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**IMPLEMENTATION OF THE WORKPLAN FOR THE PERIOD OF 2008-2010
ENDORSED BY THE HUMAN RIGHTS COUNCIL IN RESOLUTION 9/3**

**THE CRITERIA FOR PERIODIC EVALUATION OF GLOBAL DEVELOPMENT
PARTNERSHIPS, AS IDENTIFIED IN MILLENIUM DEVELOPMENT GOAL 8**

**The Cotonou Partnership Agreement between the European Union (EU)
and African, Caribbean and Pacific countries (ACP countries)¹**

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Introduction

1. This report has been commissioned by the High-level Task Force on the implementation of the right to development (hereinafter referred to as Task Force). The purpose of this study is to analyze the application of the Right to Development criteria for the evaluation of global partnerships for development in the context of MDG 8 to the Cotonou Partnership Agreement between EU and ACP countries.
2. Subsequent to the proposal of the presidency of the EU during the third session of the Task Force, the Working Group mandated the Task Force to concentrate on the Cotonou Agreement in the eighth session³. The ACP – EU Cotonou Partnership Agreement is an all-encompassing agreement with a wide range of policy fields including human rights, good governance, the rule of law, peace building and gender issues. A preliminary review was carried out in the fourth session, based on a previously commissioned study and its accompanying technical mission from 19-21 September 2007.
3. At the Working Group's last session in 2008, a work plan for the Task Force was adopted that proposed activities to be carried out by the Task Force regarding the Cotonou Partnership Agreement.⁴ These activities include a continuation of dialogue with the Africa Peer Review Mechanism, the ECA/OECD-DAC Mutual Review of Development Effectiveness, the Paris Declaration on Aid Effectiveness and the Cotonou Agreement between ACP countries and the EU, including through technical missions.
4. The Cotonou Partnership Agreement, while being a fairly comprehensive document for development, does not specifically incorporate the Right to Development. Nevertheless, human rights are an essential element of the Cotonou Partnership Agreement in all areas, as well as being one of the five pillars of the partnership. Furthermore, most of the rights contained in the Declaration on the Right to Development are integrated into the Cotonou Partnership Agreement.
5. Economic Partnership Agreements (EPAs), which stem from the Cotonou Agreement, are primarily trade agreements and include limited references to human rights. However, EPAs are also intended to be tools for development that promote the advancement of ACP countries. The implicit and explicit intention is that they will encourage the realization of poverty eradication and consequently enhance human rights.⁵
6. From a Right to Development viewpoint, the EPAs fall short of a number of set standards. This includes the manner in which the negotiation process was carried out, the lack of consultation with civil society organizations and the lack of ownership by the ACP states. It also includes the lack of evidence of positive impact predictions of EPAs on development and the lack of Human Rights benchmarks.
7. Most impact studies have focused on the danger of lost revenues and conclude that the EPAs would directly affect the human rights of much of the population in ACP countries,

³ A/HRC/9/17 paragraph 56

⁴ Ibid. paragraph 43

⁵ Louis Michel, (2008), Economic Partnership Agreements: drivers of development. European Communities

particularly those already living in or close to poverty. This is especially pertinent as the financial and economic crises have already negatively affected revenues in ACP countries.

8. While the EPAs aim to create a reciprocal trade agreement in compliance with the WTO international trading regime, which assumes a level-playing field, the massive aid packages to support domestic economies in the West are not available in the ACP countries, due to lack of resources as well as a result of restrictions which stem from agreements with the IMF. This creates unprecedented disadvantage for the weaker partners of the trade agreements and there is no doubt that this will negatively affect the development potential of the EPAs.

9. With the upcoming second review of the Cotonou Partnership Agreement as well as negotiations proceeding on several other EPAs after the signing of the CARIFORUM EPA in December 2007, stakeholder consultations are becoming even more important to ensure that EPAs are negotiated under situations likely to give a better agreement for the benefit of the ACP countries.

10. The report is divided into eight sections. Section 1 includes an assessment of the international crises and the Right to Development as a composite human right. Sections 2 and 3 examine human rights in the Cotonou Partnership Agreement. In Section 4, the Economic Partnership Agreements are assessed from a right to development perspective. Section 5 includes an assessment of the human rights considerations included in the European Commission's allocation of aid to ACP countries as well as in its provision of budget support. Section 6 examines the future challenges to the Cotonou Partnership Agreement. A series of conclusions are presented in Section 7. Finally, Section 8 includes a set of suggested additions to the criteria for the implementation of the Right to Development. The four annexes contain the tables showing the mapping of the right to development criteria to the Cotonou Partnership Agreement, the Africa-EU Strategic Partnership, as well as to the EC's proposed Strategies for partnerships with the Caribbean and Pacific regions.

I. THE INTERNATIONAL CRISES AND THE RIGHT TO DEVELOPMENT AS A COMPOSITE HUMAN RIGHT

11. The Declaration on the Right to Development provides that "States have the primary responsibility for the creation of national and international conditions favorable to the realization of the right to development."⁶ It further specifies that: "States should realize their rights and fulfill their duties in such a manner to promote a new international economic order based on the sovereign equality, interdependence, mutual interest and co-operation among all States, as well as to encourage the observance and realization of human rights."⁷

12. The current crisis in the financial markets resulting in massive global economic decline creates a drive for a new international economic order in an environment of increased attention for the protection of national economic interests. Whilst the source of the problem is widely accepted to have been in unfettered deregulation of financial markets, initiated by the subprime mortgage crisis in the United States and in many parts of Europe, developing countries have been hit hard. An inventory of the negative impact of the crisis on developing countries lists: (1)

⁶ United Nations Declaration on the Right to Development, Article 3.1

⁷ Ibid., Article 3.3

collapsing commodity prices, resulting in massive job losses; (2) reduced remittances; (3) massive return of migrants to home countries; (4) drying up of short- and medium-term credits for trade; (5) decline of consumer demand for non-elastic products such as flowers as well as sectors such as tourism; (6) increased competition from international trade.⁸ In addition, financial resources for international development are decreasing.⁹ Policy-makers from Africa are alerting that “The poorest continent is being crowded out of global capital markets because of the massive demands of the developed world, and will need additional aid to avert a ‘full-blown development crisis.’”¹⁰

13. Between 2006 and 2009 an international food crisis had also emerged with a rise of food prices due to a combination of rising oil prices, increased production of food for biofuels, and changing diets. The agricultural price support and subsidies in developing countries are identified among the factors contributing to this problem. International food prices fell significantly in 2009, but the increasing volatility of food prices and their dependency on external factors remain a source of concern. Local food prices in most developing countries have not fallen and, in some cases, continue to increase, despite the drop in global agricultural commodities prices, according to new data from the United Nations. This is especially affecting people living in poverty. In March 2009, the UN FAO released figures showing that “poor countries continue to suffer the impact of high food prices”.¹¹ Linking the food price crisis with the financial crisis, the FAO identified that the sharply lower economic growth and decreasing remittances were aggravating the problem and pointed to difficulties of importing agricultural commodities due to the lack of trade finance.¹²

14. The right of access to food is provided for in the Declaration on the Right of Development alongside education, health, housing and employment. States have an obligation “to undertake, at national level, all necessary measures for the realization of these rights”¹³ and “should encourage popular participation in all spheres as an important factor in development”¹⁴. With emphasis on the state obligation to the right to food, and the provision that “appropriate economic and social reforms should be carried out with a view of eradicating all social injustices”¹⁵ and the provision that “the right to development implies the full realization of the rights of peoples to self-determination, which includes, subject to the relevant provisions of both International Covenants on Human Rights, the exercise of their inalienable right to full sovereignty over their natural wealth and resources”, small farmers groups are now proposing a specification as ‘the right to food sovereignty’ defined as “the inalienable right of peoples, communities and countries to define, decide and implement their own agricultural, labor, fishing, food and land policies which are ecologically, socially, economically and culturally appropriate

⁸ European Commission, (2009), The Courier No. 9, January - February 2009.

