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**Promotion and protection of human rights: human rights
questions, including alternative approaches for improving the
effective enjoyment of human rights and fundamental freedoms**

Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Cephass Lumina, submitted pursuant to Human Rights Council resolutions 16/14 and 23/11.



Summary

Goal 8 of the Millennium Development Goals — designed to represent a global partnership between developed and developing countries with respect to the establishment of an enabling environment for development — contains a number of commitments in the areas of aid, trade, debt and the transfer of technologies, which aim to support the attainment of Goals 1 to 7. While the partnership has galvanized international support towards creating an enabling environment for development, it has not delivered on all the commitments. Important shortfalls remain in delivering on aid commitments, establishing a fairer multilateral trading and financial system, dealing comprehensively with the debt problems of developing countries and providing affordable access to essential medicines and new technologies.

The present report offers some reflections on the post-2015 global partnership for development. The report argues that the current partnership is characterized by several weaknesses, including lack of alignment with the international human rights framework; lack of clear, quantitative and time-bound targets and indicators; and significant accountability deficits, which have impeded its achievement. It also argues that fully implementing a human rights-based approach — with its emphasis on equality, non-discrimination, participation and accountability — can help to assure a more inclusive, equitable and sustainable post-2015 global development framework that is consistent with the obligations of States to realize human rights, including the right to development, and an effective partnership based on the principles of international cooperation and solidarity. The report concludes with recommendations regarding the key issues that should be addressed in the new global partnership for development.

I. Introduction

1. At the Millennium Summit of the United Nations held in 2000, Member States resolved “to create an environment — at the national and global levels alike — which is conducive to development and to the elimination of poverty” (see resolution 55/2, para. 12). That commitment was subsequently elaborated as Goal 8 of the Millennium Development Goals, on developing a global partnership for development.¹ Goal 8 contains a number of specific commitments in the areas of increasing official development assistance, market access to the poorest countries, debt relief, access to essential drugs, technology transfers and taking into particular consideration the needs of the least developed countries, landlocked developing countries and small island developing States.

2. Goal 8 has played an important role in strengthening international efforts towards creating an enabling environment for development. Nevertheless, it also has a number of shortcomings and there is great disparity between its original level of ambition and its implementation. What is more, Goal 8 has disguised the existing power relationships between developed and developing countries and, by devoting scant attention to the mobilization of development financing other than official development assistance, has perpetuated a “donor-recipient” type of relationship that has impeded the creation of an equitable global economic system. Although focused on international cooperation, the Goal was not framed and has not been implemented in a manner that is consistent with the responsibilities of States outlined in international human rights treaties and the Declaration on the Right to Development.

3. As the 2015 deadline set for the achievement of the Goals draws near, discussions are under way to shape the successor development framework. In that context, the present report, submitted pursuant to Human Rights Council resolutions 16/14 and 23/11, offers some reflections on the global partnership for development, drawing on existing assessments of the strengths and weaknesses of the current global partnership. The report argues that the failure of the partnership (and of the entire Millennium Development Goals framework) to integrate existing and universally agreed human rights standards is one of the main reasons for the lack of equitable progress on the Goals and that it is imperative that the post-2015 global partnership and development framework be aligned with the international human rights framework.² In particular, the full and practical implementation of a human rights-based approach, with its emphasis on equality, non-discrimination, participation and accountability, can help foster more inclusive, people-centred, equitable and sustainable development. Furthermore, the principles of international

¹ The concept of a global partnership for development is also enshrined in the Monterrey Consensus (see *Report of the International Conference on Financing for Development, Monterrey, Mexico, 18-22 March 2002* (United Nations publication, Sales No. E.02.II.A.7), chap. I, resolution 1, annex, para. 40) and in the Plan of Implementation of the World Summit on Sustainable Development (see *Report of the World Summit on Sustainable Development, Johannesburg, South Africa, 26 August-4 September 2002* (United Nations publication, Sales No. E.03.II.A.1 and corrigendum), chap. I, resolution 2, annex).

² It is important to note that in its report, “A new global partnership: eradicate poverty and transform economies through sustainable development”, the High-level Panel of Eminent Persons on the Post-2015 Development Agenda recognizes the need for the new development framework to be grounded in human rights, although the framework lacks consistency in translating that commitment into illustrative targets and indicators.

cooperation and solidarity should inform the design and implementation of the new global partnership.

II. The current global partnership for development

A. Brief assessment of progress

4. In general, the Millennium Development Goals have played an important role in helping to focus international attention on issues of development and poverty reduction. Periodic assessments indicate that important progress has been made in most countries, especially towards the goals of eradicating poverty and improving access to education. However, trends have been uneven across countries and regions and among social groups.³

5. Drawing on existing assessments,⁴ the paragraphs below provide an overview of progress on the current partnership, with a focus on such financing for development targets as official development assistance, trade and debt sustainability.

1. Official development assistance

6. Goal 8 calls for more generous official development assistance for countries committed to poverty reduction. In 2011, at the Fourth United Nations Conference on the Least Developed Countries and in other forums, rich countries reaffirmed their existing aid commitments, pledging to maintain their level of aid and to boost efforts to raise it.⁵ According to the *Millennium Development Goals Report 2012*, however, core development assistance has fallen in real terms as developed countries face fiscal challenges of their own.⁶ In 2011, net aid disbursements amounted to \$133.5 billion, representing 0.31 per cent of the combined income of developed countries. While representing an increase in absolute dollars, this was a 2.7 per cent drop in real terms over 2010, when official development assistance reached its peak.⁶ The *Millennium Development Goals Report 2012* report attributes the drop to fiscal constraints in several countries belonging to the Development Assistance Committee of the Organization for Economic Cooperation and Development (OECD), which have adversely affected their budgets.

7. Although some developed countries, namely, Denmark, Luxembourg, the Netherlands, Norway and Sweden, continued to exceed the United Nations target of 0.7 per cent of gross national income, official development assistance fell in 16 of

³ United Nations System Task Team on the Post-2015 United Nations Development Agenda, “Review of the contributions of the MDG agenda to foster development: lessons for the post-2015 United Nations development agenda”, Discussion Note (March 2012).

⁴ These include *The Global Partnership for Development: Making Rhetoric a Reality — MDG Gap Task Force Report 2012* (United Nations publication, Sales No. E.12.I.5), pp. 7-84; and *The Millennium Development Goals Report 2012* (United Nations publication, Sales No. E.12.I.4), pp. 60-65.

⁵ See the Programme of Action for the Least Developed Countries for the Decade 2011-2020 (A/CONF.219/7, chap. II, para. 116); and the declaration entitled “Renewed commitment for freedom and democracy” (paras. 56-63), adopted at the Summit of the Group of Eight held in Deauville, France, on 27 May 2011.

