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Preliminary study of the independent expert on the right to development, Mr. Arjun Sengupta, on the impact of international economic and financial issues on the enjoyment of human rights, submitted in accordance with Commission resolutions 2001/9 and 2002/69

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Executive summary

This is a preliminary study by the independent expert on the right to development to elaborate on the implications of international economic issues for realization of the right to development. Given the imperatives of the right to development, as outlined in his earlier reports, the present report examines the main characteristics of the increasingly globalized world and the way they relate to the process of the right to development. There is a brief discussion on the nature of international assistance and trade liberalization and the extent to which they have actually met the requirements of the developing countries, especially when they seek to realize the right to development. In this context, there is a discussion of the implications of integrative policies that developing countries might like to follow towards poverty reduction and the realization of the right to development, followed by conclusions and recommendations for pursuing the implementation of the right to development model-development compact as elaborated in the earlier reports.

Globalization, in principle, expands the opportunities of enjoying goods and services beyond what a country can produce on its own. It potentially enhances the capabilities of individuals in the country to enjoy the right to development. But in practice the report concludes, the integration of developing countries into the world economy has not, by and large, resulted in improved enjoyment of the right to development. The globalization of developing countries has not always resulted in increased economic growth and where it has, it has not been associated with increased equity and social justice and has not always resulted in reduced poverty. To translate the potentialities into actual capabilities, a country would need to adopt an appropriate set of policies that combine the opportunities provided by the global economy with a development policy that would enable it to realize all the human rights and fundamental freedoms. A right to development approach to policy planning is not against globalization, but rather for making globalization work to achieve the basic objectives of development. The report summarizes some of the barriers that have to be overcome in the process of trade liberalization in order to make the international economic environment more supportive of needs of the developing countries. It indicates that it is necessary to have a close look at the functioning of the World Trade Organization and other trade arrangements, including the dispute settlement mechanism, with a view to enabling trade and liberalization policies to realize a rights-based process of development.

Introduction

1. This is a preliminary study by the independent expert on the right to development to elaborate on the implications of international economic issues for realization of the right to development. It is submitted for consideration of the Working Group in pursuance of the resolutions of the Commission on Human Rights, 2001/9 and 2002 /69 (para.7).

2. Based on the earlier reports of the independent expert, section I summarizes the imperatives of the right to development. Section II lays down the main characteristics of the increasingly globalized world and the relationship of these characteristics with possible indicators of rights-based development. Section III briefly focuses on the nature of international assistance and trade liberalization and the extent to which they have actually met the requirements of the developing countries, especially when they seek to realize the right to development. Section IV discusses the possible implications of integrative policies that the developing countries may like to follow towards poverty reduction and the realization of the right to development. Section V concludes with some recommendations for pursuing the implementation of the right to development model with development compact as elaborated in the earlier reports of the independent expert.

I. IMPERATIVE OF THE RIGHT TO DEVELOPMENT

3. In his earlier reports, the independent expert has examined the scope and content of the right to development in detail.[1] The right to development has been defined as the particular process of development in which all human rights and fundamental freedoms can be fully realized. It is a process of step-by-step progressive realization of all the rights, the implementation of a development policy to realize these rights, and the relaxation of resource constraints on these rights through economic growth. The right to this process has to be viewed as a composite right wherein all the rights are realized together in an interdependent and integrated manner.[2] The integrity of these rights implies that if any one of them is violated, the composite right to development is also violated. The independent expert has described this in terms of an improvement of a "vector" of human rights which is composed of different rights that constitute the right to development. The realization of the right to development implies an improvement of this vector, such that there is improvement of some or at least one of these rights without any other rights being violated. Moreover, an improvement in the vector can be realized only progressively as the resource constraints on their realization are relaxed gradually through economic growth in a manner consistent with human rights norms.[3] Thus, the right to development is not only a claim on the outcomes of development that are an improved realization of different rights, but also the process of achieving these outcomes.

4. In effect, the realization of the right to development as a process of phased realization of different rights together with rights-based economic growth would depend on the duty bearers discharging the obligation by adopting appropriate policies. These policies would aim at realizing the constituent rights such that specific sectoral policies are harmonized with appropriate macro policies. The duty bearers, as indicated in the Declaration on the Right to Development, are primarily the nation States, to be supported by the international community, the international agencies, the bilateral donors, other Governments and multinational corporations, all with their corresponding obligations. The States must formulate and design such development policies and implement them consistently with the human rights standard of

non-discrimination and participation, accountability and transparency with equitable sharing of benefits. The international community must cooperate with the States to enable them to carry out these polices.[4] These are the obligations of conduct designed to maximize the likelihood of realizing the right to development and they must be carried out by all the parties.[5] As there is no perfect one-to-one correspondence between policies and results, fulfilling the obligations of conduct may not invariably lead to fulfilling the obligations of results. Policies, even with the best efforts, may not produce the full outcome owing to unforeseen developments and unspecified variables, especially when the outcomes concern fulfilling positive rights rather than avoiding violations. However, when a right is recognized as a valid claim, States and the international community have a duty to fulfil the corresponding obligation of conduct by adopting policies that can be shown as being most likely to produce the outcomes to satisfy the claim. Such policies can be claimed by the rights holders as "meta-rights", making the States parties accountable for providing appropriate remedies for not adopting these policies and holding the international community responsible for cooperating with them to implement the policies. The justification of meta-rights is derived from the rights the duty bearers are expected to fulfil, but they can be claimed as entitlements just like other rights.[6]

5. In a globalized world, international developments affect developing countries' ability to formulate and implement the policies for realizing the right to development. Much also depends on the international community's efforts to help the developing countries in this regard. The characteristics of the process for realizing the right to development and the success or failure of these efforts can be analysed with respect to all the rights taken together and, more specifically, by focusing on the policies to eradicate poverty - the worst form of deprivation of human rights – and the policies to protect the vulnerable groups in society in the wake of economic changes. The well-being of the poor and the vulnerable groups can be reckoned both in terms of their income and consumption and their capabilities, reflected, for example, in their access to food, education, health, shelter, work, etc. This report discusses how in an increasingly globalized world, States, holding the primary responsibility for delivering the right to development, are capable of implementing poverty reduction policies and enhancing the basic capabilities of the poor and the vulnerable.