Eurostep, (2009) Briefing Paper No. 43: The implications of the global financial crisis on developing countries

⁹ Core development aid has declined by 4 per cent since industrialised nations committed to increasing it at the Gleneagles summit in 2005. *Financial Times*, Africa's aid plea as 'development crisis' looms, By William Wallis in London, published: 17 March 2009.

¹⁰ Donald Kaberuka, head of the African Development Bank, Trevor Manuel, South Africa's finance minister, and Lina Mohohlo, Botswana's central bank governor quoted in: *Financial Times*, ‘Africa's aid plea as 'development crisis' looms’, By William Wallis in London, published: 17 March 2009.

¹¹ *Ibid.*

¹² *Ibid.*

¹³ Declaration on the Right to Development, Article 8.1.

¹⁴ *Ibid.* Article 8.2.

¹⁵ *Ibid.* Article 8.1.

to their unique circumstances."¹⁶ Nepal has included a reference to food sovereignty in its Draft Constitution.¹⁷

15. International climate change provides further concern to instability with effects in agriculture and food production, as well as in increased emergencies.¹⁸ The guidelines on the Declaration on the Right to Development make a reference to sustainable development, but they do not identify climate change as an obstacle to development and as a factor contributing to the problem of hunger.

16. The Declaration on the Right to Development gives specific emphasis to gender equality stating that "Effective measures should be undertaken to ensure that women have an active role in the development process. Appropriate economic and social reforms should be carried out with a view to eradicating all social injustices."¹⁹ The economic crisis is expected to increase the number of unemployed women by up to 22 million in 2009. The ILO report *Global Employment Trends for Women* identified that "the gender impact of the economic crisis in terms of unemployment rates is expected to be more detrimental for females than for males in most regions of the world and most clearly in Latin America and the Caribbean."²⁰ Furthermore increased tension and poverty resulting from the crisis in poorer households is expected to lead to increased violence against women. According to the ILO, measures for a human rights approach to address the adverse impact of the crises on women could include: (1) sustainable and quality jobs open to both men and women, (2) broader social protection including unemployment benefits and (3) insurance schemes that recognize women's vulnerable position in the labor market, and (4) social dialogue with the active inclusion of women in decision-making processes.²¹

17. The Declaration on the Right to Development specifies that "States have the duty to take steps, individually and collectively, to formulate international development policies with a view to facilitating the full realization of the right to development."²² And that "as a complement to the efforts of developing countries, effective international co-operation is essential in providing these countries with appropriate means and facilities to foster their comprehensive development."²³ The uncertainties and vulnerabilities that are emerging from these current crises warrant a human rights approach to their resolution, helping protection "by invoking the principle of non-retrogression of rights and the principles of equality and non-discrimination."²⁴ This translates concretely in policies "to set up on the one hand adequate protection schemes for those suffering most from disruptions and to equip on the other hand vulnerable groups with the

¹⁶ South Asia Alliance for Poverty Eradication, (2008), *Recommendations for the Implementation of the Food Facility*

¹⁷ Article 12 of the Interim Constitution of Nepal 2007

¹⁸ The Africa-EU Strategic Partnership: A Joint EU-Africa Strategy, downloaded from http://ec.europa.eu/development/icenter/repository/EAS2007_joint_strategy_en.pdf in March 2009.

¹⁹ United Nations Declaration on the Right to Development, Article 8.1.

²⁰ International Labour Office (ILO), *Global Employment Trends for Women* report, Geneva, 8 March 2009.

²¹ ILO, ILO warns economic crisis could generate up to 22 million more unemployed women in 2009, jeopardize equality gains at work and at home, *Press Release*, 05 March 2009 *Reference* ILO/09/15.

²² United Nations Declaration on the Right to Development, Article 4.1.

²³ *Ibid.* Article 4.2.

²⁴ Economic and Social Council, Economic, Social and Cultural Rights, Study on Policies for development in a globalized world: What can the human rights approach contribute? Note by the Secretariat. E/CN.4/Sub.2/2004/18, 7 June 2004, page 3.

skills and resources necessary to take advantage of the new opportunities opened by globalization.”²⁵ The obligation to comply with the Right to Development in the measures to address these crises should be realized progressively.²⁶

18. Since 2008, the Right to Development is accepted as a “composite human right involving corresponding obligations for duty-bearers for its phased realization.”²⁷ Therefore, whilst the international crises creates a challenging environment for governments to formulate policies balancing the economic, cultural, social civil and political rights and the right to development, these obligations by duty-bearers of states to citizens and states in international co-operation must be upheld as interdependent and indivisible.

19. The Millennium Declaration included the commitment to “making the right to development a reality for everyone”,²⁸ and MDG8 reflects this pledge in its ambition to develop a Global Partnership for Development. Alongside the responsibility of states towards their citizens in the implementation of all human rights, MDG8 reiterates the obligation of states “to co-operate with each other in ensuring development and eliminating obstacles to development.”²⁹ MDG8 insists on international cooperation, which is equally at the basis of the Declaration on the Right to Development, and in a rights-based approach would assist the targeting of aid, and “help hold all parties to the development process accountable.”³⁰

II. HUMAN RIGHTS IN THE FIVE PILLARS OF THE COTONOU PARTNERSHIP AGREEMENT WITH SPECIAL REFERENCE TO THE RIGHT TO DEVELOPMENT

20. The Right to Development is not specifically incorporated in the Cotonou Partnership Agreement but both EU and ACP states have, as part of the international community, acknowledged their commitment to the Right to Development. Using the Right to Development criteria, it can be seen that certain rights that are part of the Right to Development, are incorporated into the Cotonou Partnership Agreement.

21. Human rights are comprehensively covered within the document and it is clear it follows a human rights based approach to development. Article 9(1), which outlines the “essential elements” pertaining to human rights, as well as democratic principles and the rule of law, and fundamental elements regarding good governance is the main article in which human rights are addressed but they are also integrated into other articles. Both parties “refer to their international obligations and commitments concerning respect for human rights”³¹.

²⁵Ibid. page 3.

²⁶ Human Rights Council, The Cotonou Partnership Agreement between European Union (EU) and Africa, Caribbean and Pacific (ACP) Countries, by Prof. James Thuo Gathii, A/HRC/8/WG.2/CRP.6, 21 December 2007.

²⁷ UN General Assembly, Human Rights Council, 9th Session, Promotion and Protection of all Human Rights, Civil, Political, Economic and Cultural Rights, including the Right to Development, Report of the working group on the right to development on its ninth session (Geneva 18 – 22 August 2008), Chairperson-Rapporteur: Mr Arjun Sengupta (India), A/HRC/9/17, 10 September 2008.

²⁸ UN General Assembly A:55:L.2.

²⁹ United Nations Declaration on the Right to Development, Article 3.3.

³⁰ Commission on Human Rights, The Right to Development and Practical Strategies for the Implementation of the Millennium Development Goals, Particularly Goal 8. Note by the Secretariat. E/CN.4/2005/WG.18/TF/CRP.1, 2 November 2005.

³¹ Cotonou Partnership Agreement, Article 9

22. In Article 9(2), “The Parties reaffirm that democratisation, development and the protection of fundamental freedoms and human rights are interrelated and mutually reinforcing”³² and that “Human rights are universal, indivisible and inter related.”³³ This corresponds with the Declaration on the Right to Development where, in Article 6 (2), the Declaration recognizes that “all human rights and fundamental freedoms are indivisible and interdependent...”³⁴ In Article 2, on Fundamental Principles, participation of actors other than the State governments is encouraged, including that of private sectors and civil society organizations.³⁵

23. Political dialogue is instrumental in allowing for consultation of, and therefore maintaining human rights standards, and as such, is included in Article 8 and Article 9 (4) of the Cotonou Partnership Agreement. “The Partnership shall actively support the promotion of human rights, processes of democratisation, consolidation of the rule of law, and good governance.” If political dialogue is to fail after both parties have “exhaust[ed] all possible options for dialogue under Article 8” then Article 96 of the Cotonou Agreement comes into play.³⁶

24. The Cotonou Partnership Agreement is also instrumental in promoting equality. In the preamble, it refers to all the instruments drawn upon, including the Convention on the Elimination of all forms of Discrimination against Women and the International Convention on the Elimination of all forms of Racial Discrimination. In Article 9(2), both parties “reaffirm the equality of men and women.” and Article 13 on Migration also affirms a commitment to eliminating all types of discrimination. The Declaration on the Right of Development similarly states in Article 6(2) that observance of all human rights and fundamental freedoms should occur “without any distinction as to race, sex, language or religion.”