⁶ See also *MDG Gap Task Force Report 2012*, p. 8 (footnote 4 above).

the 23 Development Assistance Committee countries, with the largest cuts recorded in Austria, Belgium, Greece, Japan and Spain.⁶

8. It is also worth pointing out, as the high-level task force on the implementation of the right to development has observed, that “aid is a relatively small part of development” and that it has not placed recipient countries on a sustainable path of development.⁷

2. Trade

9. The global financial crisis in 2008-2009 saw a slump in world trade, but trade rebounded in the aftermath of the crisis. The recovery was strongest among developing countries whose value of exports exceeded the levels before the crisis. Nonetheless, the least developed countries continue to account for a very small share of global trade.

10. The persistence of agricultural subsidies in developed countries also continues to negatively affect the agricultural trade and production of developing countries. In 2011, agricultural subsidies in OECD countries rose to 0.95 per cent of gross domestic product.⁸ While developed countries subsidize their agriculture by \$1 billion a day, many poor developing countries cannot afford to subsidize theirs, leading to higher prices for their produce and increased poverty and diminished living standards for farmers. Developed countries also impose high taxes on imported manufactured and processed goods, preventing developing countries from earning more income and restricting them to exporting only raw materials. To compound the problem, progress on the Doha Round of trade negotiations has stalled.⁹

11. Despite the pledges by the Group of 20 to resist protectionist measures, only a small percentage of trade restrictions introduced since the beginning of the financial crisis have been eliminated. The trade restrictions implemented thus far have affected nearly 3 per cent of world trade.¹⁰

12. The global trading system remains generally weighted against developing countries hindering their ability to increase their income from exports and their capacity to invest in social programmes. Together with heavy debt burdens, unfair trade places a double burden on developing countries, holding back their development and investment in essential public services. In addition, much of the lack of development is directly attributable to exploitative practices by rich countries, such as the extraction of primary resources for low prices and unfair trading practices.

13. It is therefore vital that greater efforts be made to ensure the equitable integration of developing countries into the global economy in line with the pledge reflected in target 8.A, “to develop further an open, rule-based, predictable,

⁷ See consolidation of findings of the high-level task force on the implementation of the right to development (A/HRC/15/WG.2/TF/2/Add.1 and Corr.1, para. 69); Dambisa Moyo, *Dead Aid: Why Aid is Not Working and How There is a Better Way for Africa* (Farrar, Straus and Giroux, New York, 2009); and Paul Collier, *The Bottom Billion: Why the Poorest Countries Are Failing and What Can Be Done About It* (Oxford University Press, Oxford and New York, 2007).

⁸ *MDG Gap Task Force Report 2012*, p. 37 (footnote 4 above).

⁹ The Doha Round of trade negotiations aims to achieve reform of the international trading system through the introduction of lower trade barriers and revised trade rules.

¹⁰ *MDG Gap Task Force Report 2012*, pp. 30-31 (footnote 4 above).

non-discriminatory trading and financial system". The successful conclusion of the Doha Round would make an important contribution in that regard by reducing distortions in international trade, such as agricultural subsidies and tariff barriers that still impede market access for many countries.¹¹

3. Debt sustainability

14. Target 8.D evinces an international commitment to deal comprehensively with the debt problems of developing countries through national and international measures designed to ensure long-term sustainability of debt. At the international level, the commitment has been implemented through two main mechanisms coordinated by the World Bank and the International Monetary Fund (IMF): the Heavily Indebted Poor Countries Initiative and the Multilateral Debt Relief Initiative. The aim of the initiatives is to reduce the debt burdens of the beneficiary countries to levels deemed "sustainable" by the two institutions and to help fund poverty-reducing expenditures and progress towards the Millennium Development Goals.¹²

15. According to the World Bank and IMF, the two debt relief initiatives have substantially reduced the external debt of recipient countries and enabled these countries to scale up poverty-reducing expenditure. To the extent that it can be established that increased social spending in the recipient countries is attributable to debt relief, it can be argued that the initiatives have had a positive impact on poverty reduction efforts and have thus contributed to progress towards the Goals. Nevertheless, as the Independent Expert indicates in his report to the Human Rights Council ([A/HRC/23/37](#)), it is difficult to measure the direct fiscal impacts of debt relief or to establish a causal relationship between debt relief and increased poverty-reducing expenditure.

16. The measures to address the debt problems of developing countries that are envisaged under Goal 8 aim to make their debt sustainable in the long term. Nevertheless, debt relief under the two initiatives has generally not reduced the vulnerability of heavily indebted poor countries, with many remaining deeply dependent on foreign borrowing and investment.¹³

17. There are several reasons why the target on debt relief has not been fully achieved. First, Goal 8, while containing a pledge to "deal comprehensively with the debt problems of developing countries ... in order to make their debt sustainable in the long term", focuses on debt relief only and omits a key indicator relating to the end of making debt sustainable in the long term: a permanent sovereign debt workout mechanism.

¹¹ *MDG Gap Task Force Report 2012*, p. 28 (footnote 4 above).

¹² The Heavily Indebted Poor Countries Initiative was launched in 1996 and comprehensively reviewed in 1999 to provide more substantial debt relief and to strengthen the links between debt relief, poverty reduction and social policies. In 2005, the Enhanced Heavily Indebted Poor Countries Initiative was supplemented by the Multilateral Debt Relief Initiative, which was designed to further reduce the debt of heavily indebted poor countries and provide resources for the attainment of the Millennium Development Goals. For an assessment of the human rights impact of the initiatives, see the report of the Independent Expert submitted to the Human Rights Council ([A/HRC/23/37](#)).

¹³ Of the 32 countries that had reached the completion point in 2011, 7 are classified as being at high risk of debt distress and 12 at moderate risk. See [A/HRC/23/37](#), paras. 21-24, and *MDG Gap Task Force Report 2012*, p. 54.

18. Second, the debt relief mechanisms have been entirely creditor-driven and disproportionately focused on correcting perceived imprudent debt management on the part of the recipient countries without addressing the underlying causes of the debt problem, including unfair terms of trade, irresponsible lending and poor policy prescriptions by the international financial institutions. Such a singular focus on imprudent debt management is inconsistent with the principle of shared responsibility, which is underscored in both the United Nations Millennium Declaration and the Monterrey Consensus.

19. Third, the World Bank and IMF frameworks for assessing the debt sustainability of low-income countries focuses narrowly on debt repayment capacity and has done little to advance the poverty reduction goals of debt relief, let alone sustainable development (see [A/HRC/23/37](#), paras. 36-41). In the view of the Independent Expert, debt sustainability analyses should include an evaluation of the level of debt that a country can carry without undermining its capacity to fulfil its human rights obligations and to pursue its own national development agenda. Thus, the World Bank and IMF should undertake a comprehensive review of their debt sustainability frameworks to ensure that their assessments pay sufficient attention to the ability of countries to preserve adequate resources for the achievement of national development goals and establishment of the conditions for the realization of all human rights, in particular economic, social and cultural rights.