6. Globalization, in principle, expands the opportunities to enjoy goods and services beyond what a country can produce itself, just as participating in an expanding market does for an individual, thus potentially enhancing the capabilities for enjoying the right to development. But in practice, as analysed in this report, for most of the developing countries it has not done so. To translate the potential opportunities into actual capabilities, a country would need to adopt an appropriate set of policies.

7. The right to development approach seeks to combine the opportunities provided by the integration of a country into the global economy with a development policy that enables a country to realize all the human rights and fundamental freedoms and achieve a process of economic growth, with equity and justice, which eradicates poverty, illiteracy, malnutrition and ill-health and protects the marginalized and the vulnerable groups of the society. Opening up to

global trade and investment alone cannot achieve this goal, nor can they be the sole objectives of that development policy. Much more proactive and well-designed and properly targeted policies will have to be implemented that take advantage of the opportunities of globalization and are consistent with the promotion of initiatives of domestic entrepreneurs and the productivities of the country's working population. The State has to play an active role in working out the market economy. Opportunities provided by a market-based process of increased incentives and improved productivities will only help to design and implement a rights-based development policy. It may be necessary to sequence the different elements of the policy appropriately, moderate the pace of opening up, regulate at the margin the operations of the market forces and intervene effectively, when necessary, by public provision of infrastructure and social services if markets cannot provide them. A right to development approach to development policy is not against globalization, but rather for making globalization work to achieve these basic objectives of development.

II. GLOBALIZATION AND THE RIGHT TO DEVELOPMENT

8. Globalization essentially implies the process integrating individual countries into the world economy. This process accelerated in the 25 years after the oil crises of the 1970s, when most developing countries experienced a significant increase in their interactions with other countries, especially with industrial countries and the international organizations. The magnitude and the pace of these interactions led to a qualitative shift in relationships, resulting in significant erosion in the autonomy of most developing countries in terms of policy-making. In the context of globalization, in formulating policies a sovereign State has had to factor in the likely response of other countries, particularly that of its trading partners, before it adopts and implements them. But in the current phase of accelerated globalization, an anticipated strongly adverse response might be enough to make the initiating country change or abandon its policies.

9. The two factors that have been most responsible for the significant spurt in the interactions between countries are, first, the technological advances in transport, communication and information, reducing the cost of transactions, and, second, the decrease in the barriers to international trade, investment and finance in both industrial and developing countries. This was reflected in a sharp increase in gross trade flows - exports and imports taken together - as a proportion of the gross domestic product (GDP) of the low-income countries since 1980, as well as in the inflows of foreign direct investment in these countries, both as a proportion of their gross fixed capital formation and of their GDP. Though there was considerable variation in the performance of different countries, in general, compared with their own past records, there was a significant increase in these indices during this period.[7]

10. The statistics were, however, more ambiguous with respect to capital flows or resource transfers. There was a spectacular increase in gross capital flows to developing countries that took part actively in the explosion of international lending, secondary market trading in stocks, bonds and derivatives, and global foreign exchange transactions. But as the data of the United Nations Conference on Trade and Development (UNCTAD) show, the average level of net capital inflows did not change much in the 1990s compared with the late 1970s, indicating that for the developing countries taken together, there was no major increase in the transfer of resources. Moreover, there was a considerable shift in the composition of their capital flows in

this period. The share of official financial flows in the total capital inflows to the developing countries fell drastically from over 50 per cent in the 1980s to 20 per cent in the 1990s, with the expansion of private capital flows compensating for the decline of official finance. While official finance flowed mostly to the poor developing countries, private capital flows concentrated on a select group of developing countries. Over 90 per cent of net private capital inflows were received by only 20 countries during the 1990s as compared with 50 per cent during the 1970s and 1980s.[8] The upsurge in the international financial flows that attended the accelerated process of globalization in effect bypassed most developing countries; even though they were affected by the expansion of foreign trade in both exports and imports, as well as foreign direct investment.

11. It is difficult to assess directly the impact of such globalization on the enjoyment of the right to development in these developing countries. Indicators for the right to development would be a combination of the indicators of the availability of goods and services corresponding to the different rights and the appropriate indicators of rights-based access (with equity, non-discrimination, participation, accountability and transparency) to those goods and services. While appropriate indicators of access may not be easily formulated, indicators of availability could be derived from the data provided by the United Nations Development Programme (UNDP) *Human Development Reports*. Indeed, it is possible to describe the enjoyment of the right to development as the enjoyment of human development in a manner consistent with human rights standards. Therefore, at the minimum, if globalization were to impact positively on the right to development, it should have a positive relationship with the Human Development Index (HDI) or the constituent indicators of HDI. Unfortunately, it has not been possible to establish any such correlation. Taking the overall trade-GDP ratio as a proxy for a country's integration into the world economy, it turns out that there was no significant relationship.

12. An alternative route for assessing the impact of integration on the right to development could be by relating integration to the indicators on poverty. Given that poverty is a violation of human rights, indicators of poverty reduction may be used as indicators of the level of realization of the right to development. Again, the statistical evidence of any such impact is far from unequivocal. For some countries, during this period of accelerated globalization, improvement in the indicators of integration, such as the trade-GDP ratio, has been associated with a decline in the indicators of poverty, measured in terms of income. But this association has not been universal and the elasticity of the response of poverty reduction to increases in income has not been stable.[9] Clearly, several factors are working together and their influences cannot be isolated from the effects of international integration. Furthermore, if poverty is measured in terms of capacity or enjoyment of the rights to health, education, housing, etc. no such association can be established.