III. THE COTONOU PARTNERSHIP AGREEMENT AND THE RIGHT TO DEVELOPMENT

25. The ACP – EU Cotonou Partnership Agreement was concluded in 2000 and first revised in 2005. A further revision is planned for 2010. The Cotonou Partnership Agreement is concluded in the context of the EU’s competence on development co-operation.

26. The Lisbon Treaty, which has not yet been ratified, identifies the objective of development co-operation clearly and solely as ‘poverty eradication’. The Lisbon Treaty includes the principle that all EU policies that affect developing countries should take into account this objective of ‘poverty eradication. The Lisbon Treaty also includes the principle of consistency, which sets out that all external policies should be consistent. While the principle of consistency sets out a principle for horizontal coordination between different external policies, the principle of coherence provides a hierarchical relationship in which extra weight is given to the objective of poverty eradication in all EU policies towards developing countries. It is expected that the chapter on development co-operation in the Lisbon Treaty will not be changed

³² Ibid.

³³ Ibid.

³⁴ United Nations Declaration on the Right to Development, Article 6

³⁵ Ibid, Article 2

³⁶ Ibid. Article 96

as there is not controversy on these articles. Also there is wide acknowledgment on the interpretation of the '*acquis communautaire*' on development co-operation in the EU treaties, which have been tested in several legal opinions.

27. The EU Treaties define development co-operation as an independent policy area that relates specifically to developing countries. It is divided into three major geographic instruments, the Development Co-operation Instrument for Asia and Latin America, the European Neighbourhood Policy Instrument and the Cotonou Partnership Agreement. The Cotonou Partnership Agreement is supported by the European Development Fund (EDF), which is a fund outside the EU budget endowed with special contributions from EU Member States. The instruments are legally binding.

28. The Cotonou Partnership Agreement being a partnership implies that accountability should be at the heart of the agreement, not only with mechanisms of accountability of recipients to donors, but with adequate mechanisms to hold donors also to account.³⁷ It is signed and ratified by the EU and its Member States and the ACP and its member countries. Joint institutions have been established to assist joint political processes that should support the partnership, such as the ACP – EU Joint Parliamentary Assembly and the ACP – EU Ministerial meetings. Such partnerships are not reflected in the approval procedures of the Country or Regional country programmes, which are solely identified and approved by the Commission, with a procedure through a committee of Member States officials as an only external approval factor. There is no scrutiny involved as to whether the programmes are in line with legal instruments. On the ACP side, approval is given by a national authorizing official, generally without any parliamentary scrutiny.

29. While the country programmes for aid with developing countries other than the ACP enjoy the scrutiny of the European Parliament in its role of ensuring that the programmes are proposed in line with the legal instruments, the aid programmes to the ACP are denied such scrutiny. The argument for this has been a suggestion that the ACP – EU Joint Parliamentary Assembly should fulfill this role, even though this is not in its mandate and the Assembly has not been equipped for such processes. It has been argued that the partnership would be better served by Parliamentary scrutiny from both parties: the European Parliament from EU side, and the concerned recipient ACP countries or regions from ACP side. Arguably, this would better serve the dual objectives of accountability and ownership by a direct scrutiny from parliaments between concerned parties.³⁸

30. The European Union is highly committed to the implementation of the process of aid effectiveness, even though the Paris Declaration is a non-binding declaration, and “does not constitute a contractual relationship.”³⁹ Especially the principle of ownership in the aid effectiveness agenda has been given much emphasis by both the EU and the ACP. The Declaration on the Right of Development sets out that “States should encourage popular

³⁷ Commission on Human Rights, Economic, Social and Cultural Rights. The Right to Development: study on existing bilateral and multilateral programmes and policies for development partnership. Note by the Secretariat, E/CN.4/Sub.2/2004/15, p. 7.

³⁸ Eurostep, (2007), Eurostep Briefing No. 39: ACP Country Programmes deserve democratic scrutiny.

³⁹ Human Rights Council, Paris Declaration on Aid Effectiveness, Application of the criteria for periodic evaluation of global development partnerships – as defined in Millennium Goal 8 – from the right to development perspective: the Paris Declaration on Aid Effectiveness, by Mr Roberto Bissio, A/HRC/WG.2/TF/CRP.7/ 31 December 2007,

participation in all spheres as an important factor in development and the full realization of human rights.”⁴⁰ The Cotonou Partnership Agreement provides in this respect ample guidance as to how ownership can be enhanced through consultation and participation of all stakeholders. The Fundamental Principles provide that “apart from central government as the main partner, the partnership shall be open to different kinds of other actors in order to encourage the integration of all sections of society, including the private sector and civil society organizations, into mainstream of political, economic and social life.”⁴¹ This is reiterated in the EU – Africa Strategic Partnership which also provides in this regard that it is essential that the partnership facilitates and promotes “a broad-based and wide-ranging people-centred partnership” and “non-state actors” are “empowered” and that these can play an “active role in development, democracy building, conflict prevention and post conflict resolution processes.”⁴²

IV. THE ECONOMIC PARTNERSHIP AGREEMENTS

31. EPAs are trade agreements that were developed by the EC in order to facilitate the regional integration of the ACP countries and their inclusion in the process of globalization. According to the European Commission, they were developed because the trade preferences that had previously been in place were not succeeding in their objective of helping to integrate the ACP countries in the world economy.⁴³ Furthermore, trade preference agreements were criticized for being incompatible with WTO rules due to their lack of reciprocity. The European Commission states that EPAs should help developing countries to ‘build larger markets, foster trade in goods and stimulate investment’ which should help with realizing the goal of poverty eradication.’ As the EPA negotiations were not going to be completed in time for the December 2007 deadline, interim agreements were drafted. Due to the deadline, several interim agreements were initiated with individual countries rather than the full ACP regions. The EPAs have been heavily criticized both for the way in which they were negotiated but also on the grounds of the unpredictability of the impact of trade liberalization on the developing countries, especially the LDCs.

32. Under the Cotonou Partnership Agreement it was arranged that regional trade agreements, called Economic Partnership Agreements, would be concluded by 2008. Concern was expressed from a Right to Development Perspective in that the EPAs are not bound by the human rights mandate within the Cotonou Partnership Agreement, as these are “stand-alone agreements that (...) will be governed by a separate treaty regime.”⁴⁴ At an early stage and before the final conclusion of the Cotonou Partnership Agreement in 2000 concern had been expressed on the compliance of EPAs with development objectives. When the idea of EPAs (referred to as REPAs at the time) was launched by the European Commission, the regions were selected by the European Commission too, often with many objections raised by ACP countries. In 1998, an impact study of REPAs was commissioned by the European Commission, concentrating on six regions, selected by the European Commission and with objections from the ACP. The impact studies raised many issues of concern from an ACP perspective: “The EU stands to gain. These EU imports to the REPA countries can cause serious competition, particularly in the agricultural

⁴⁰ United Nations Declaration on the Right to Development, Art. 8.2.

⁴¹ Cotonou Partnership Agreement, Article 2.

⁴² EU Africa Strategic Partnership, Adopted by the European Council in Lisbon 2007.

⁴³ Louis Michel, (2008), Economic Partnership Agreements: drivers of development.

⁴⁴ Human Rights Council, The Cotonou Partnership Agreement between European Union (EU) and Africa, Caribbean and Pacific (ACP) Countries, by Prof. James Thuo Gathii, A/HRC/8/WG.2/CRP.6, 21 December 2007.

sector and in import substitution industries. These negative consequences outweigh the gains of reduced consumer prices. By and large REPAS do not make much economic sense from the point of view of the ACP, most particularly from the LDCs.”⁴⁵

33. The concerns expressed by the ACP at that time only resulted in an extension of the negotiating timetable for the EPAs but did not change the parameters for the negotiations. The process of that decision-making process lacked the fundamental principles of a partnership. There was no process defined through which the EU as a donor could be held into account on its obligations under the Right to Development. Therefore from the beginning the process bore the risk of derailing into straightforward trade negotiations, more driven by EU commercial interests, rather than creating an enabling economic environment for development.