20. Fourth, the provision of debt relief under the initiatives has been conditional on the implementation, by recipient countries, of policies such as the privatization of public services, the removal of subsidies (including those that benefit the poor), cuts in public spending, the introduction or increase of user fees for public services (health and education, in particular) and trade liberalization, which have largely proved ineffective and harmful (see [A/HRC/23/37](#), paras. 42-45).

21. Fifth, lawsuits by “vulture funds” have diminished the gains from debt relief for some heavily indebted poor countries by forcing such countries to use scarce national resources, including those freed up by debt relief, to settle the exorbitant claims of these funds, instead of using them for their development and poverty reduction programmes.¹⁴

22. Last, although the United Nations Millennium Declaration expresses a determination to deal comprehensively and effectively with the debt problems of both low- and middle-income developing countries, through various national and international measures designed to make their debt sustainable in the long term (para. 16), efforts under Goal 8 have focused on the provision of debt relief to heavily indebted poor countries under the Heavily Indebted Poor Countries Initiative and Multilateral Debt Relief Initiative. In addition, the restrictive eligibility requirements for debt relief under the initiatives have excluded many countries that have high levels of poverty and often pay more on debt services than on basic public services, but whose debt burdens are considered to be “sustainable” by the World Bank and IMF or that otherwise do not meet the stringent eligibility

¹⁴ The term “vulture funds” refers to private creditors who purchase defaulted sovereign debt on the secondary market at steep discounts, refuse to participate in debt restructurings and then aggressively pursue repayments that are considerably in excess of the amount that they paid for the debt obligation. For a discussion of the impact of vulture fund litigation on debt relief and human rights, see [A/HRC/14/21](#), paras. 27-36, and [A/HRC/23/37](#), paras. 48-50.

conditions. Bangladesh, Djibouti, Grenada, Jamaica, Kiribati, Lesotho, the Maldives, the Philippines, Tonga and Zimbabwe are among those countries.

23. Such shortcomings need to be addressed in the post-2015 global partnership. In particular, it is imperative that the global financial and trading systems be fundamentally restructured to ensure transparency, fairness, equity and the effective participation of all countries and that efforts be made to ensure the coherence of global finance, monetary, trade and development policies.

4. Other targets

24. Other targets under Goal 8 include enhancing access to affordable essential medicines and new technologies (especially information and communication technologies) in developing countries. Increasing access to affordable essential medicines is important for the achievement of health-related Goals and for the realization of the right to health. Based on human rights principles, universal access requires that medicines not only be available, acceptable and of good quality, but also affordable for all. However, according to reports tracking progress on the Goals, there has been little progress in recent years in enhancing the availability and affordability of essential drugs in developing countries. According to the *MDG Gap Task Force Report 2012*, essential medicines were on average available in only 51.8 per cent of public and 68.5 per cent of private health facilities during 2007-2011.¹⁵

25. In recent years, while an increasing number of developing countries have successfully used the flexibilities provided in the World Trade Organization Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS Agreement) to reduce costs and improve access to essential medicines by facilitating local production, or the importation of generic medicines, many have not yet amended their national laws or adopted new laws to enable them to fully incorporate TRIPS flexibilities.¹⁶ Moreover, the application of TRIPS flexibilities may be hampered by provisions in free trade agreements that constrain the ability of developing countries to utilize the flexibilities or burden them with unusually high standards of intellectual property protection which far exceed the minimum standards required by the TRIPS Agreement. Typical restrictive measures in free trade agreements (termed “TRIPS-plus” rules or conditions) include the explicit limitation of TRIPS flexibilities or imposition of additional obligations, the extension of patent terms, the granting of “new use” patents, bans on parallel imports and restriction of the grounds for the issuance of compulsory licences.¹⁷

¹⁵ See also the report of the Economic Commission for Africa, African Union, African Development Bank and United Nations Development Programme (UNDP), entitled “MDG report 2012: assessing progress in Africa toward the Millennium Development Goals — emerging perspectives from Africa on the post-2015 development agenda”, p. 118.

¹⁶ The TRIPS Agreement provides for measures that restrict the rights of patent holders, including limited exceptions under article 30 of the Agreement, compulsory licences, parallel imports and patent revocation in terms of article 32 of the Agreement. These measures are referred to as TRIPS flexibilities. See Cephaz Lumina, “Free trade or just trade? The World Trade Organization, human rights and development (part 2)”, *Law, Democracy and Development*, vol. 14 (2010), pp. 8-11.

¹⁷ See, for example, the United States-Morocco Free Trade Agreement, article 15.9.2 (“new use” patents).

26. Access to information and communication technologies has continued to increase globally but large inequalities remain.¹⁸ For example, 74 per cent of the inhabitants of developed countries have access to the Internet, compared with only 26.3 per cent in developing countries.¹⁹

B. Lessons learned

27. The current global partnership for development has served to focus international attention on, and drive the allocation of, resources for key development priorities. According to the United Nations System Task Team on the Post-2015 United Nations Development Agenda, the “simple, transparent and easy-to-understand formulation” of Goal 8 has made possible its use as an advocacy tool in international forums and has identified areas requiring global attention.

28. Nevertheless, the global partnership has a number of significant gaps and weaknesses.²⁰ Four are highlighted here. First, Goal 8 lacks “a strong normative foundation”, since it failed to integrate international human rights obligations, including the duty of international cooperation for development which is enshrined in the Charter of the United Nations and the Declaration on the Right to Development. It should be noted, however, that this omission is not unique to Goal 8. Several studies have pointed to the lack of alignment between some of the Goals and other frameworks that underpin the United Nations Millennium Declaration, including human rights standards, indicating that while the Goals overlap with certain economic, social and cultural rights, their definition is not always consistent with the obligations of States under international human rights law.²¹ For example, while Goal 2 aims to ensure universal primary education, it ignores the obligation under the International Covenant on Economic, Social and Cultural Rights to ensure that primary education is free, compulsory and of sufficient quality. The targets on housing, water and sanitation omit key human rights concerns relating to the security of tenure and the quality and affordability of services. Such requirements are critical for addressing the barriers that many face in accessing basic services and for ensuring that those who are disadvantaged and face discrimination are not left out.

¹⁸ *MDG Gap Task Force Report 2012*, p. 73 (footnote 4 above).

¹⁹ *Ibid.*, p. 75.

²⁰ For a discussion of the perceived strengths and weaknesses of the Goals as a whole, see United Nations System Task Team on the Post-2015 United Nations Development Agenda, “Review of the contributions of the MDG Agenda to foster development: Lessons for the post-2015 UN development agenda”, Discussion Note (March 2012), pp. 4-15; and Economic Commission for Africa, African Union, African Development Bank and UNDP, “MDG report 2012: assessing progress in Africa”, pp. 126-129 (footnote 15 above).