13. The impact of globalization on the reduction of income poverty (i.e. the number of people living below a minimum level of income) would be straightforward if globalization led to economic growth, and if there was no sharp deterioration in income distribution. But does increased integration into the global economy automatically and invariably lead to an increase in economic growth? The answer is no, both in theory and in practice. There is of course a definite presumption in theory that greater integration would lead to higher growth. Both the frontiers of production possibility and consumption possibility of the integrated country would expand, increased competition would increase efficiency and higher productivity would attract larger

investment, both domestic and foreign, leading to technological progress and sustained higher growth. Static efficiency gains from reallocation of resources from expanding exports could finance larger and cheaper imports, particularly of capital goods which would not have to be produced at home, and would be converted into a dynamic gain in increased growth. But none of these outcomes would result automatically and invariably, even in the theoretical world, unless the assumptions of competitive equilibrium, which are often very restrictive, actually hold. At most, one could say that there is a high likelihood that these outcomes would follow from increased integration of a country into a global economy if appropriate policies were put forward.[10]

14. In practice, it is difficult to establish empirically that increased globalization invariably leads to higher economic growth for a country. Indicators like increased trade-GDP ratio are often the outcomes of a country's improved overall economic performance, which results from a number of simultaneously carried out policies, not all of which relate to opening up of the economy or policies of trade liberalization. As Dani Rodrik observed, studies based on actual policies of openness such as the reduction of a country's average level of tariff and non-tariff barriers do not suggest any systematic positive relationship with its rate of economic growth. Indeed, as many as 42 developing countries, among which 12 were in Latin America, 6 in the Middle East and North Africa and 15 in sub-Saharan Africa, grew at more than 2.5 per cent per capita (with a significantly high growth rate of population) during the years prior to the oil shock of 1973 - though they were following import-substitution industrialization policies behind high barriers of protection. The gross inefficiencies of these protection policies, even when they resulted in negative value addition in several industries, could not negate the effects of increased investment in a protected environment on the growth of these economies.[11]

15. The most influential study on the positive relationship between openness or integration with the world economy and economic growth is by Sachs and Warner[12] who show that open economies grew 2.4 percentage points faster annually than closed ones – which is indeed a substantial difference. But these open economies are following a number of policies besides reducing trade barriers and exchange rate adjustments, like ensuring macroeconomic stability and locational advantages. Several major studies have followed Sachs and Warner's, corroborating such influence of complementary policies. Sebastian Edward, in a most comprehensive study using data on 93 countries and taking nine different indices of openness, concludes that greater openness led to higher economic growth, as expanded trade forced domestic producers to be more competitive and to assimilate and develop new technologies, all of which required complementary supportive policies. [13]

16. Dani Rodrik has well summarized the evidence of the empirical relationship between openness and economic growth as follows:

> "No country has developed successfully by turning its back on international trade and long-term capital flows. Very few countries have grown over long periods of time without experiencing an increase in the share of foreign trade in their national product…. But it is equally true that no country has developed simply by opening itself up to foreign trade and investment. The trick in the successful cases has been to combine the opportunities offered by world markets with a domestic investment and institution-building strategy to stimulate the animal spirits of domestic entrepreneur."[14]

17. Regarding income distribution, several studies using household-level surveys in different countries over time suggest that the Gini coefficient as an indicator of distribution is relatively stable and changes rather sluggishly.[15] Thus, with an increase in the average per capita income of a country, incomes of the poor should increase, taking some of them out of poverty. Yet several studies have disputed the empirical basis of this relationship especially in the context of the globalization of the last few decades. For some countries, depending upon the specific policies they followed in the process of their integration into the global economy, either their economic growth did not accelerate with increased integration, or income inequality worsened with increased incidence of poverty.

18. A comprehensive study by Cornia[16] based on an econometric analysis of income trends between the 1950s and 1990s for 77 countries accounting for 82 per cent of the world population and 95 per cent of world GDP, measured in terms of purchasing power parity, challenged the propositions of higher growth with globalization and the stability of the Gini coefficient, or income distribution. Compared with the period 1950-1973, for most countries the globalization of the last 20 years has been associated with slower growth and rising inequality. The growth rate of the world economy, which was about 5 per cent from the 1950s to 1973, fell significantly below that in the later globalization years. The growth rate of about 42 countries was more than 2.5 per cent per capita prior to 1973. Only about 12 countries sustained that pace over the next decade. The countries in the Middle East and Latin America that had significant growth in the total factor productivity in the earlier period began, on average, to experience negative growth in the latter period. Fifteen countries in sub-Saharan Africa had growth rates of more than 2.5 per cent per capita in the earlier globalization period. In fact, six sub-Saharan countries were among the fastest growing developing countries during this period and up to the early 1980s. Subsequently, the growth in per capita income of these African countries was persistently negative, with only a few of them picking up in the late 1990s.

19. The performance of most countries regarding income distribution was worse in the accelerated-globalization period compared to the period prior to the mid-1970s. For the countries of the Organization for Economic Cooperation for Development (OECD), for example, inequality declined steadily between the 1950s and the 1960s and even up to most of the 1970s, owing to a steady decline in unemployment, stable earnings and expansion of social security. Since the late 1970s, this trend was reversed, first in the United States, the United Kingdom, Australia and New Zealand, followed gradually by Scandinavian counties, the Netherlands and Italy. There was a flattening out of the trend in France and in Finland. Since 1989, inequality has increased sharply in the former Soviet Union, and more modestly in Central Europe. In Latin America, the Gini coefficients, which were traditionally the highest in the world, started to decline in the 1970s in most of the region except the Southern Cone. But in the 1980s and 1990s, inequality rose again, owing to external shocks, recession and decline in wage share. In sub-Saharan Africa the rural-urban gap has been the main source of inequality and during the period of stagnation or declining income of the 1980s urban incomes deteriorated more than rural incomes, imitating a process of "equalization-downward".

20. In short, the Cornia study shows that for the period of accelerated globalization of the 1980s and 1990s, 45 of the 77 countries studied, representing 46.2 per cent of world population, recorded rising inequality, some continuously, and others, including the United States and China,

in a U-shaped manner. For 4 countries the rise in inequality slowed down while for 16 countries inequality actually declined. This clearly establishes that there is no uniform or universal relationship between income growth in a globalizing economy and income equality as it is influenced by specific conditions in the countries and the policies followed by their Governments.