34. The absence of a human rights approach to the EPAs is consistent with the EU’s suspension practice on human rights grounds affecting financial assistance and exempting the trade regimes in the context of cooperation with ACP countries. Justice Nwobike describes how “EU officials have sought to allay the fears of ACP countries that the non-execution clause in the EPA may be used to impose sanctions on countries violating human rights, by pointing out that trade cooperation has never been suspended with any ACP country and that sanctions have always been limited to the bilateral suspension of aid.”⁴⁶ This was recently also reiterated by officials of the European Commission’s Directorate General of Trade, who made the same observation to argue that trade and human rights policies function independently from each other.

35. However the EU’s unilateral General System of Preferences, a trade regime with developing countries (previously only for the non ACP countries), has an inclusion of a human rights clause that has once been invoked in the context of severe human rights violations. In 1997, tariff preferences with Myanmar were withdrawn after an investigation into practices of forced labor in this country.⁴⁷

36. It has been argued that a human rights approach to Economic Partnership Agreements was “imperative”. A paper on the human-rights-based approach to EPAs states that: “This position is all the more pertinent now that there are more and more indications that the proposed EPA regimes seem unlikely to contribute positively to the economic development of most ACP states, in any case in the short run. (...) [T]he right to development, the right to a decent standard of living, the right to food including food security, the right to health and a range of fundamental collective and individual human rights could be directly jeopardized.”⁴⁸

37. The 2007 study on the compliance of the Cotonou Partnership Agreement with the Right to Development expressed strong concerns about the lack of a human rights approach in the EPA negotiations. Professor Gathii concluded in his report that “EPAs are being negotiated under conditions that undermine the full participation of ACP States from determining their

⁴⁵ Van Reisen, Mirjam, *EU Global Player*, International Books, Zeist, 1999.

⁴⁶ Justice Nwobike, *Application of Human Rights in the ACP – EU Partnership*, *German Law Journal*, Vol 06, No 10.

⁴⁷ *Ibid.*

⁴⁸ Karin Arts, *A Human Rights-Based Approach to the ACP-EU Economic Partnership Agreements: Issues and Implications*, Paper for the European Union Studies Association Conference, Montreal, 18 May 2007.

development objectives.”⁴⁹ He further added that the partnership agreements would “result, at least in the short run, in huge losses in revenue and restricted access to the EU market making it highly likely that the social and economic human rights of millions will be adversely affected.”⁵⁰ Professor Gathii also concluded that other “human rights concerns include expanding negotiations into new areas like competition and government procurement that will impose a heavy cost burden on ACP countries that far outweighs the potential dynamic benefits that the new commitments will impose.”⁵¹ Similarly, many ACP ambassadors were unhappy with the manner in which the negotiations were conducted and the lack of consultation.⁵²

38. The technical mission of the Task Force, undertaken in 2007, referred to a number of measures taken by the European Commission, which included the ‘governance profiles’, remarking that the 32 indicators had a significant emphasis on “trade liberalization and counter-terrorism.”⁵³ The mission also identified a promising entry point in the form of a human rights impact assessment as well as ‘development monitoring benchmarks’, and these could be an entry to the right to development criteria. The mission stated that it was important that support to the EPAs should not divert aid from MDG sectors. The mission also stated that it was “impressed by the decision to allocate 20% of all EU aid, including aid to ACP countries, to basic health and education and 35% to social sectors by 2009” as per a declaration of the European Commission. The mission was concerned with the European Commission’s failure to establish a systematic policy to ensure that consultation processes take place and are properly conducted.⁵⁴

39. A number of studies have been published since the last technical mission, detailing various arguments of concern of the EPA negotiations not adequately taking development objectives into account. The contentious elements of EPAs pertain to two different sets of issues. The first set of issues relates to content of the negotiations. The second set of problems concerns the process of negotiations.

40. With regard to the first set of problems studies point to the impact assessments undertaken by the European Commission. These studies conclude that these impact assessments do not provide evidence that the EPAs will fulfill development criteria. A study observed that the sustainability impact assessments undertaken by the European Commission concluded that it was unlikely that the reciprocal trade liberalization negotiations would deliver “development and biodiversity conservation in ACP countries.”⁵⁵ The Fédération internationale des ligues des Droits de l’Homme expressed concern over the “potentially negative impacts of EPAs for human rights.”⁵⁶ In April 2008, Oxfam International issued a briefing paper which concluded that “The deals currently on the table will strip ACP countries of important policy tools they need in order

⁴⁹ Human Rights Council, The Cotonou Partnership Agreement between European Union (EU) and Africa, Caribbean and Pacific (ACP) Countries, by Prof. James Thuo Gathii, A/HRC/8/WG.2/CRP.6, 21 December 2007, p. 2.

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Meeting with Mr. Lingston Cumberbatch, Director, TradeCom Facility, 25 March 2009

⁵³ High-level task force on the implementation of the right to development. Cotonou Partnership Agreement between European Union (EU) and African, Caribbean and Pacific (ACP) Countries. Technical Mission Report. Brussels, 19-21 September 2007, p. 9.

⁵⁴ Ibid.

⁵⁵ Friends of the Earth, (2008), Undercutting Africa, Economic Partnership Agreements, forests and the European Union’s quest for Africa’s Raw materials.

⁵⁶ FIDH, Economic Partnership Agreements (EPA) and Human rights, *Position paper*, June 2007.

to develop.”⁵⁷ Oxfam International argued that EPAs “severely” constrained “effective regulation and threaten universal access to vital services”⁵⁸ and that they would not help overcome insecure access to food and support vulnerable farmers, as the safeguards to protect small farmers are weak and the agreements would expose these farmers to the “sudden surges of competition from imports, undermining staple food markets.”⁵⁹ Its main issue is that the deals would make only slightly improve market access for the ACP to the EU, but the ACP countries would “dramatically” open their markets to the EU, giving concern to the increased competition of EU exports.

41. There has not been a tendency thus far to include gender analysis in the process of trade-policy formation and implementation. Similarly, the studies done on the effects of trade liberalization on women in developing countries, especially least developed countries are sparse and mostly inconclusive. However, all trade policies are likely to have gender-differentiated effects on the population because of gender disparities.⁶⁰ These effects result from the different opportunities and roles that men and women hold within a population. There is debate on whether the effects of trade liberalization would be positive or negative but most studies have found the effects on women more likely to be negative.⁶¹

42. Existing gender inequalities and gender biases would mean that the increased trade and job opportunities arising from trade liberalisation would probably be less accessible to the female than to the male population. This has already been seen to be the case in some Sub-Saharan African countries where it was found that the effects of an EPA would include loss of revenue, worse working conditions for women workers and a lack of ability to compete with EU producers due to lack of knowledge or opportunity⁶².

43. One of the main objectives of the Cotonou Partnership Agreement, and of the EPAs which are being negotiated under this umbrella, is poverty reduction. The European Commission stated position is that impact studies are mostly irrelevant in that there were too many unknown or unpredictable factors. Implicitly it is arguing that benchmarking to human rights criteria is therefore not an option. The Commission would prefer identifying indicators, on the basis that these would not in itself give an assessment on the question whether or EPAs contribute to development, an attribution that, according to the Commission, cannot be credibly made. While there is no doubt that impact studies have certain limitations, the negation of their value seems to contradict the claim that the EPAs would be an instrument for development, which, one would expect, ought to be made on the basis of some assessment of potential impact.

44. Suitable indicators to monitor the effects of EPAs must be in place to ensure EPAs contribution to development processes. Indicators should cover more than an increase in average

⁵⁷ Oxfam International, Partnership or Power Play. How Europe should bring development into its trade deals with African, Caribbean and Pacific countries, *Oxfam Briefing Paper*, April 2008, p. 1.