²¹ The Office of the United Nations High Commissioner for Human Rights (OHCHR) has drawn attention to this gap, focusing on the interrelationship between human rights and the Goals and analysing how human rights can contribute to them. See *Claiming the Millennium Development Goals: A Human Rights Approach* (United Nations publication, Sales No. E.08.XIV.6); Amnesty International, *From Promises to Delivery: Putting Human Rights at the Heart of the Millennium Development Goals* (London, 2010); and UNDP, “Human rights and the Millennium Development Goals: making the link”, available from [http://www.undp.org/content/dam/aplaws/publications/en/publications/poverty-reduction/poverty-website/human-rights-and-the-millennium-development-goals/Human Rights and the MDGs.pdf](http://www.undp.org/content/dam/aplaws/publications/en/publications/poverty-reduction/poverty-website/human-rights-and-the-millennium-development-goals/Human%20Rights%20and%20the%20MDGs.pdf).

29. The failure to include human rights and social justice concerns in the targets and indicators has also hampered efforts to address two key drivers of poverty and obstacles to development: exclusion and marginalization.

30. Furthermore, the current accountability framework for the Goals, which consists of voluntary monitoring and reporting at the national level and United Nations reports on regional and global progress, is largely detached from national and international human rights accountability mechanisms. Consequently, States can report on their progress without reference to their human rights obligations and without taking into consideration the outcomes of the scrutiny of their human rights performance as undertaken by the treaty monitoring bodies.

31. Second, Goal 8 lacks clear, quantitative and time-bound targets. Such a lacuna has made it challenging to monitor and hold Governments accountable for policy actions necessary to meet their commitments.²² In addition, the Goal has indicators that are inconsistent with targets²³ and its scope leaves out important actors and related areas.

32. Third, the accountability of stakeholders is lacking in the current global partnership. According to a recent report by the Office of the United Nations High Commissioner for Human Rights and the Center for Economic and Social Rights, accountability has been weakened by “a lack of clarity” about who is responsible for fulfilling the commitments.²⁴ The Goals were based on the idea of mutual accountability between developed and developing countries, as well as the shared responsibility of States, international institutions, the private sector and civil society. This has rendered it difficult to identify the differentiated responsibilities of development actors and has thus undermined accountability. The absence of clearly defined duties and responsibilities has also made it easier for Governments and other actors to abdicate responsibility and blame others for their failure to perform.²⁴

33. The accountability deficits are particularly apparent with regard to the commitments assumed by developed countries in relation to the global partnership. As shown above, shortcomings are evident in all areas of Goal 8. For example, the volume of official development assistance fell 3 per cent in 2011; the Doha Round of trade negotiations remains at an impasse and protectionist measures adopted by the Group of 20 affect 3 per cent of global trade; the agricultural subsidies of OECD countries rose in 2011; debt relief efforts have failed to comprehensively address the debt problem of all developing countries; and a growing number of free trade agreements include intellectual property provisions that block access to essential medicines, especially for the poorest.

²² OHCHR and Center for Economic and Social Rights, *Who Will Be Accountable? Human Rights and the Post-2015 Development Agenda* (2013), p. 22.

²³ For example, target 8.A calls for the further development of both the trading and financial system, but there is no indicator to measure the lack of progress in the international financial system, which has remained largely unregulated. Target 8.D focuses on the debt problems of developing countries, whereas the relevant indicators focus mainly on the more limited set of heavily indebted poor countries under the Heavily Indebted Poor Countries Initiative and the Multilateral Debt Relief Initiative.

²⁴ OHCHR and Center for Economic and Social Rights, *Who Will Be Accountable?* p. 4 (footnote 22 above).

34. Finally, the allocation of responsibility to developed countries for the implementation of the commitments under the Goal has perpetuated a “donor-recipient” type of relationship rather than emphasizing the need for collective action to achieve a stable international economic environment. In addition, the provision of official development assistance and debt relief on the condition that recipient countries adopt poverty reduction strategies in line with their Millennium Development Goals commitments has led to concerns that the Goals are an instrument of aid conditionality and has fostered the accountability of recipient countries to donor Governments and international financial institutions, thus undermining the primary accountability that each State has under international human rights law to the people under its jurisdiction.²⁴

35. Notwithstanding the shortcomings outlined above, the areas covered in Goal 8 remain highly relevant to the establishment of an enabling environment for development in the context of the post-2015 development framework. Nevertheless, it is the view of the Independent Expert that the successful creation of such an enabling environment will depend on a number of factors, including the extent to which the partnership is consistent with the international human rights framework; coherence across the international monetary, financial and trading systems; the enhanced policy accountability of all stakeholders; and transparent, participatory and inclusive decision-making at the international level.

III. Towards a new rights-based global partnership for development

A. Alignment with the international human rights framework

36. The importance of human rights in achieving and sustaining development has been widely recognized. Thus, according to the Vienna Declaration and the Programme of Action, for example, “democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing” (para. 8). In the report entitled “In larger freedom: towards development security and human rights for all” (A/59/2005, para. 17), the Secretary-General highlighted the interlinkages between development, security and human rights. In 2010, at the high-level plenary meeting of the General Assembly on the Millennium Development Goals, Member States stressed that human rights are essential for the realization of the Goals. In January 2013, at the United Nations Non-Governmental Liaison Service Civil Society Consultation for the High-level Panel of Eminent Persons on the Post-2015 Development Agenda, contributors called for the post-2015 development framework to be anchored in human rights, guided by the range of obligations already agreed to by Member States.²⁵ In a similar vein, in a recent report entitled “A matter of justice: securing human rights in the post-2015 sustainable development agenda”, the Center for Economic and Social Rights emphasized that a human-centred sustainable development agenda must strive to ensure at least minimum essential levels of social and economic rights enjoyment.

²⁵ See http://www.un-ngls.org/IMG/pdf/NGLS_Post_2015_HLP_Consultation_Report_January_2013.pdf.

37. Under international human rights law, States have duties to respect human rights by refraining from interfering directly or indirectly with the enjoyment of human rights; to protect human rights by preventing, investigating and punishing violations and ensuring remedies when third parties, such as businesses and international and regional organizations, infringe upon human rights; and to fulfil human rights by taking legislative, administrative, judicial, budgetary and other measures towards the full realization of human rights.

38. With specific reference to economic, social and cultural rights, States are under a duty to take steps that are deliberate and concrete, and targeted as clearly as possible towards fulfilling those rights. This is an immediate obligation and the rate and level of progress that each State is expected to achieve should take into account the maximum resources available, both domestically and from the international community through international assistance and cooperation. This requires the adoption of national strategies and plans of action that indicate how the State aims to realize those rights and the development of corresponding indicators and benchmarks.

39. States also have an immediate obligation to prioritize the minimum essential levels of each economic, social and cultural right for everyone, meaning that they must give priority to ensuring that everyone has, at the very least, minimum essential levels of food, water, sanitation, health care, housing and education. Development efforts should take into account those key obligations.

