

*Check against delivery*

**THE SECOND SESSION OF  
THE EXPERT MECHANISM ON THE RIGHT TO  
DEVELOPMENT**

**AGENDA ITEM 4  
COORDINATION MEETING**

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**CHAIR-RAPPORTEUR  
WORKING GROUP ON THE RIGHT TO DEVELOPMENT**

**11 NOVEMBER 2020**

Distinguished Chair,  
Members of the Expert Mechanism,  
Ladies and gentlemen,

I am pleased to address you in my capacity as Chair-Rapporteur of the Intergovernmental Working Group on the Right to Development and to take part in this coordination meeting of mechanisms dealing with the right to development. I regret that due to the COVID pandemic, I am not able to join you in person.

Since this is the first time I am interacting with the new Expert Mechanism, allow me to congratulate you on your appointment and wish you success in your work. I also look forward to cooperating with you in future.

I want to begin by saying a few words about the Working Group before I move on to the present work programme of the Working Group.

The Working Group was established by the then Commission on Human Rights in 1998, initially for a period of three years, to meet for a period of five working days each year, as part of a twin mechanism, together with the then Independent Expert on the Right to Development.

Its mandate is essentially to monitor and review progress made in the promotion and implementation of the right to development, to analyse obstacles to its fulfilment and to make recommendations thereon.

It is also mandated to review reports and any other information submitted by States, United Nations agencies, other relevant international organizations and non-governmental organizations (NGOs) on the relationship between their activities and the right to development as well as to provide advice to the Office of the United Nations High Commissioner for Human Rights (OHCHR) with regard to the implementation of the right to development, and to suggest possible programmes of technical assistance at the request of interested countries with the aim of promoting the implementation of the right to development.

The Working Group holds one annual session and submits an annual report to the Human Rights Council and to the Third Committee of the UN General Assembly. Participation is open to all Member States and all observers who have received a standing invitation to participate in the work of the General Assembly as well as National Human Rights Institutions and non-governmental organizations in consultative status with the ECOSOC. The Working Group seeks to work on the basis of consensus as far as possible.

Since its creation, the work of the Working Group has been guided by the Declaration on the Right to Development of 1986 and other relevant international instruments, including the UN Charter.

There are four phases into which the past processes of the Working Group can be divided. The first period, which began in September 2000 and ended in 2004, was characterized by interaction with the independent expert on the right to development, a follow-up mechanism simultaneously established with a mandate to present to the Working Group at each of its sessions, a study on the current state of progress in the implementation of the right to development.

During this initial 5-year period, the work of the Group was largely influenced by its interaction with the independent expert on the right to development and his proposal for an international compact for the implementation of the right to development. The proposal envisaged State-owned development programmes financed by donor States through a callable fund, to be managed by a support group made up of relevant international organizations.

The second period, from 2005 to 2010, was influenced by its interaction with the high-level task force on the implementation of the right to development, which was established within the framework of the Working Group to help it to fulfil its mandate. The task force focussed on strengthening the global partnership for development. Its main output was a set of draft right to development criteria and operational sub-criteria.

The third period, which lasted from 2011 to 2018, was an intergovernmental process that focused on the consideration, revision and refinement of these criteria and corresponding operational sub-criteria. The Working Group undertook two readings, which concluded in 2017, and continued its discussions in 2018, but was unable to make progress. Instead of narrowing differences on the criteria and operational sub-criteria, the gap between positions of member states grew even wider. It became obvious that these differences could not be resolved.

As is reflected in the annual report of 2018, I could not but express my disappointment over the lack of progress and of constructive engagement. It became necessary, therefore, to consider other alternatives to make progress in order to avoid further stagnation in the Working Group.

In recognition of this stalemate, I had already in 2017, sought the Working Group's approval to submit a set of standards for the implementation of the right to development. The aim of these standards was to break the deadlock by identifying common ground and agreed language on the basis of consensus instruments and resolutions, including the 2030 Sustainable Development Agenda. Unfortunately, discussions during the session made it clear that the Working Group was not in a position to endorse the text proposed by me.

In September 2017, the Council also appointed a Special Rapporteur on the Right to Development who has made highly useful contributions.

Eventually, as a result of the continued deadlock in the Working Group, the Human Rights Council directed the Working Group first to consider the elaboration of and then to negotiate a legally binding instrument on the right to development. This is the current phase, starting from the last session of the Working Group in 2019.

As entrusted by the Council to prepare a draft legally binding instrument on the right to development, I, along with the Office of the United Nations High Commissioner for Human Rights, set up a drafting group, composed of five recognized experts in the field of

international law, selected with due respect for equitable gender and geographical representation. I am very pleased that two members of the drafting group are now members of this Expert Mechanism.

The draft convention has been submitted to the Working Group, but consideration and negotiations during the 2020 session had to be postponed due to the Covid-19 pandemic.

It is incumbent on me to point out that one group of states, comprising of developed nations, have decided to disassociate from the envisaged negotiations of the legally binding instrument on the right to development. This reflects the larger and persistent divergence of views between the developing and developed countries on the specifics of the right to development, which, due to paucity of time, cannot be discussed now. But it has been due to this divergence that progress has so far not been possible on implementing the right to development. To overcome this obstacle, I have consistently called upon all member states to demonstrate the necessary political will for cooperation and compromise.

I note that the Council, in its latest resolution on the right to development, requested the Expert Mechanism to participate in the sessions of the Working Group. I welcome this decision and look forward to your engagement in the Working Group sessions. Your expertise will certainly be valuable as we move forward in the negotiation process.

Besides this more formal engagement, there is room for informal exchange, for example, during the presentation of the annual report of the Working Group to the Human Rights Council and to the General Assembly, or, as now, during the sessions of this Expert Mechanism.

The thematic studies you envisage to undertake will certainly be of relevance to the mandate of the Working Group. The reverse will also be true. The normative development and discussions within the Working Group will undoubtedly also influence and cross-fertilize your work.

I look forward to continuing our collaboration and constructive engagement.

I thank you.