⁵⁸ *Ibid.*, p. 4.

⁵⁹ *Ibid.*

⁶⁰ Marzia Fontana. Gender effects of trade liberalisation in developing countries: A review of the literature. Discussion Paper in Economics 101, University of Sussex with others, *Bridge Report No 42*, IDS/DFID. October 2006.

⁶¹ *Ibid.*

⁶² Zohra Khan. *Making Trade Work for Women: Likely impact of EPAs on Women's Rights and Gender Equality in Mozambique, Namibia and Zambia*. One World Action. August 2006.

income, even average income of women alone, as their skill and education level will affect their likelihood of gaining from the trade liberalization and opportunities resulting from the EPAs. Poverty eradication is more than just a growing economy and increased revenue and the indicators should aim to reflect this. In addition, a lack of consultation with key groups such as poor women producers, workers and women farmers contributes to their continued marginalisation as the EPAs are negotiated and implemented.

45. The issue of the EU forcing market opening to the ACP for EU companies is part of the criticisms of the governance profiles, which included measures to this effect under their governance requirements. This pertained especially to the area of government procurement. The issue of government procurement is also analyzed in the 2007 study on the application of the Right to Development criteria to the Paris Declaration on Aid Effectiveness: “The Paris Declaration Indicators also track and score the procurement systems of each recipient country. Except for the explicit goal of eliminating corruption (...) no other human right values are attached to the use of country systems and none of the criteria to assess them explicitly support the practice of requiring suppliers to adhere to core labor standards. The use of government procurement as a tool of affirmative action in favour of local producers or of vulnerable sectors of the population is an established practice to contribute to the progressive realization of economic, social and cultural rights, but such policies are deemed as ‘discriminatory’ against foreign firms and explicitly forbidden.”⁶³ Opening for government procurement is also often included as an ‘activity’ in the EU budget support programmes in ACP countries.⁶⁴ There are also complaints that bids for support in ACP countries by the European Commission now require a consortium of three companies and substantial bank guarantees, discriminating strongly against the service sector in ACP countries and undermining the principle of ‘ownership’ set out in the Paris Declaration on Aid Effectiveness. Such regulations could represent a form of unfair competition against enterprises in ACP countries.

46. The negotiations on the agricultural sector have been particularly sensitive. While the EU excludes market access for its sensitive areas, and hence limiting market access for sensitive agricultural products, agriculture is the principal economic sector in all ACP countries and the opening of the ACP markets to EU competition in this area is therefore a very sensitive issue.

47. The second issue that posed a problem concerns the process of the negotiations. Throughout the process, concerns have been expressed that negotiations are being driven by an EU agenda and that the ACP countries were pushed into negotiations and forced to come to regional agreements. The EU proposal did not take into account the specific requirements of the LDC group, which, under WTO rules, would be allowed to benefit from additional trade protection measures, and under the EU trade regime, benefited from the “Everything but Arms” (EBA) initiative, which offers duty free quota free access to the EU. An early criticism was the composition of the regional groups, which had been defined by the EU, without matching regional realities. In 2007, the EU was accused of using strong-arm tactics to coerce the ACP into agreeing to sign the EPAs. Several NGOs have presented reports on the heavy-handed

⁶³ Human Rights Council, Paris Declaration on Aid Effectiveness, Application of the criteria for periodic evaluation of global development partnerships – as defined in Millennium Goal 8 – from the right to development perspective: the Paris Declaration on Aid Effectiveness, by Mr Roberto Bissio, A/HRC/WG.2/TF/CRP.7/ 31 December 2007, p. 11.

⁶⁴ Europe External Policy Advisors, (2008), Administering aid differently, A review of the European Commission’s general budget support.

nature of the negotiations, and the lack of transparency of the trade policy and texts.⁶⁵ Most recently, there has been an agreement between the ACP and the EU to have a summit to help resolve some process-related problems of the negotiations.

48. The negotiations over the EPAs have also been criticized on the grounds that they did not include adequate consultation with civil society organizations in ACP countries.⁶⁶ This would appear to be in violation of the right to development criterion (j) on “meaningful consultation and participation of all stakeholders, including affected populations and their representatives, as well as relevant civil society groups and experts, in processes of elaborating, implementing and evaluating development policies, programmes and projects.”⁶⁷ It also appears to be in contravention of Article 4 of the Cotonou Agreement which obliges the EC and the ACP States to consult “non-state actors and local decentralised actors” on cooperation policies and strategies.⁶⁸

49. There has been some parliamentary involvement in the process of approving the EPAs. In its February 2009 resolution on the development impact of EPAs, the European Parliament stated that “any trade agreement between ACP and EU, affecting the livelihood of the population, should be the result of an open and public debate with full participation of ACP national parliaments.”⁶⁹ In March 2009, the European Parliament gave its assent to the conclusion of the CARIFORUM EPA and the stepping stone EPA with Côte d’Ivoire.⁷⁰ The EPAs have also been debated by the ACP-EU Joint Parliamentary Assembly, most recently during its sixteenth session in Port Moresby, Papua New Guinea in November 2008.⁷¹ The national parliaments of EU Member States must also ratify the EPAs.⁷² There has been criticism of the lack of involvement of ACP parliaments in the negotiation of the EPAs.⁷³

50. To date, the only EPA to have been signed is with the countries from the Forum of Caribbean States (CARIFORUM). Article 2 of the CARIFORUM EPA provides that it is “based on the Fundamental Principles as well as the Essential Elements of the Cotonou Agreement, as set out in Articles 2 and 9 respectively, of the Cotonou Agreement.”⁷⁴ However, the EPA does not include any explicit references to human rights. Article 3 partly reflects the right to

⁶⁵ Meeting with Mr. Marc Maes, 11.11.11, Chair, Concord Working Group on Trade, 25 March 2009

⁶⁶ ‘NGOs Confront EU Over Regional Deals’, By Ramesh Jaura, Berlin, Inter Press Service, Published on 22 March 2008

⁶⁷ Human Rights Council, (2008) Report of the high-level Task Force on the implementation of the right to development on its fourth session, p. 27.

⁶⁸ Cotonou Partnership Agreement, Article 4

⁶⁹ European Parliament resolution of 5 February 2009 on the development impact of Economic Partnership Agreements (EPAs)

⁷⁰ European Parliament resolution of 25 March 2009 on the Economic Partnership Agreement between the Cariforum States, of the one part, and the European Community and its Member States, of the other part
European Parliament resolution of 25 March 2009 on the stepping stone Economic Partnership Agreement between Côte d’Ivoire, of the one part, and the European Community and its Member States, of the other part

⁷¹ Press Release, Economic Partnership Agreements: State of play, Published on 26 November 2008

⁷² Third Regional Meeting of the ACP-EU Joint Parliamentary Assembly: Caribbean Region, 24-27 February 2009, Georgetown, Guyana, Final Communiqué, p. 2

⁷³ ‘East Africa: MPs Want Region to Turn Away From EU’, By Francis Ayieko, allAfrica.com, Published on 12 October 2008

‘NGOs Confront EU Over Regional Deals’, By Ramesh Jaura, Berlin, Inter Press Service, Published on 22 March 2008

⁷⁴ Article 2 of the CARIFORUM EPA

development criterion (a) to the extent that it sets out that “The Parties reaffirm that the objective of sustainable development is to be applied and integrated at every level of their economic partnership, in fulfillment of the overarching commitments set out in Articles 1, 2 and 9 of the Cotonou Agreement and especially the general commitment to reducing and eventually eradicating poverty in a way that is consistent with the objectives of sustainable development.”⁷⁵ Despite the strong development rhetoric which appears in Part I of the EPA (Trade Partnership for Sustainable Development), a number of elements of Part II (Trade and Trade-related Matters) including provisions on trade in goods, investment, trade in services and trade-related issues may have negative implications for the implementation of the right to development in ACP countries.⁷⁶

51. The regional dimension of the EPAs has unraveled dramatically. With other regions, or countries, interim agreements have been signed. Depending on regions these agreements have different names: “interim agreement”, “stepping stones”, or “framework”. In the Pacific an interim agreement was signed only with Papua New Guinea and Fiji – with individual access schemes. The LDCs stayed outside the agreement, benefiting from the EBA, and other non-LDC Pacific countries are now benefiting from the EU’s regular Generalised System of Preferences. In Central Africa a regional agreement was signed just with Cameroon, with other countries finally opting not to join the agreement. In Southern Africa a regional agreement was signed with Botswana, Lesotho, Swaziland, Mozambique and Namibia – with criticism expressed that this did not parallel the SADC regional structure. In West Africa, individual agreements were concluded with Ghana and Ivory Coast. In East Africa, a regional agreement was signed with Kenya, Uganda, Tanzania, Rwanda and Burundi. In Eastern and Southern Africa a regional agreement with individual access schedules was signed with Comoros, Madagascar, Mauritius, Seychelles, Zambia and Zimbabwe.