III. INTERNATIONAL ASSISTANCE, TRADE LIBERALIZATION AND THE RIGHT TO DEVELOPMENT

21. Among the international factors, besides foreign assistance - transfer of outright grants and concessional flows - the role of the international community in encouraging trade and foreign direct investments in developing countries is critical for the realization of the right to development. The financial flows that the developing countries receive from trade (exports) or foreign direct investments are considerably more than the flows through foreign assistance. During the 1990s the ratio of exports of goods and services to GDP in the developing countries grew from 26 per cent in 1990 to nearly 34 per cent in 2000. Global trade is, however, highly regulated and the playing field far from level. The average poor person in a developing country selling in global markets confronts barriers twice as high as the typical worker in an industrial country, where agricultural subsidies alone are about $1 billion a day – more than six times total aid. These barriers and subsidies cost developing countries more in lost export opportunities than the $56 billion in aid they receive each year.[17]

22. For most developing countries, the domestically available resources are insufficient and so are the foreign capital inflows - both concessional and otherwise. The flow of official development assistance (ODA) has been significantly lower than the commitments made by the donor community in the various international forums. Thus, for instance, while there is an agreement whereby the international community has pledged (at the General Assembly in 1970) to reach a target of allocating 0.7 per cent of GNP for ODA to developing countries and 0.15 to 0.2 per cent of their gross national product (GNP) to the least developed countries, only a handful of countries have come anywhere near meeting this target. The current ODA from industrial countries amounts to only $56 billion a year, just about 0.2 per cent of their GNP. If one takes into account the commitments made by the heads of the State at the Millennium Summit, a further $40-$60 billion in resources would be required to meet the costs of achieving all the Millennium Development Goals.[18] Together, this would still amount to just about 0.5 per cent of the GNP of OECD countries.

23. An important means of releasing resources for a rights-based development process, particularly in those countries that need such a process most urgently, is by addressing their problem of indebtedness, especially to the international community. The debt reduction initiatives of the multilateral institutions date back to the Heavily Indebted Poor Countries (HIPC) initiative in 1996, which was different from earlier efforts at rescheduling official debt (the Paris Club) and commercial creditors (London). As of July 2002,[19] debt-reduction packages under HIPC have been approved for 27 countries,[20] the majority of which are in Africa, and assistance has been provided or committed in an amount of over $41.5 billion. This is equivalent to nearly half the burden they shoulder.

24. The initial HIPC strategy was criticized as being too slow and inadequate on account of the complexity of the process, i.e. a country must have undergone at least two Enhanced Structural Adjustment Facilities (ESAFs) under IMF supervision, which amounted to six years. There was also an inappropriate definition of debt sustainability levels, high threshold levels (with the ratio of debt service to fiscal revenues at 25 per cent) and, finally, inadequate funds to support it. The initiative was modified in 1999 in recognition of the deficiencies and in a bid to grant relief to more countries. The core of the new programme was its ostensibly "growth-oriented strategy" elaborated in the country's Poverty Reduction Strategy Papers (PRSPs) which were to emerge directly from the country's own poverty reduction strategy. On the whole, the initiative, though critical in the short to medium term is not adequate in itself to address the structural constraints that impede the process of a sustainable rights-based development process in the concerned countries.

25. The experience of trade liberalization in the period of accelerated globalization has been different for the different regions. Consider the case of Africa. While Africa needs to expand imports of capital and intermediate goods, as well as a variety of consumer goods, the import tariffs have remained high, averaging 25 per cent, which is more than four times the average rate of all developing countries. The main constraint on the expansion of the volume of imports in Africa is the lack of resources to finance it, first because the growth of African exports has been less than half that of other developing countries and because of severe budgetary constraints that only debt relief programmes can remove. Africa's share of world exports declined from 3.9 per cent in 1980 to 1.5 per cent in 1997, owing largely to protectionism in the industrial countries against goods exported from Africa. If all trade barriers to African exports in Canada, the European Union, Japan and the United States were eliminated, non-oil exports from Africa, according to a World Bank study, would expand by 14 per cent.[21] The countries in Asia and the Pacific have often been cited as successful cases of trade liberalization with increased growth and poverty reduction. This success, as Dani Rodrik points out, was due to an effective investment-promotion strategy and export-led growth but not the import liberalization which usually followed such growth. Korea and Taiwan, for example, "protected the home markets to raise profits, implemented generous subsidies, encouraged their firms to reverse-engineer foreign patented products, and improved performance requirements such as export-import balance requirements and domestic-content requirements on foreign investors (when foreign companies were allowed in). All of these strategies are now severely restricted under the WTO agreements".[22]

26. Liberalization of trade and integration into the world markets was most far reaching in the so-called transition economies. Prior to 1989 most of the foreign trade was conducted amongst themselves, within the Soviet bloc. Only around 40 per cent of foreign trade in Eastern Europe and 10 per cent in the former Soviet Union was conducted with market economies outside the Soviet Union. Deregulation of domestic prices, privatization, institutional change and reduction of State subsidies to enterprises led to a sharp rise in unemployment and a large decline in output, leading to a considerable increase in the social costs of transition. In Eastern Europe the fall in real wages was contained more than the fall in output and employment, but in the former Soviet Union, employment declined more gradually than did earnings. Trade liberalization affected the revenues and the capacity to maintain the social safety nets, except in relatively richer transition economies outside the former Soviet Union. Absence of safety nets delayed enterprise restructuring in the countries of the Commonwealth of Independent States

(CIS) as workers stayed on in the old enterprises, accepting lower wages. Poverty increased with much-delayed recovery.

27. In Latin America, average tariffs fell from 50 per cent in 1985 to about 10 per cent in 1996. Non-tariff barriers affected 38 per cent of imports before reforms but only 6 per cent by 1996. But their impact on growth and income inequality varied substantially between countries. Wage disparities increased in Brazil, Chile, Colombia and Venezuela. In Mexico, the gap between the wages of the unskilled and those of the skilled increased sharply after the liberalization of foreign trade. The link between trade liberalization and poverty or growth was not well established though in general, inequalities increased.

IV. DEVELOPMENT POLICY IN A GLOBAL ECONOMY

28. In order to design an appropriate development policy to realize the right to development, it is important to take into account not only the opportunities but also the constraints imposed on a country becoming increasingly integrated into the global economy. A major constraint of the market-based globalization of the last couple of decades is that it tends to favour those with a higher initial stock of assets and greater command over resources and this tends to increase inequalities. It is possible to overcome this constraint through appropriate designing of economic reform, but without such reforming policies, the growing inequalities will frustrate the realization of the right to development.[23, 24]

29. The other major constraint imposed by the process of increased integration of a country into the market-based world economy is that its autonomy in policy-making becomes severely restricted. Several policy options that were earlier available to many of the now-industrialized countries at their initial stages of development or to several developing countries in the years of the import-substitution industrialization of the earlier globalized period are no longer available to most developing countries. The impact of their policies on other economies in the world and the potential response of other economies to these polices must be taken into account before the policies are even formulated.