40. Despite the fact that human rights and development share the goal of improving human well-being and are mutually reinforcing and that the importance of human rights for achieving sustainable development is accepted, the development framework has, disappointingly, not been aligned with human rights. The discussions concerning the new development framework provides an opportunity to rectify such an omission. Alignment between human rights and development can be ensured through a human rights-based approach to the global partnership for development.

B. Addressing challenges through a human rights-based approach

41. A human rights-based approach to development is a conceptual framework for the process of development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights. It seeks to examine inequalities which lie at the core of development challenges and redress discriminatory practices and unjust distributions of power that obstruct development progress.

42. Under a rights-based approach, the plans, policies and processes of development are anchored in a system of rights and corresponding obligations established by international law. This implies that the human rights obligations of all duty bearers should be clearly defined and that rights holders are empowered to know and claim their rights. A human rights-based approach helps to promote the sustainability of development efforts, empowering people, as the targets of development, especially the most marginalized, to participate in policy formulation and to hold accountable those who have a duty to act. The principles of equality, non-discrimination, participation and accountability are at its core.

43. A rights-based approach provides an important framework for development policies: it can contribute to the achievement of sustainable results, while ensuring that development challenges are adequately and equitably addressed and that human rights are fully respected in the process. Therefore, the post-2015 framework should not only fully integrate human rights and address the key principles of equality, non-discrimination, participation and accountability, it should also pay sufficient attention to the needs and circumstances of vulnerable groups and the empowerment of human rights claim holders.

1. Tackling discrimination and exclusion

44. Equality and non-discrimination are key elements of the international human rights framework and their comprehensive observance is essential to the enjoyment of all human rights.²⁶ The principle of non-discrimination prohibits any distinction, exclusion, restriction or preference or other differential treatment that is directly or indirectly based on specified grounds and that has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights.²⁷

45. The principles of equality and non-discrimination require that States take action to identify and address the barriers to formal and substantive equality. Eliminating formal discrimination requires ensuring that a State's constitution, laws and policies do not discriminate on prohibited grounds. Eliminating substantive discrimination in practice requires paying sufficient attention to groups of individuals that suffer historical or persistent prejudice rather than merely comparing the formal treatment of individuals in similar situations.²⁸ In order to eliminate substantive discrimination, States may be, and in some cases are, under a duty to adopt special measures to rectify the cumulative adverse effects of conditions that prevent people, especially vulnerable and disadvantaged groups, from enjoying rights on an equal basis. States are also required to ensure the availability of effective remedies and accountability mechanisms, as well as of institutions that effectively address the individual and structural nature of the harm caused by discrimination.

46. In the context of development, efforts to promote equality should focus on, inter alia, ensuring fairness in the distribution of benefits and opportunities and eradicating distinctions that are based on prohibited grounds and that have the purpose or effect of impairing the enjoyment of human rights. This means that States and other development actors should analyse policies and programmes, including those relating to aid, debt, structural reform and investment, with respect to their impact on inequality and adjust them as appropriate, in order to promote a

²⁶ See, for example, the Universal Declaration of Human Rights, article 2; the International Covenant on Economic, Social and Cultural Rights, article 2 (2); the International Covenant on Civil and Political Rights, articles 2 and 26; the International Convention on the Elimination of All Forms of Racial Discrimination, article 1; the Convention on the Elimination of All Forms of Discrimination Against Women, article 1; the Convention on the Rights of the Child, article 2; and the Convention on the Rights of Persons with Disabilities, article 5. See also the Charter of the United Nations, Articles 1 (3) and 55. Inequality is also a key focus of post-2015 development framework discussions.

²⁷ See Committee on Economic, Social and Cultural Rights general comment No. 20, on non-discrimination in economic, social and cultural rights (2009), para. 7.

²⁸ Ibid., para. 8.

more equitable and non-discriminatory distribution of the benefits of development.²⁹

47. Moreover, States should be required to comprehensively identify and redress exclusion and discrimination. In that connection, the Independent Expert supports the view that achieving equality should be both a stand-alone goal and explicitly incorporated across all other goals in the new development framework, through improved data collection and disaggregation (especially for groups who face discrimination or are disadvantaged within particular national contexts) and the use of equality as a standard for assessing progress on each goal.³⁰

48. The marginalization and exclusion of women deserves particular attention in relation to efforts to create an enabling environment for the realization of the new development agenda.³¹ According to UN-Women, approximately 70 per cent of those living in poverty worldwide are women.³² In many countries, women and girls continue to face barriers to securing decent work; participating in public life; and obtaining access to property, education, adequate food, health care, water and sanitation. In order to address the structural inequality and discrimination faced by women and to ensure that women enjoy the benefits of development on an equal basis, their human rights need to be fully integrated into the post-2015 development framework.

2. Ensuring participation

49. While it is widely recognized that the active engagement of affected communities is essential to ensuring successful and sustainable development outcomes, the current Millennium Development Goals framework does not explicitly recognize the right to participate actively and meaningfully in the formulation and implementation of policies and strategies to achieve the Goals.

50. The right to participate in public affairs is an essential component of international human rights law. It is enshrined in the Universal Declaration of Human Rights (article 21) and the International Covenant on Civil and Political Rights (article 25), as well as in regional human rights instruments. Specific guarantees for the participation of women, children and persons with disabilities are contained in the Convention on the Elimination of All Forms of Discrimination against Women (article 7), the Convention on the Rights of the Child (articles 12 and 31) and the Convention on the Rights of Persons with Disabilities (articles 4 (3) and 29), respectively.

51. Participation is important for people-centred development and for enabling people to claim their rights and to hold national authorities and other duty bearers

²⁹ See report of the Independent Expert, entitled “Guiding principles on foreign debt and human rights” (A/HRC/20/23, annex, para. 12).

³⁰ See OHCHR and Center for Economic and Social Rights, *Who Will Be Accountable?* p. xiii (footnote 22 above).

³¹ It is generally recognized, for example, that gender equality and women’s empowerment are essential for tackling poverty. See United Nations Development Fund for Women and UNDP, *Making the MDGs Work Better for Women: Implementing Gender-Responsive National Development Plans and Programmes* (2009), available from <http://unifem.org/attachments/products>.

³² See http://www.unifem.org/gender_issues/women_poverty_economics/. See also “Fast facts: gender equality and UNDP”, July 2011.

accountable.³³ It requires that communities identify their own problems and priorities and be involved in all key decisions concerning the goals and means for achieving development.

52. Participation also enhances the accountability and responsiveness of public policies by ensuring that affected communities have the means to engage with policy processes. Participation should not be seen as an end in itself. Rather, it should empower people to take control over their lives. Therefore, the right to participation must be an integral part of government policies, programmes and strategies.