V. THE ALLOCATION OF AID TO ACP COUNTRIES AND BUDGET SUPPORT

52. The allocation of resources from the European Development Fund (EDF) is not based on any human rights criteria.⁷⁷ Rather it is based on “needs and performance.”⁷⁸ Annex IV of the Cotonou Partnership Agreement provides that needs are assessed on the basis of criteria relating to “per capita income, population size, social indicators and level of indebtedness, export earning losses and dependence on export earnings, in particular in the sectors of agriculture and mining.”⁷⁹ It also provides that special treatment will be accorded to least developed and island and landlocked ACP countries. Regarding performance, Annex IV provides that assessment is based on the following parameters: “progress in implementing institutional reforms, country performance in the use of resources, effective implementation of current operations, poverty

⁷⁵ Article 3 of the CARIFORUM EPA

⁷⁶ Havelock R. Brewster, (2008) The anti-development dimension of the European Community’s EPA for the Caribbean

FidH, (2007), Economic Partnership Agreements (EPA) and Human rights, *Position paper*.

⁷⁷ Human Rights Council, The Cotonou Partnership Agreement between European Union (EU) and Africa, Caribbean and Pacific (ACP) Countries, by Prof. James Thuo Gathii, A/HRC/8/WG.2/CRP.6, 21 December 2007, p. 10.

⁷⁸ Article 3 of Annex IV of the Cotonou Agreement

⁷⁹ Ibid.

alleviation or reduction, sustainable development measures and macroeconomic and sectoral policy performance.”⁸⁰

53. In March 2008, the European Commission stated that budget support would account for approximately 44% of the € 13.5 billion from EDF 10 which would be allocated to ACP countries as programmable funds.⁸¹ According to the European Commission’s guidelines, countries are eligible for budget support if they fulfill the following three criteria: (i) a well-defined national development or reform policy and strategy is in place or under implementation, (ii) a stability-oriented macroeconomic policy is in place or under implementation, and (iii) a credible and relevant programme to improve public financial management is in place or under implementation.⁸² The guidelines only refer to human rights in a footnote in which good governance is described as one of the “critical cross-cutting issues which should be addressed during programme preparation.”⁸³

54. The proportion of aid which the EC allocates directly in support of health and education is low. According to data published by the European Commission, 3.3% of initial indicative amount of programmable aid (excluding the so-called “incentive tranche”) of EDF 10 would be allocated in support of health and just 2.7% in support of education.⁸⁴

55. A portion of each general budget support programme is disbursed as variable tranches. Although the disbursement of variable tranches is commonly based on a partner country’s performance against social sector indicators, it is not possible to state categorically that the provision of budget support guarantees an increase in financial resources for health or education in ACP countries.⁸⁵

56. The ACP countries which receive EC aid in the form of budget support account for almost three-quarters of the initial indicative amount of programmable aid (excluding the so-called “incentive tranche”) of EDF 10.⁸⁶ The concentration of EC aid on those well-performing ACP countries, potentially at the expense of others, including fragile states, appears to be inconsistent with the right to development criteria.

57. A number of aspects of the EC’s general budget support programmes also appear to be at odds with the right to development criteria. The promotion of issues such as the promotion of the “business climate for investors”⁸⁷ may have implications for further liberalization of markets and the practice of prescribing a role for the IMF in the implementation of budget support

⁸⁰ Ibid.

⁸¹ European Commission, (2008), Answer to Oral Question QO/COM/4, downloaded from http://www.europarl.europa.eu/intcoop/acp/60_15/pdf/rqo_com_en.pdf

⁸² European Commission, (2007), Guidelines on the Programming, Design and Management of General Budget Support, pp. 29-31

⁸³ Ibid. p. 58

⁸⁴ European Commission, (2007), Sectoral breakdown of the tenth European Development Fund (EDF 10), http://ec.europa.eu/development/geographical/maps/domaines_de_concentration.pdf

⁸⁵ Alliance2015, (2007), 2015-Watch: The EU’s contribution to the Millennium Development Goals - Halfway to 2015: Mid-term Review, pp. 36-41.

⁸⁶ European Commission, (2007), Sectoral breakdown of the tenth European Development Fund (EDF 10), http://ec.europa.eu/development/geographical/maps/domaines_de_concentration.pdf

⁸⁷ Alliance2015, (2009), 2015-Watch: The EU’s contribution to the Millennium Development Goals - Poverty Eradication: From Rhetoric to Results?, p. 20

programmes can result in a reduction of ACP countries' policy space to implement their own policies, especially in social sectors.⁸⁸

58. In June 2008, the European Commission published a proposal for so-called "MDG contracts." These are intended as a new form of general budget support which is more long-term and predictable than at present and which focuses on "MDG-related results, notably in health and education."⁸⁹ However, despite their stated aim of achieving results in terms of health and education, MDG contracts do not provide any mechanism for increasing funding for social sectors in ACP countries. In addition, MDG contracts will only be available to those countries which have, *inter alia*, a good track record in implementing budget support programmes.⁹⁰

59. The allocation of EC aid to so-called "Aid for Trade" may also have implications for the right to development in ACP countries. In a resolution on aid for trade which it adopted in May 2007, the European Parliament stressed that new aid for trade pledges "should not lead to the shifting of resources already earmarked for other development initiatives, such as health and education projects."⁹¹ However, it has been suggested that the European Commission has increased its aid for trade without increasing its total development aid.⁹² In its February 2009 resolution on the development impact of EPAs, the European Parliament responded to this concern by urging EU Member States to increase their ODA in order to "enable an increase in Aid for Trade, and to establish accompanying measures in the form of regional Aid for Trade packages for the implementation of the EPAs contributing to the positive impact of the EPAs on development."⁹³

60. In addition to the potential problem of aid being diverted from social sectors to aid for trade, the EC's aid to ACP countries will be further affected by the lack of additional resources required "to cover the expected EPA-related adjustment costs that are necessary for the EPAs to be economically influential or to promote regional integration."⁹⁴

VI. FUTURE CHALLENGES

61. One of the most immediate challenges facing ACP-EU cooperation relates to the effects of the ongoing food, financial and climate crisis. In addition to the effects of falling commodity prices, reduced remittances from abroad and a lack of credit, ACP countries have to manage without access to the massive financial aid packages that in the US and Europe are rolled out to support the financial and economic sectors. Ongoing IMF conditionality still demands fiscal restraint of developing countries, even if such policies are not applied in the West as a remedy to fight the crisis, and banks and industries enjoy unprecedented financial support packages from government. The increased pressure on the ACP countries is compounded by the fact that the

⁸⁸ *Ibid.*, p. 25

⁸⁹ European Commission, (2008), *The MDG Contract: An Approach for Longer Term and More Predictable General Budget Support*, p. 1

⁹⁰ *Ibid.*

⁹¹ European Parliament resolution of 23 May 2007 on the EU's Aid for Trade

⁹² 'Aid for Trade' May Cut Health, Education Funds', By David Cronin, Inter Press Service, Published on 20 July 2007 <http://ipsnews.net/news.asp?idnews=38611>.

⁹³ European Parliament resolution of 5 February 2009 on the development impact of Economic Partnership Agreements (EPAs).