30. For example, when increased integration implies liberalization of foreign capital flows and deregulation of the domestic financial sector, together with a lowering of tariff and non-tariff barriers, some of the traditional instruments of macroeconomic policy, such as interest rates, exchange rates, tax rates or public expenditures, would have to be used much more cautiously than before. Raising interest rates above the world market rates may trigger a large foreign capital inflow, leading to an exchange rate appreciation, loss of international competitiveness and increase in trade deficit. If that leads to a loss of confidence in the strength of the currency, there can be capital flight and the end result may be a financial crisis, leading to a stock market crash and economic depression, especially if the domestic financial market is inadequately regulated. This has been the general experience of the East Asian financial crisis in the second half of 1990s. Setting the interest rates below the world market level, on the other hand, may trigger an immediate capital outflow and, depending upon the portfolios of the financial institutions, precipitate a crisis. Or, consider a policy of running a fiscal deficit to finance public investment to stimulate growth or to provide for development of the social sector or to protect the social security of the poor. If there is an increase in inflation as a result, it would redistribute

real income away from the poor and if it generated expectations about rising inflation and a fear of devaluation, there could be an outward capital flight and a fall in domestic investment, precipitating a financial and economic crisis. Similarly, if the exchange rate is set below its equilibrium level as perceived by the market, it will induce capital flight. Conversely, if the exchange rate is set at too high a rate, increased current account deficit might undermine confidence in the value of the country's currency, setting the stage for a crisis.[25]

31. There is clearly no uniform policy prescription that can be followed by all countries in pursuing the objectives of development. The macroeconomic policy instruments must be designed in accordance with the specific context of an economy. Furthermore, policies that affect different aspects of economic performance have to be applied together as a package or as a programme of reform, so that they reinforce each other in the process of realizing the outcomes of development.

32. Indeed, in the 1990s, when macroeconomic crises pushed a number of countries in Latin America and Africa to IMF and the World Bank, they were pressed to adopt, for assistance, comprehensive programmes of reform in the name of structural adjustment that combined policies in several areas, rather than only addressing the problems of fiscal and balance of payments imbalance as practised under the earlier Fund programmes. This, in effect, was the beginning of the process of integrating these countries into the world economy that soon covered most of the developing countries. These programmes differed in terms of the details between the different countries: some were to lower taxes, others to raise them; some were to reduce real wages, other to allow them to increase. But in terms of broad policies, they all combined exchange rate adjustments, public expenditure reductions, tax reforms lowering the rates but broadening the tax base, liberalization of foreign trade and investment, abolition of price controls and deregulation of the financial system. These were essentially the policies that were implied in this so-called Washington Consensus.

33. There is considerable literature, by now, critiquing these policies of structural adjustment.[26] Empirical attempts to evaluate the impact of these programmes on the economic performance of the countries adopting these policies - either for economic growth, poverty reduction, or even the improvement of fiscal or balance of payments balances - have not been unequivocal, as it is very difficult to establish a causal relationship between the many variables, moving differently at different times, without falling into the post hoc ergo propter hoc fallacy. However, on the basis of some studies, both by the staff of IMF and by outside experts, including the Botchwey report,[27] it may be argued that while the content of these programmes or policies may not be objectionable, their outcomes depended essentially on the adequacy of the design and sequencing and putting the required institutional arrangements in place to address the problems of those who may be adversely affected. For example, in several countries with high deficits, when financial deregulation preceded stabilization policies, interest rates shot up, reducing private investment and raising the interest burden of the Government, increasing the fiscal deficit. In some countries, capital account convertibility and interest rate liberalization were started before the inflation rates were reduced. A sharp increase in the price level, besides generating further expectations of rising inflation, reduced the real value of government revenue and as the Government tried to reduce public expenditures, the social development programmes were totally disrupted.

34. Sometimes, structural reforms of an economy should precede its liberalization. A price decontrol or a removal of input subsidies may raise the prices of several products, but may not lead to the diversification of production, unless structural reforms had already expanded the transport network and provided the institutional support for access to credit and expanding markets. Similarly, trade liberalization, which could be eventually very beneficial, may have to be phased in gradually, especially when the supply responses of new export industries are much smaller than the contraction of industries that had been earlier protected.

35. A major criticism of such adjustment polices has been that an overemphasis on fiscal retrenchment in most programmes led to several cutbacks in public expenditures, especially on health, education and other social services.[28] Although it may not be possible to establish with certitude that the reduction of such expenditures accounted for a deterioration of the social indicators, an increase in poverty or a reduction in economic growth, because of the presence of other severe distortions in these economies, for any programme that promotes growth and social development provision has to be made for raising public expenditures, efficiently and cost effectively, at an early stage of the country's development. Indeed, such increases in public expenditures have to be the cornerstone of any scheme for realizing the right to development.

36. While IMF and the World Bank have generally guided developing countries in designing and implementing these macroeconomic policies, WTO is now setting and overseeing the rules governing international trade. These rules are much more comprehensive and strict than the earlier General Agreement on Tariffs and Trade (GATT), and have imposed severe constraints on the policy autonomy of most developing countries. Earlier, many developing countries used, just as the industrialized countries of today did during their comparable phase of development, tariffs, quotas and sector-specific subsidies, and strategically built up their comparative advantage and developed their industry. They cannot do so any more, nor can they raise the profitability of the export sector through subsidized allocation of credit or foreign exchange because the effective exchange rate has to be the same for exports and imports and across the sectors. Granting exporters a monopoly in the domestic markets would attract antidumping procedures. The WTO regime of intellectual property rights might constrain the development of a country's technological capabilities and raise the cost of the technology-intensive inputs in the production process. The proposed multilateral agreement on investment (MAI) would also reduce the bargaining power of the developing countries vis-à-vis the multilateral institutions.[29]

37. In effect, following the WTO rules of the game that tend to equalize domestic prices with international prices - which are exogenously given for most developing countries - the developing countries lose significant manoeuvrability in terms of microeconomic policies affecting the relative prices and consequently the domestic allocation of resources. The role of tax policies also becomes limited as using them extensively would tend to distort the relative prices of goods, services and factors of production compared with international prices. That is why in most cases tax-reform programmes form a part of the adjustment policies and the general trend has been to reduce the tax rates, both of direct and indirect taxes. As a result, developing countries following the policies of integration into the world economy have been left with macroeconomic policies of exchange rate devaluation, interest rate changes and wage restraints – all of which are constrained by developments in the world market. The only instrument which these countries can still use with some flexibility is public expenditure, provided it can be properly financed. It can be used to catalyze private investment, to promote social investment in

education, health, rural development and infrastructure that do not attract private investment and to build up social safety nets. But problems of financing- putting a limit on sustainable public deficit and the buoyancy of tax revenues especially when import tariffs are cut down across the board- impose constraints on the amount of such public expenditure in a globalized economy,.