53. The Independent Expert considers that participation, especially of those who are disadvantaged and marginalized, in the planning, implementation and monitoring of development efforts, is the best guarantee for ensuring that people-centred development actually benefits people. In order for participation to be meaningful, however, States must also fulfil a number of other rights and duties, including the rights of access to information, freedom of expression and association, and must establish conditions in which human rights defenders can carry out their work without fear of reprisal.

3. Strengthening accountability

54. As noted above, the current Millennium Development Goals framework has a number of accountability deficits. A key priority of the new global development framework should therefore be the strengthening of accountability.³⁴

55. Accountability is a key feature of the human rights-based approach to development. From the human rights viewpoint, accountability refers to the relationship between duty bearers to the rights holders affected by their decisions, actions and omissions. It requires that the Government and other duty bearers take responsibility for their decisions, actions and omissions, answer for them by explaining or justifying them to the public or those affected; and be subject to some kind of enforceable sanction if their conduct has resulted in human rights violations.³⁵ Accountability also enables rights holders to access fair and transparent mechanisms to enforce their claims against duty bearers, and to obtain appropriate redress when their rights have been infringed. In that way, accountability enhances policymaking and the delivery of services.

56. Both national and international accountability mechanisms can play an important role in drawing attention to gaps in the national monitoring of development policies and strategies. At the international level, the human rights

³³ UNDP, *Human Development Report 2002: Deepening Democracy in a Fragmented World* (Oxford University Press, 2002).

³⁴ The recent report by OHCHR and the Center for Economic and Social Rights entitled *Who Will Be Accountable? Human Rights and the Post-2015 Development Agenda* (see footnote 22 above) offers useful insights into the issue of accountability in the post-2015 development framework. It reviews existing accountability mechanisms with particular reference to the Goals and explores how human rights accountability can be better integrated in the post-2015 agenda. It also identifies three dimensions of accountability in development through which the accountability deficits evident in the Goals can be addressed: responsibility, answerability and enforceability.

³⁵ See OHCHR and Center for Economic and Social Rights, *Who Will Be Accountable?* p. 10 (footnote 22 above).

monitoring system, including the universal periodic review, the treaty bodies and the special procedures, can all play an important role in monitoring progress on development strategies. At the national level, accountability mechanisms, such as judicial bodies and national human rights institutions can and should play a significant role in monitoring the efforts of States towards the new development objectives and whether such efforts are consistent with their human rights obligations.

57. The Independent Expert acknowledges that the private sector can play an important role in the development process.³⁶ However, it is important to recognize that private corporations are motivated by the pursuit of profit. It would therefore be naive to think that in the absence of regulation by the State they can promote equality, decent work conditions, respect human rights and avoid environmental degradation. Indeed, the global financial crisis has clearly demonstrated the danger of self-regulation. Thus, if the private sector is to play a positive role in the development process, States need to ensure effective regulation of the private sector in line with their obligation to protect human rights. Businesses also have to respect human rights.³⁷

C. International assistance and cooperation

58. The global partnership for development was intended to address areas where international cooperation was seen as critical to progress towards achieving the Goals. Nevertheless, the partnership has been criticized — rightly so — as “an ambiguous concept” (see [A/HRC/15/WG.2/TF/2/Add.1](#), para. 76) and one that not only disguises the power relations existing between developed and developing countries but also has perpetuated a “donor/recipient” relationship that has undermined the effectiveness of the global partnership and is not conducive to the creation of an equitable global economic system. It is therefore important to move away from the sterile donor-recipient paradigm with its inherent notion of largesse on the part of developed countries to a genuine partnership based on the sovereign equality of States and the principle of international cooperation.

59. The Charter of the United Nations and various international human rights treaties and declarations³⁸ reflect a clear requirement for States to cooperate with and assist each other in order to achieve certain goals, including ensuring development and eliminating obstacles to development; finding solutions to

³⁶ The report of the High-level Panel of Eminent Persons on the Post-2015 Development Agenda, “A new global partnership: eradicate poverty and transform economies through sustainable development” promotes the private sector as the engine of development and, alarmingly, states that the accountability of corporations should be to their shareholders.

³⁷ See guiding principles on foreign debt and human rights (A/HRC/20/23, annex); and the report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations, entitled “Guiding principles on business and human rights: implementing the United Nations ‘protect, respect and remedy’ framework” (A/HRC/17/31).

³⁸ Charter of the United Nations (Articles 55 and 56); the Universal Declaration of Human Rights (article 28); the Declaration on the Right to Development (article 3, para. 3); the International Covenant on Economic, Social and Cultural Rights (articles 1, para. 1, 22 and 23); the Convention on the Rights of the Child (article 4); and the Convention on the Rights of Persons with Disabilities (article 32).

international economic, social, health and related problems; and promoting universal respect, and observance of, human rights and fundamental freedoms.

60. The duty in respect of international assistance and cooperation enjoins States to ensure that their activities, and those of their residents and corporations, do not violate the human rights of people abroad³⁹ and that States, individually or through membership of international institutions, do not adopt policies or engage in practices that undermine the enjoyment of human rights or further perpetuate disparities between and within States. It also requires that States that are in a position to do so must provide international assistance to States that lack the resources to fulfil at least the minimum essential levels of economic, social and cultural rights. Moreover, international assistance and cooperation must be directed towards the establishment of a social and international order in which all human rights can be fully realized.

61. The Independent Expert considers that, as opposed to Goal 8 which has an overwhelming focus on the provision of official development assistance, the new global partnership should enhance opportunities for developing countries to utilize the resources they already have in order to reduce their long-term dependency on aid and afford them sufficient policy space. This requires increasing the capacities of developing countries to mobilize domestic resources through improved tax revenue collection (including reviewing foreign investor incentives, which offer little benefit for the populations in the host countries); monitoring and regulating financial transfers to prevent speculation, asset stripping and illicit financial flows; encouraging genuinely productive long-term investment; increasing transparency in relation to revenues from transnational corporations exploiting natural resources; and facilitating international cooperation to ensure the return of stolen assets.

D. A new understanding of development

62. It has been suggested that the post-2015 development agenda should offer a new understanding of development framed in terms of the achievement of social justice.⁴⁰ The Independent Expert agrees.

63. Over the years, the definition of “development” has been revised, extended and refined as “sustainable development”, “human development” and “inclusive growth” or “inclusive development”, but all such definitions have limitations.⁴⁰

64. Although widely used, the term “sustainable development” lacks a uniform interpretation. According to the classical definition given in the 1987 report of the World Commission on Environment and Development (also known as the “Brundtland report”), *Our Common Future*, development is sustainable if it “meets the needs of the present without compromising the ability of future generations to meet their own needs”. However, the concept has come to be associated with a “green economy”.

³⁹ See the Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights, para. 3.

⁴⁰ Diane Elson and Radhika Balakrishnan, “The post-2015 development framework and the realization of women’s rights and social justice”, note prepared for the Center for Women’s Global Leadership, Rutgers University, United States, p. 3.

