responsible for the implementation of the right to development. It should comprise high-level representatives from the identified trade, finance and development institutions/organizations. In addition, the Chair of the Working Group, in consultation with the regional groups, would invite to serve on the task force five experts from diverse backgrounds with practical experience related to the implementation of the right to development to complement and contribute to the work of the task force. The participation of the Chair of the Working Group in the task force would ensure the linkage and continuity between the task force and the Working Group. Member States will participate in the working of the task force as observers.

47. The chairperson of the task force, in consultation with the Chair of the Working Group, may invite other relevant resource persons/experts/mechanisms to the meetings of the task force.

Duration and meetings of the task force and the Working Group

48. The task force will be created for an initial period of one year. It will meet for five days and submit a report of its findings and recommendations to the Working Group on the Right to Development well in advance of its session. The Working Group in turn would meet for a period of five working days, to consider the findings and the recommendations of the task force and any other matter that it decides to consider or is mandated by the Commission on Human Rights.

Terms of reference of the task force

49. The task force will function in accordance with the terms of reference defined by the Working Group on the Right to Development. The substantive issues to be addressed by the task force would come from the agreed conclusions of the third session of the Working Group, conclusions that emerged at the high-level seminar and at the fifth session of the Working Group or others that may emerge from future deliberations. For its first report, the task force would consider for its analysis and recommendations to the Working Group, the following issues reflecting both national and international perspectives:

(a) Obstacles and challenges to the implementation of the Millennium Development Goals in relation to the right to development;

(b) Social impact assessments in the areas of trade and development at the national and international levels; and

(c) Best practices in the implementation of the right to development.

50. The Working Group will need progressively to refine its methodology and approach to identifying a limited number of issues to be addressed by the task force.

51. The Working Group recommends that the Commission on Human Rights consider the renewal of the mandate of the Working Group for one year.

Annex I

AGENDA

1. Opening of the session.
2. Election of the Chairperson-Rapporteur.
3. Adoption of the agenda, timetable and programme of work.
4. Review of progress and obstacles in the promotion, implementation, operationalization, and enjoyment of the right to development:
 - (a) Consideration of the ideas and proposals raised at the high-level seminar;
 - (b) Consideration of the report of the United Nations High Commissioner for Human Rights;
 - (c) Consideration of the reports of the independent expert on the right to development;
 - (d) Consideration of further initiatives.
5. Adoption of conclusions and recommendations.
6. Adoption of the report.

Annex II

LIST OF DOCUMENTS

<u>Symbol</u>	<u>Title</u>
E/CN.4/2004/WG.18/1	Provisional agenda
E/CN.4/2004/WG.18/2	Independent expert's deepened study – Implementing the right to development in the current global context
E/CN.4/2004/WG.18/3	Independent expert's country studies on the right to development – Argentina, Chile and Brazil
E/CN.4/2004/22	Report of the High Commissioner
E/CN.4/2004/WG.18/CRP.1	Information supplied by the Europe-Third World Centre and the American Association of Jurists