V. CONCLUSION AND RECOMMENDATIONS

38. In light of the discussion about the impact of international developments in the recent period of accelerated globalization, the following conclusions may be highlighted. First, the opportunities provided by globalization and integration into the world economy to developing countries have not, by and large, resulted in improved enjoyment of the right to development. That right implies a process of development, with a participatory, equitable and just process of economic growth with the progressive realization of all the recognized human rights. It entails achieving human development in a manner consistent with human rights norms and laws. The increasing globalization of developing countries has not always resulted in increased economic growth and where it has, it has not been associated with increased equity and social justice and has not even always resulted in reduced poverty, the worst form of deprivation of human rights. There has not been any systematic association of that process with the advancement of the human development that, when conducted in a rights-based manner, could be seen as reflecting the realization of the right to development.

39. Second, this has not happened because appropriate polices for realizing the right to development have rarely been adopted. The right to development approach does not deny that globalization and the related liberalization of market forces and trade and investment flows provide expanded opportunities for the developing countries. In fact, the increased potential of expanding the frontiers of production and consumption and sustainable growth should facilitate the realization of the right to development. Indeed, some of the countries which have utilized these opportunities and increased their economic growth and even reduced poverty clearly show how, with some improvements in their policies and institutional frameworks, they could make much headway in realizing the right to development. The experiences of other countries also show that policy mistakes could have contributed to the inadequate realization of some rights. The one lesson that we have clearly learned is that globalization per se or alone does not result in the fulfilment of the rights implied in the process of the right to development.

40. Third, in designing and implementing the appropriate policies, the objectives should be clearly set at realizing the rights-based process of development. Trade liberalization, deregulation or globalization as such are not ends in themselves, but are means to the end of rights-based development. Therefore, there can be tradeoffs between them, they can be sequenced and phased over time, and they can be supplemented by earlier polices. But sequencing does not mean violation, and care must be taken not to introduce distortions that negate the benefits of those policies. For example, trade liberalization implies increased equalization of domestic and international prices, and sequencing and phasing of that process does not imply the reintroduction of protectionism in any sense.[30] Similarly, deregulation of the market forces cannot yield to increasing interventions and distortions of those forces, because deregulation may not have worked in specific cases. Supplementary policies have to be found to strengthen the process of deregulation so that it can yield the desired results.

41. Fourth, as has been elaborated by the independent expert in his earlier reports, realizing the right to development implies the fulfilment of the obligations of States, the international community and other agents to carry out appropriate development policies. Such policies must be related to the particular context in which they are applied, and within the framework of globalization they must respect the constraints imposed by that framework in order to achieve the maximum benefit and not work against that process. Opting out of globalization would be giving up these opportunities, and would definitely be inferior to policies that respect the constraints and maximize the realization of the right to development.

42. Fifth, the claim of the right to development approach is that it is feasible to design and implement a development policy that can achieve the right to development while respecting the constraints of the process of globalization and making maximum use of the opportunities provided. Such a policy should be based on a coordinated programme of different polices to realize the individual rights (to food, health, education, work, social security, etc.) with policies to realize sustainable and participatory economic growth with equity. The experience of the adjustment policies and economic reform followed by many developing countries clearly supports the basic logic of the right to development policy built on the interdependence and interrelation between different policies for realizing different objectives.

43. In the right to development approach, the obligations of the duty bearers, especially the nation States of the international community, have been clearly spelt out. When the right to the process of development is being implemented by a country, the obligation of the international community to facilitate that implementation becomes paramount. First of all, States must ensure that protectionist barriers existing in their countries against exports from developing countries are removed as soon as possible. As Nick Stern, the World Bank's Chief Economist, observed in presenting a IMF-World Bank study on market access for developing country exports[31]: "Improving market access for developing countries is one of the most important steps that the rich countries can take in fighting global poverty. It's hypocritical to encourage poor countries to open their markets while imposing protectionist measures that cater to powerful special interests in the rich countries. Rich countries should lead by example".

44. In the following paragraphs the independent expert summarizes some of the barriers that the study notes need to be overcome, especially in merchandise trade, in textiles and clothing and in agriculture:

(a) Estimates of the welfare gains from eliminating barriers to merchandise trade - in both industrial and developing countries - range from US$ 250 billion to US$ 620 billion annually, with about one third to one half accruing to developing countries. According to the World Bank analysis, more rapid growth associated with a global reduction in protection could reduce the number of people living in poverty by as much as 13 per cent by 2015;

(b) Between 6 and 14 per cent of Quad (Canada, the European Union, Japan and the United States) tariff lines are subject to "tariff peaks". In Canada and the United States, tariff peaks are concentrated in textiles and clothing; in the EU and Japan, in agriculture, food products and footwear. This pattern of protection creates hurdles for countries taking their first steps up the technological ladder. The effect of these tariffs is aggravated by the subsidization of agriculture in OECD countries (which depresses world prices of commodities and increases their volatility), by remaining quotas in textiles and clothing trade, and by high barriers to inter-developing country trade;

(c) About three quarters of the world's poor still live in rural areas, mostly dependent on agriculture. On agricultural exports to OECD they face tariffs that exceed those on typical inter-OECD exports (of all products) by factors of 10 or more. Including subsidies, OECD agriculture received support amounting to US$ 311 billion or 1.3. per cent of GDP in 2001. Much of this support increases with the level of output, contributing to excess production that competes with developing country farmers for markets;

(d) Agricultural liberalization in both industrial and developing countries is likely to have long-term, dynamic effects on developing country production and trade. Static gains alone would be on the order of US$ 30 billion in income and US$ 120 billion in exports per year;

(e) Developing countries account for some 50 per cent of world textile exports and 70 per cent of world clothing exports. Several have developed a high dependence on these exports. Tariff barriers far exceed those on other manufactured products, in industrial and developing countries alike. Despite an international agreement to phase out quotas on textile and clothing trade, the vast majority are still in place. The back loading of quota removal by Canada, the EU and the United States is set to cause sharp adjustment pressures at the end of the implementation period in early 2005, as quotas have protected less-competitive suppliers in both industrial and developing countries;