⁹⁴ APRODEV, (2008), *Discussion Paper: What Future for the ACP-EU Cotonou Partnership Agreement?*, downloaded from <http://www.aprodev.net/devpol/Files/DevPol/Future%20of%20Cotonou-final.pdf> in March 2009.

agreements with the IMF prevent them from using mechanisms that their EU and US counterparts are able to employ in order to protect their own financial and economic sectors, including major investments in the public sector.

62. Furthermore, despite the subsequent commitments made at international summits to increase aid to 0.7 % of ODA, EU Member States are failing to fulfill their commitments to increase aid and, in some cases, are actually reducing their aid budgets.⁹⁵

63. The EPAs were designed during a period of global economic growth. Despite demands from parliaments and civil society that EPAs should be accompanied by additional financial resources, this has not materialized. Given that the EPAs were designed to be implemented in a much healthier economic and financial climate than the one which currently prevails, the lack of resources for offsetting EPA-related costs and other negative impacts could seriously undermine the positive impact on development that was hoped for or aimed at.

64. The European Development Fund (EDF) is the main instrument for financing ACP-EU cooperation. It is funded by the EU Member States, subject to a specific set of financial rules and managed by a specific committee. There has been a long-running debate amongst EU policymakers about the possible incorporation of the EDF into the general EU budget, (so-called “EDF Budgetisation”). In October 2003, the European Commission published a communication in which it recommended budgetisation of the EDF.⁹⁶ In its resolution of 1 April 2004, the European Parliament welcomed the Commission’s proposal and urged the EU Member States to support it. However, the Council of the EU has yet to approve EDF budgetisation. The incorporation of the EDF into the EU’s general budget could have implications for the right to development criteria in that it would enable the European Parliament to exercise its right to scrutinize the implementation of the European Commission’s aid programmes in ACP countries.

65. The arguments in favour of EU budgetisation have been strengthened by a number of factors, including increased harmonisation between the financial regulation on the EU Budget,⁹⁷ and European Parliament scrutiny and co-decision over EC aid to other regions.

66. The very existence of the ACP as a group may also be challenged in the future. The increased emphasis on EU cooperation with individual regions as exemplified by both the regional strategies and the EPAs may threaten the relevance of the ACP as a grouping.

67. There is an urgent need for proper parliamentary scrutiny over the EU’s country aid programmes (CSPs) for ACP countries.

⁹⁵ ‘Ban sets target of \$1,000bn for aid to poorer nations’ By Harvey Morris, Financial Times, Published on 26 March 2009

⁹⁶ European Commission, (2003), Communication from the Commission to the Council and the European Parliament of 8 October 2003: Towards the full integration of cooperation with ACP countries in the EU budget [COM(2003) 590 final

⁹⁷ Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities

VII. CONCLUSIONS

68. Since negotiations on the EPAs began in 2002, the agreements have been criticized for a wide range of reasons. Concerns that the EPAs will oblige ACP countries to liberalize their markets to EU competitors and that they will have negative impacts for development remain. However, since the onset of global economic, financial and food crises, whose effects are already being felt in ACP countries, the concerns about EPAs have taken on an even greater significance. In addition to the effects of falling commodity prices, reduced remittances from abroad and a lack of credit, ACP countries have to manage without access to the massive financial aid packages that in the US and Europe are rolled out to support the financial and economic sectors. Ongoing IMF conditionality still demands fiscal restraint of developing countries, even if such policies are not applied in the West as a medicine to fight the crisis, and banks and industries enjoy unprecedented financial support packages from government.

69. Together with the lack of credit, obstacles to trade and increased competition from EU industry, ACP countries are unable to take advantage of the measures that their Western counterparts are currently employing in order to stimulate their economies. Pressure on the ACP countries do not allow the kind of stimulus packages that the EU and US have put together to support the domestic economies.

70. Despite demands from parliaments and civil society that EPAs should be accompanied by additional financial resources, no such resources have been provided and aid budgets are now under pressure in many EU countries, where the economic and financial crisis has severely impacted. The lack of adequate financial support that could help ACP countries deal with the crises could seriously undermine any positive impact on development that was aimed at in the negotiations on the EPAs.

71. Human rights are not explicitly mentioned in the CARIFORUM-EC EPA. There should be a clear human rights framework underpinning all of the EPAs as well as a new analysis of the impact of EPAs in the context of the global crises and an assessment of the impact of the interim agreements in order to improve any subsequent agreement to ensure it takes full account of the Right to Development.

72. The revision of the Cotonou Partnership Agreement will include trade and EPA related aspects. While there is no explicit human rights framework underpinning the EPAs or interim agreements, the Cotonou Partnership Agreement remains a relevant and important document that ensures such a framework. This important part of the *acquis communautaire* should be maintained in the revision.

VIII. SUGGESTED ADDITIONS TO THE CRITERIA FOR THE IMPLEMENTATION OF THE RIGHT TO DEVELOPMENT

73. The following criteria are suggested additions to the present criteria for the implementation of the Right to Development:

- a) The extent to which a partnership contributes to measures aimed at mitigating against the negative impacts of climate change;

- b) The extent to which a partnership provides for adequate parliamentary scrutiny over the implementation of the partnership agreement on both the donor and partner side, also in EPAs;
- c) The extent to which a partnership ensures equality in the measures available to parties to respond to international crises so that they can protect their populations from food shortages, hunger, and ensure adequate shelter, education and health care;
- d) The extent to which a partnership ensures targeted measures to protect women in times of economic crisis, as women are the first to lose their jobs and are vulnerable to violence in times of crises;
- e) The extent to which a partnership ensures that economic support packages by governments of the stronger trading partners to economic and financial sectors for their domestic economies are leveled by similar support packages for the weaker trading partners;
- f) The extent to which a partnership includes human rights clauses as essential elements of trade agreements;
- g) The extent to which a partnership on trade allows for the protection of vulnerable groups;
- h) The extent to which a methodology is included that serves to benchmark partnership agreements in aid and trade so as to assess their compliance with the right to development.

Annex I. Mapping of the Right to Development Criteria to the Cotonou Partnership Agreement

| Structural criteria/ obligations | |
|--|---|
| <p>Current formulation of structural criteria (A/HRC/8/WG.2/TF/2, January 31, 2008, Annex II): “The extent to which a partnership...”</p> | <p>Elements of the policies and practices of the global partnership that are relevant to this criterion</p> |
| <p>a) Contributes to creating an enabling environment for sustainable development and the realization of all human rights;</p> | <p>PREAMBLE AFFIRMING their commitment to work together towards the achievement of the objectives of poverty eradication, sustainable development and the gradual integration of the ACP countries into the world economy;</p> <p>ACKNOWLEDGING that sound and sustainable economic policies are prerequisites for development;</p> <p>CONSIDERING that the Millennium Development Goals emanating from the Millennium Declaration adopted by the United Nations General Assembly in 2000, in particular the eradication of extreme poverty and hunger, as well as the development targets and principles agreed in the United Nations Conferences, provide a clear vision and must underpin ACP-EC cooperation within this Agreement;</p> <p>PART 1: GENERAL PROVISIONS Title I: Objectives, principles and actors Chapter 1: Objectives and principles Article 1: Objectives of the partnership The partnership shall be centred on the objective of reducing and eventually eradicating poverty consistent with the objectives of sustainable development and the gradual integration of the ACP countries into the world economy.</p> |

Article 2: Fundamental principles

The principles of sustainable management of natural resources and the environment shall be applied and integrated at every level of the partnership.

Chapter 2: The actors of the partnership

Title II: The political dimension

Article 9: Essential elements regarding human rights, democratic principles and the rule of law, and fundamental element regarding good governance

Article 13: Migration

The Parties reaffirm their existing obligations and commitments in international law to ensure respect for human rights and to eliminate all forms of discrimination based particularly on origin, sex, race, language and religion.

PART 3: COOPERATION STRATEGIES

Title I: Development strategies

Chapter 1: General framework

Article 20: The Approach

e) promoting environmental sustainability, regeneration and best practices, and the preservation of natural resource base.