65. According to the United Nations Development Programme (UNDP), *Human Development Report 1990*, human development is “a process of enlarging people’s choices”, the most critical of which are to live a long and healthy life, to acquire better knowledge and to have access to resources needed for a decent standard of living. Additional choices include political freedom, guaranteed human rights and self-respect. For the World Bank, human development comprises little more than sectoral concerns with education, health and nutrition. Both formulations suggest that human development has been understood as a mere investment in human capital. It should also be noted that the UNDP human development approach is not widely accepted within the United Nations system.⁴¹

66. The term “inclusive growth” has been understood to refer to growth coupled with equal opportunities.⁴² The World Bank’s concept of inclusive growth focuses on the creation of employment opportunities and combating poverty and its consequences. Critics say a focus on inclusive growth has disguised the fact that for many people the issue is not exclusion, but inclusion on very unequal terms.⁴³

67. While the Independent Expert does not propose to offer a new definition of development, he considers that is important to move beyond poverty reduction and to shift the focus from meeting basic needs to the achievement of social and economic justice.⁴⁴ In his view, a new understanding of development should reflect the fact that it has economic, social, political, environmental and cultural dimensions.

68. Thus, development should be seen as a comprehensive, nationally designed and owned,⁴⁵ and people-centred process in which all individuals actively, freely and meaningfully participate and human rights are fully respected, as well as a process that aims to improve the well-being of all individuals without distinction, strives for social and economic justice and social cohesion through the fair distribution of benefits, opportunities and resources, and promotes raised standards of living, without endangering the environment. This view of development is broadly consistent with that reflected in the Declaration on the Right to Development.

69. The Independent Expert considers that the new understanding of development should be framed in terms that are consistent with the Declaration on the Right to

⁴¹ See “The UN and human development”, Briefing Note No. 8 (United Nations Intellectual History Project, Ralph Bunche Institute for International Studies, City University of New York), p. 4.

⁴² See Ganesh Rauniyar and Ravi Kanbur, “Inclusive growth and inclusive development: a review and synthesis of Asian Development Bank literature”, Occasional Paper No. 8 (Asian Development Bank, December 2009).

⁴³ Elson and Balakrishnan, “The post-2015 development framework”, p. 3 (footnote 40 above).

⁴⁴ In its June 2012 report entitled “Realizing the future we want for all”, the United Nations System Task Team on the Post-2015 United Nations Development Agenda broadly endorsed the need to move beyond poverty reduction to promote holistic development based on the principles of human rights, equality and sustainability, as well as the four dimensions of peace and security, inclusive economic development, inclusive social development and environmental sustainability.

⁴⁵ The guiding principles on foreign debt and human rights underscore that “[c]ountry ownership of national development strategies is the foundation of development effectiveness. It implies that national governments should have the ability to freely choose the strategies which they design and implement, and take the lead in both policy formulation and implementation” (A/HRC/20/23, annex, para. 74). See also article 3, para. 1, of the Declaration on the Right to Development, which reads: “States have the primary responsibility for the creation of national and international conditions favourable to the realization of the right to development”.

Development, which provides a comprehensive framework and approach to the policies and programmes of all relevant actors at the international, regional and national levels. The right to development offers added value in that it, inter alia, integrates aspects of both human rights and development theory and practice; covers all human rights; requires active, free and meaningful participation; involves both the national and international dimensions of State responsibilities; requires comprehensive, people-centred development policy, participatory development processes, social justice and equity; embodies the human rights principles of equality, non-discrimination, participation, transparency, accountability and international cooperation; and implies the principles of self-determination and full sovereignty over natural resources.⁴⁶

E. The need for policy coherence

70. The need to enhance coherence of development, financial, monetary, trade, investment and other key policies, as described in the previous report of the Independent Expert (A/65/260 and Corr.1, paras. 49-53), has been recognized in a number of international decisions, including the United Nations Millennium Declaration,⁴⁷ the Sao Paulo Consensus,⁴⁸ the Monterrey Consensus of the International Conference on Financing for Development⁴⁹ and the 2005 World Summit Outcome (resolution 60/1). Despite these commitments, however, global economic policymaking remains fragmented and incoherent.

71. Coherence among the various areas of international policymaking is critical to ensuring that actions in one policy area do not undermine the goals or actions in another. In that regard, for example, trade, finance and development should be treated in an integrated and coherent manner in order to create and sustain an enabling environment for maximizing development gains for all countries. As noted by the Under-Secretary-General for Economic and Social Affairs, “there is a need to strengthen the global coordination of economic decision-making so as to minimize

⁴⁶ See <http://www2.ohchr.org/english/issues/development/right/index.htm>.

⁴⁷ In the United Nations Millennium Declaration, world leaders resolved to “ensure greater policy coherence and better cooperation between the United Nations, its agencies, the Bretton Woods Institutions and the World Trade Organization, as well as other multilateral bodies, with a view to achieving a fully coordinated approach to the problems of peace and development” (see resolution 55/2, para. 30).

⁴⁸ The Sao Paulo Consensus states: “In order to enable developing countries to reap greater benefits from globalization and to achieve the international development goals, including those contained in the United Nations Millennium Declaration, there is a need to enhance the coherence and consistency of the international monetary, financial and trading systems” (see TD/412, sect. II, para. 17).

⁴⁹ The Monterrey Consensus reads: “In order to complement national development efforts, we recognize the urgent need to enhance coherence, governance and consistency of the international monetary, financial and trading systems.” Paragraph 4 reflects a commitment to “enhancing the coherence and consistency of the international monetary, financial and trading systems” (see *Report of the International Conference on Financing for Development, Monterrey, Mexico, 18-22 March 2002* (United Nations publication, Sales No. E.02.II.A.7), chap. I, resolution 1, annex, para. 52).

the number of cases where rules dealing with trade, aid, debt, finance, migration, environmental sustainability and other development issues come into conflict”.⁵⁰

72. It is also important to recognize that macroeconomic policies can have implications for the realization of economic, social and cultural rights, as well as the achievement of substantive development outcomes. Thus, for example, while trade liberalization and increased foreign investment may contribute to development, they can also result in human rights violations. For instance, a number of trade agreements contain stronger intellectual property protections than those contained in the TRIPS Agreement, which can impede access to essential drugs by poor people.

73. It is worth recalling that the right to development requires an enabling national and international environment, which, inter alia, affords Governments some policy space to design and implement national development programmes that are responsive to the needs of their people and are fully consistent with their human rights obligations. Consequently, efforts must be made to ensure that global economic policies are consistent with the realization of human rights, particularly economic, social and cultural rights.

74. The strengthening of coherence between development, trade, investment, finance, tax, intellectual property and other key policy areas at both the national and international levels should therefore be a key priority for the new global partnership. In particular, international human rights standards, which provide universal values, are legally binding and aim to promote human well-being, should be the benchmark for policy coherence.