(f) In developing countries, barriers to exports of labour-intensive goods have slowed job creation. It is estimated that industrial country restrictions on trade in textiles and clothing have prevented the creation of well over 20 million jobs in developing countries, many of which would represent a step out of rural poverty;

(g) Antidumping measures have become far more common in recent years, with developing countries increasingly active. There is a risk that this trend might intensify as statutory protection declines. Furthermore, technical barriers (including health, safety and product standards) have been accumulating at a fast pace, and many developing countries are ill prepared to meet their complexity and cost;

(h) Most developing countries have preferential access to industrial country markets through Generalized System of Preferences (GSP) schemes, but the benefits are often limited. Preference margins are smaller for "sensitive" products - which are also the most protected. Utilization rates of GSP schemes tend to be low, partly owing to restrictive rules of origin or social and environmental requirements.

45. Besides taking steps to overcome these deficiencies, it is necessary to have a close look at the functioning of WTO and other trade arrangements - the Trade-Related Aspects of Intellectual Property Rights (TRIPS), the General Agreement on Trade in Services (GATS) and MAI, as well as "safeguards" of special and preferential treatment of the poor countries and the dispute settlement mechanism - with a view to enabling trade and liberalization policies to realize a rights-based process of development. It is necessary for this purpose to set up an expert group of

professionals and experts from WTO and the Commission on Human Rights. The independent expert would be happy to present a position paper on this subject for the consideration of the expert group, if so decided, to help take the discussion beyond the stage of advocacy to some concrete proposals for action.

46. The responsibility of States would be to formulate a plan or a programme of development policy on the basis of the discussions in the previous reports of the independent expert. Initially it could address the problems of poverty reduction, both in terms of income and of capability, and target the realization of some of the rights that a country could prioritize, without violating any other rights. It should, however, set these policies in a framework of sustainable economic growth with reduced inequality and improved social justice.

47. Besides the different elements of macroeconomic policies, tax and market reforms and supportive institutional changes, in all likelihood the most important policy instrument would be public investment and expenditures. Without crowding out private investment, these instruments should aim at channelling and attracting and, when necessary, supplementing domestic and foreign investment in sectors and areas that affect the lives of most of the poor whose incomes and capabilities must improve in a sustainable manner by their being able to participate fully and effectively in the production process. In addition, such public expenditure should supplement polices that take care of the vulnerable people who may be adversely affected by these reforms. These social safety nets should accompany the measures that bring about changes in structures of production.

Box 1 **– Four Basic Elements of Right to Development-Development Compact (RTD-DC)**

There are four basic operational elements of the RTD-DC model:

Rights-based Development Programme – A development approach of coordinated policies to realize progressively all the human rights and a process of economic growth with equity and justice. It is rights based, which implies a process that is equitable, non-discriminatory, participatory, accountable and transparent.

Poverty Reduction and Social Indicator Targets – A system of identifying appropriate indicators and benchmarks to monitor the status of realization of each of the rights, as well as a mechanism for evaluating the interaction among indicators.

Development Compacts – A development compact is a mechanism for ensuring the recognition among all stakeholders of the "mutuality of the obligations", so that obligations of developing countries to carry out these rights-based programmes are matched with reciprocal obligations of the international community to cooperate to enable the implementation of the programmes.

Monitoring Mechanisms - A mechanism for monitoring the right to development would have to assess implementation of various rights both individually and in a composite manner. The development compact is one proposed international instrument (separate from the treaty bodies) to facilitate implementation of the right to development, as well as financing of specific measures.

48. To fulfil the requirements of a rights-based approach, these policies will have to be carried out with good governance, accountability and transparency and with empowerment of the beneficiaries, especially women and those who are discriminated against, through a process of participatory development. The independent expert has proposed that this whole exercise be

done through a development compact, so that when a developing country formulates such a programme and tries to implement it faithfully, the international community should accept the obligation of cooperating with that country, providing all the assistance and policies that may be necessary to enable the country to implement the programme. For example, if increased public expenditure is seen to be the main instrument for carrying out the programme, the international community should ensure that it is fully financed. If the poverty reduction strategies are suitably adjusted to realize the right to development, the international community should be prepared to augment the flows from the financial institutions to fully realize these programmes. If economic reforms or adjustment programmes are adopted by a country to integrate into the global economy in a framework for implementing the right to development, the international community should take the responsibility of mitigating the obstacles of the trade, debt and financial restructuring problems of that country.

Notes

[1] First report : E/CN.4/1999/WG.18/2; second report: A/55/306; third report : E/CN.4/2001/WG.18/2; fourth report: E/CN.4/2002/WG.18/2; fifth report: E/CN.4/2002/WG.18/6. These reports are available at **http://www.unhchr.ch/html/menu2/7/b/mdev.htm**

[2] It mainly comprises the rights enumerated in internationally recognized instruments such as the International Covenant on Economic Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR).

[3] Growth that facilitates the realization of all the constituent rights and is rights based or consistent with human rights norms must be equitable, non-discriminatory, participatory and pursued with accountability and transparency. The logic of including such a process of rights-based economic growth as an element of the vector of the right to development has been described in the fifth report. Since the realization of any right involves the increased availability of some goods or services needed for fulfilling the right, as well as improved, equitable and non-discriminatory access through public provision and policy action, both of which use resources, a sustainable realization of all the rights without violating any right would require an expansion of these resources, or economic growth. Such economic growth must itself be carried out in a manner consistent with human rights standards. The right to development in that sense is a right to the process of a phased realization of all the different rights together with a process of rights-based economic growth.

[4] Article III, section 3 in the 1986 Declaration on the Right to Development (DRD) states: States have the duty to co-operate with each other in ensuring development and eliminating obstacles to development. States should realize their rights and fulfil their duties in such a manner as to promote a new international economic order based on sovereign equality, interdependence, mutual interest and co-operation among all States, as well as to encourage the observance and realization of human rights.

[5]Guy S. Goodwin-Gill, "Obligations of Conduct and Result", in Philip Alston and Katarina Tomasevski (eds.), *The Right to Food*, Boston, Martinus Nijhoff, 1985, pp. 111-118.

[6] See Amartya Sen, “The Right Not to Be Hungry”, in Philip Alston and Katarina Tomasevski (eds.), The Right to Food, SIM, The Netherlands, 1984.

[7] See UNCTAD, *Trade and Development Report 1999*, World Bank, *World Development Report 1999*, IMF, *World Economic Outlook 1999*.

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[8] Servass Storm and C.W.M. Naastepad, “Globalization and Economic Development”, in *Essays in Honour of J. George Wardensburg*, Edward Elgar, Erasmus University, Rotterdam, 2002.

[9] An Oxfam study has suggested that, on the average, for each percentage point of economic growth, poverty was reduced by 3 per cent in East Asia, a little above 1 per cent in sub-Saharan Africa, but less than 1 per cent in Latin America. Oxfam International, “Growth with equity: an agenda for poverty reduction”, 1997.

[10] The theoretical literature on this subject is large and well known. However, the best account of the importance of policies in a set-up of dynamic equilibrium may be seen in a recently published lecture on path dependency given by the noted economist, the late Professor Sukhamoy Chakravarty, at Erasmus University in April 1990. [Published in Storm and Naastepad, op. cit.] He develops the fundamental proposition of the dynamical system of Ragner Frisch, where equilibrium presupposes that the adjustment process from any disturbances would be heavily dampened to reach a new equilibrium quickly without requiring any references to time taken for such adjustment. In real life, however, even in a stable dynamic system, such adjustments are slowly dampened, so what happens during the process influences the final outcome. Chakravarty observes that a capitalist system, in response to exogenous developments, neither settles down to equilibrium nor does it break down. But it survives by transforming its structure over time. Whether that new structure would be stable would depend on policies adopted which would strongly depend on initial conditions, or be “path-dependent”. Such “path dependence” will rule out any universally optimal government intervention. Given the initial conditions and the past history resulting in these conditions in a country, there will be a set of policies to reach the outcomes - a corridor, so to speak - from which the “optimal” may have to be chosen. In short, the same external disturbances can generate different adjustment policies in different countries depending on their state of development, institutions and history. The policy response to that, therefore, will have to be different, resulting in non-uniform outcomes.

[11] Dani Rodrik, *The Global Governance of Trade as if Development Really Mattered*, John of Kennedy School of Government, Harvard University, July 2001.

[12] Jeffrey Sachs and Andrew Warner, “Economic reform and the process of global integration”, *Brookings Papers on Economic Activities*, 1995.

[13] Edward’s study also indicates that countries with higher levels of trade distortion have had lower economic growth – a result that has a considerable significance in formulating a country’s development policies. It may be recalled here that in the right to development approach, a country’s overall development policy has to harmonize the policies to realize all the different rights in the context of a process of development and economic growth. Among these policies, the ones that are least distortionary of trade are preferred in the framework for realizing the right to development.

[14] Rodrik, op. cit.

[15] For an early study, see Klaus Deininger and Lyn Squire, “A new data set measuring income inequality”, *The World Bank Economic Review*, vol. 10, No. 3, 1996.

[16] G.A. Cornia, “Liberalization, globalization and income distribution”, United Nations University, World Institute for Development Economic Research (WIDER), working paper No. 157, March 1999.

[17] UNDP, *Human Development Report 2002*.

[18] Ibid.

[19] HIPC Initiative: Status of Country Cases Considered under the Initiative, July 2002 at: www.worldbank.org/hipc/progress-to-date.

[20] A preliminary HIPC document has been issued in respect of the Democratic Republic of the Congo.

[21] Global Poverty Report, 2001, prepared for the G-8 Genoa Summit, July 2001, by the World Bank, IMF and the regional development teams.

[22] Rodrik, op.cit.

[23] The presence of such constraints is not incompatible with occasional statistical and long-term stability being observed in the Gini coefficient, as the household survey data, even if reliable, are normally available only at certain intervals. Further, if globalization affected people only at the margin at this initial stage so that the inequalities were averaged out for the country as a whole, or if complementary policies or social protection mechanisms compensated for worsening distribution of outcomes, the observed Gini coefficient may not vary that much.

[24] There is a presumption, based on the Stolper-Samuelson theorem, that trade liberalization will shift income towards a country’s abundant factor. For developing countries this suggests that increased globalization through trade liberalization would principally benefit the abundant unskilled labour, improving the income distribution. However, extensive empirical studies have identified many examples to the contrary. The comprehensive study by Daniel Robbins (“Trade, Trade Liberalization and Inequality in Latin America and East Asia – Synthesis of Seven Country Studies”, Harvard Institute for International Development, March 1996) of seven countries in Latin

America and East Asia showed that in almost all cases, the relative wage of skilled to unskilled labour rose after trade liberalization because of a relatively large increase in the demand for skilled labour. The study of trade liberalization in Mexico showed that the wages of unskilled labour had actually fallen relative to the wages of skilled labour. All these are counter-intuitive to the Stolper-Samuelson proposition, and several theoretical models have been built to explain this so-called anomaly. See for example Donald R. Davis, "Trade Liberalization and Income Distribution" (mimeo), Harvard Institute for International Development, 2000.

[25] For all these, see Storm and Naastepad, op. cit.

[26] See for example Paul Collier and J.W. Gunning, "The IMF's role in structural adjustment", *Economic Journal*, November 1999, based on the *Report of the Group of Independent Persons Appointed to Conduct an Evaluation of Certain Aspects of the Enhanced Structural Adjustment Facility* (Botchwey report), IMF, 1998.

[27] Ibid.

[28] Although there are many studies indicating this feature of the programmes, the most comprehensive one is by A. Cornea, R. Jolly and F. Stewart, *Adjustment with a Human Face: Protecting the Vulnerable and Promoting Growth,* Oxford, 1987.

[29] SeeStorm and Nasstepad, op. cit.

[30] There is a whole literature on how not to mix up policies of removing domestic distortions without violating the principles of trade liberalization. This was initiated in the 1960s by the eminent international economist, Jagdish Bhagwati. In more recent times, the principle of using one correct policy for one specific objective has been invoked in the debate on "linkages". See for example *American Journal of International Law*. January 2002, especially articles by David W. Leebron and Jagdish Bhagwati.

[31] IMF and World Bank, *Market Access for Developing Country Exports – Selected Issues*, September 2002. Available at: http://www.worldbank.org/annualmeetings/mktaccess.pdf.