F. Global governance reform

75. If the new global partnership for development is to be effective, the governance problems of the global economy must be addressed. This requires establishing an equitable, transparent and democratic international system to strengthen and broaden the participation of developing countries in international economic policymaking and standard-setting. In particular, the structure and functions of international organizations and other forums for global policymaking and norm-setting should comply with a number of key international legal principles. First, the institutional arrangements must respect national sovereignty. This will help preserve independence and policy space and assure State ownership of national development agendas. Second, all international governance institutions must be accountable for the environmental, social, economic and human rights impacts of their policies and practices.⁵¹ Last, all States must participate in the deliberations and decision-making of international institutions on an equal footing, and such decisions and deliberations must be transparent.

76. In the estimation of the Independent Expert, giving developing countries greater voice and representation and enhancing the transparency and accountability of international financial institutions would assist in the establishment of an

⁵⁰ *World Economic and Social Survey 2010: Retooling Global Development* (United Nations publication, Sales No. E.10.II.C1), p. xxiv.

⁵¹ Nicole Bates-Earner and others, *Post-2015 Development Agenda: Goals, Targets and Indicators: Special Report* (Centre for International Governance Innovation and the Korea Development Institute, 2012), p. 26.

enabling environment for the realization of the new development goals. Thus, a key priority for global governance should be to undertake the comprehensive reform of the World Bank and IMF in order to ensure democratic decision-making, transparency and human rights accountability.

77. It is also important to reaffirm and strengthen the role of the Economic and Social Council as the principal body for coordination, policy review, policy dialogue and recommendations on issues of economic and social development, as well as the implementation of international development goals as foreseen in the Charter of the United Nations (see resolution 60/1). Such a role cannot and should not simply be left to gatherings such as the Group of Eight, the Group of 20 or similar forums that do not represent the interests of the entire global community.

78. Finally, it is important to establish a comprehensive international debt workout mechanism⁵² under the auspices of a neutral, non-lending institution with sufficient global legitimacy — the United Nations. Such a mechanism is an indispensable component of a stable international financial system.⁵³ Guided by internationally agreed principles on responsible borrowing and lending and the guiding principles on foreign debt and human rights, it can play an important role in resolving debt repayment difficulties and disputes fairly and efficiently and would therefore help to address the debt problems of developed and developing countries in a comprehensive and sustainable manner. The debt workout mechanism should prioritize the duty of States to meet the basic needs of their populations in line with their international human rights obligations and national development agendas.⁵⁴ By focusing on basic needs and human rights, the mechanism can help to ensure that debt does not pose a structural obstacle to development. It would also bring accountability to the global financial system.

IV. Recommendations for the post-2015 global partnership

79. **The current global partnership for development has shortcomings, including a lack of alignment with the international human rights framework and significant accountability deficits, which have undermined its effectiveness. Moreover, the manner in which the global partnership was framed has perpetuated a “donor-recipient” relationship between developed and developing countries, which has weakened the prospects for the establishment of a supporting environment for the attainment of the Goals.**

80. **In order to ensure the establishment of an enabling environment for the realization of the new development goals, it is imperative to align the new development framework with the international human rights framework and to adopt a human rights-based approach to development. In that context, the Independent Expert recommends that:**

(a) **The new global partnership for development should be framed in terms of the principles of international cooperation and solidarity. The sterile**

⁵² See *MDG Gap Task Force Report 2012*, pp. 57-58 (footnote 4 above).

⁵³ See *Report of the International Conference on Financing for Development*, para. 60 (footnote 1 above).

⁵⁴ See guiding principles on foreign debt and human rights (A/HRC/20/23, paras. 84 and 85).

“donor-recipient” paradigm underpinning the current partnership should be discarded;

(b) All States should ensure an adequate focus on the realization of the minimum essential levels of economic, social and cultural rights for all and prioritize those who are most marginalized and excluded. In that regard, they should take measures to identify and address all forms of discrimination across all development policies, plans and programmes and support the integration of a social protection floor into the post-2015 commitments, as proposed by the Special Rapporteur on extreme poverty and human rights and the Special Rapporteur on the right to food;

(c) The achievement of equality should be both a goal and be explicitly integrated across all other development goals in the post-2015 development framework, through improved data collection and disaggregation, and equality benchmarking;³⁰

(d) States should strengthen accountability for the delivery of development commitments by ensuring that the new partnership includes accessible and effective accountability mechanisms, as well as clear, quantitative and time-bound targets and indicators. The new partnership should also clearly define the duties and responsibilities for fulfilling the commitments in relation thereto;

(e) States should adopt frameworks for the effective regulation of the private sector in order to ensure that it can be held accountable for the human rights, environmental and social impacts of its activities. Such frameworks should ensure that no harm is done by requiring mandatory due diligence procedures and independent ex ante and ex post facto human rights impact assessments (including for extraterritorial impacts) as part of private sector reports on fulfilment of their sustainable development goal commitments;

(f) States should ensure coherence of development, finance, intellectual property, trade, investment and other key policies at both the national and international levels. International human rights should serve as the benchmark for policy coherence;

(g) States should comprehensively address global governance problems through the reform of the international institutions of which they are members in order to ensure transparency, inclusive decision-making and accountability, in particular with regard to economic policymaking. Such reforms should include the World Bank, IMF and other international financial institutions in order to ensure that they adhere to the commonly accepted norms of good governance (including transparency, accountability, ownership and equal participation) as well as international standards on human rights, the environment and labour;

(h) States should reaffirm and strengthen the role of the Economic and Social Council as the main body for coordination, policy review, policy dialogue and recommendations on issues of global economic and social development, as well as the implementation of international development goals;

(i) Developed countries should fully implement their commitments to delivering increased official development assistance in accordance with the international agreed targets;

(j) Efforts should be made to reduce the dependence of developing countries on aid by enhancing their capacity to mobilize domestic resources through increased public revenue collection, ensuring a fair return on natural resources exploitation by foreign investors, tackling illicit financial flows and intensifying efforts to return stolen assets to the countries of origin;

(k) States should adopt regulatory frameworks in line with the guiding principles on foreign debt and human rights in order to curtail predatory “vulture fund” activities within their jurisdictions;

(l) States should endeavour to conclude the Doha Round of trade negotiations in a transparent and inclusive manner without further delay. The negotiations should comprehensively address issues of concern to developing countries, such as the elimination of export subsidies and trade-distorting agricultural subsidies in developed countries and the reduction of tariffs imposed by developed countries on agricultural products, textiles and clothing from developing countries. This would help to ensure an equitable global trading system;

(m) States should step up efforts to establish a comprehensive international debt workout mechanism under the auspices of the United Nations;

(n) The World Bank and IMF should undertake comprehensive reviews of their debt sustainability frameworks in order to ensure that their debt sustainability assessments pay due attention to preserving adequate resources for national development programmes and the creation of conditions for the realization of human rights.