Chapter 2: Areas of support

Section 1: Economic development

Article 23: Economic sector development

Cooperation shall support sustainable policy and institutional reforms and the investments necessary for equitable access to economic activities and productive resources

Section 3: Regional cooperation and integration

Article 30: Regional cooperation

3. Cooperation shall help promote and develop a regional political dialogue in areas of conflict prevention and resolution; human rights and democratisation; exchange, networking, and promotion of mobility between the different actors of development, in particular in civil society.

Section 4: Thematic and cross-cutting issues

Article 32: Environment and natural resources

1. Cooperation on environmental protection and sustainable utilisation and management of natural resources shall aim at:

a) mainstreaming environmental sustainability into all aspects of development cooperation and support programmes and projects implemented by the various actors;

Title II: Economic and trade cooperation

Chapter 1: Objectives and principles

Article 34: Objectives

1. Economic and trade cooperation shall aim at fostering the smooth and gradual integration of the ACP States into the world economy, with due regard for their political choices and development priorities, thereby promoting their sustainable development and contributing to poverty eradication in the ACP countries.

PART 6: FINAL PROVISIONS

Article 96: Essential elements: consultation procedure and appropriate measures as regards human rights, democratic principles and the rule of law

2. a) If, despite the political dialogue on the essential elements as provided for under Article 8 and paragraph 1a of this Article, a Party considers that the other Party fails to fulfil an obligation stemming from respect for human rights, democratic principles and the rule of law referred to in Article 9(2), it shall, except in cases of special urgency, supply the other Party and the Council of Ministers with the relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the Parties. To this end, it shall invite the other Party to hold consultations that focus on the measures taken or to be taken by the Party concerned to remedy the situation in accordance with Annexe VII.

ANNEXE VII: POLITICAL DIALOGUE AS REGARDS HUMAN RIGHTS DEMOCRATIC PRINCIPLES AND THE RULE OF LAW

Article 2

1. Political dialogue concerning respect for human rights, democratic principles and the rule of law shall be conducted pursuant to Article 8 and Article 9(4) of the Agreement and within the parameters of internationally recognised standards and norms. In the framework of this dialogue the Parties may agree on joint agendas and priorities.

| | |
|--|--|
| <p>(b) Draws on all relevant international human rights instruments, including those relating to the RTD, in elaborating the content of development strategies and tools for monitoring and evaluating their implementation;</p> | <p>PREAMBLE REFERRING to the principles of the Charter of the United Nations, and recalling the Universal Declaration of Human Rights, the conclusions of the 1993 Vienna Conference on Human Rights, the Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the Convention on the Elimination of all forms of Discrimination against Women, the International Convention on the Elimination of all forms of Racial Discrimination, the 1949 Geneva Conventions and the other instruments of international humanitarian law, the 1954 Convention relating to the status of stateless persons, the 1951 Geneva Convention relating to the Status of Refugees and the 1967 New York Protocol relating to the Status of Refugees;</p> <p>CONSIDERING the Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe, the African Charter on Human and Peoples’ Rights and the American Convention on Human Rights as positive regional contributions to the respect of human rights in the European Union and in the ACP States</p> |
| <p>(c) Promotes good governance, democracy and the rule of law and effective anti-corruption measures at the national and international levels;</p> | <p>PREAMBLE ACKNOWLEDGING that a political environment guaranteeing peace, security and stability, respect for human rights, democratic principles and the rule of law, and good governance is part and parcel of long term development; acknowledging that responsibility for establishing such an environment rests primarily with the countries concerned;</p> <p>PART 1: GENERAL PROVISIONS Title 2: The political dimension Article 9: Essential elements regarding human rights, democratic principles and the rule of law, and fundamental elements regarding good governance</p> <p>3. Good governance, which underpins the ACP-EU Partnership, shall underpin the domestic and international policies of the Parties and constitute a fundamental element of this Agreement. The Parties agree that only serious cases of corruption, including acts of bribery leading to such corruption, as defined in Article 97 constitute a violation of that element.</p> <p>4. The Partnership shall actively support the promotion of human rights, processes of democratisation, consolidation of the rule of law, and good governance.</p> |

Article 11: Peace building policies, conflict prevention and resolution

The activities in the field of peace building, conflict prevention and resolution shall in particular include support for balancing political, economic, social and cultural opportunities among all segments of society, for strengthening the democratic legitimacy and effectiveness of governance, for establishing effective mechanisms for the peaceful conciliation of group interests, for bridging dividing lines among different segments of society as well as support for an active and organised civil society

PART 3: COOPERATION STRATEGIES

Title I: Development strategies

Chapter 1: General framework

Article 20: The Approach

d) promoting institutional reforms and development, strengthening the institutions necessary for the consolidation of democracy, good governance and for efficient and competitive market economies; and building capacity for development and partnership;

Chapter 2: Areas of support

Section 3: Regional cooperation and integration

Article 30: Regional cooperation

2. Cooperation shall also support inter and intra-ACP cooperation schemes and initiatives, including those involving non-ACP developing countries.

Section 4: Thematic and cross-cutting issues

Article 33: Institutional development and capacity building

1. c) develop and strengthen the rule of law; and improve access to justice, while guaranteeing the professionalism and independence of the judicial systems;

2. The Parties shall work together in the fight against bribery and corruption in all their societies

PART 6: FINAL PROVISIONS

Article 96

2. a) If, despite the political dialogue on the essential elements as provided for under Article 8 and paragraph 1a of this Article, a Party considers that the other Party fails to fulfil an obligation stemming from respect for human rights, democratic principles and the rule of law referred to in Article 9(2), it shall, except in cases of special urgency, supply the other Party and the Council of Ministers with the relevant information required

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| | <p>for a thorough examination of the situation with a view to seeking a solution acceptable to the Parties. To this end, it shall invite the other Party to hold consultations that focus on the measures taken or to be taken by the Party concerned to remedy the situation in accordance with Annexe VII.</p> |
| <p>(d) Follows a human rights-based approach to development, and integrates the principles of equality, non-discrimination, participation, transparency, and accountability in its development strategies;</p> | <p>PREAMBLE ACKNOWLEDGING that a political environment guaranteeing peace, security and stability, respect for human rights, democratic principles and the rule of law, and good governance is part and parcel of long term development;</p> <p>PART 1: GENERAL PROVISIONS Title II: The political dimension Article 9: Essential elements regarding human rights, democratic principles and the rule of law, and fundamental element regarding good governance 1. Cooperation shall be directed towards sustainable development centred on the human person, who is the main protagonist and beneficiary of development; this entails respect for and promotion of all human rights.</p> <p>Respect for all human rights and fundamental freedoms, including respect for fundamental social rights, democracy based on the rule of law and transparent and accountable governance are an integral part of sustainable development.</p> <p>Article 13: Migration 1. The Parties reaffirm their existing obligations and commitments in international law to ensure respect for human rights and to eliminate all forms of discrimination based particularly on origin, sex, race, language and religion.</p> <p>2. The Parties agree to consider that a partnership implies, with relation to migration, fair treatment of third country nationals who reside legally on their territories, integration policy aiming at granting them rights and obligations comparable to those of their citizens, enhancing non discrimination in economic, social and cultural life and developing measures against racism and xenophobia.</p> <p>3. The treatment accorded by each Member State to workers of ACP countries legally employed in its territory, shall be free from any discrimination based on nationality, as regards working conditions, remuneration and dismissal, relative to its own nationals. Further in this regard, each ACP State shall accord comparable non discriminatory treatment to workers who are nationals of a Member State.</p> |

PART 3: COOPERATION STRATEGIES

Title I: Development strategies

Chapter 2: Areas of support

Section 4: Thematic and cross-cutting issues

Article 33: Institutional development and capacity building

d) ensure transparent and accountable governance and administration in all public institutions.

Title II: Economic and trade cooperation

Chapter 5: Trade related areas

Article 48: Sanitary and phytosanitary measures

1. The Parties recognise the right of each Party to adopt or to enforce sanitary and phytosanitary measures necessary to protect human, animal or plant life or health, subject to the requirement that these measures do not constitute a means of arbitrary discrimination or a disguised restriction to trade, generally.

Article 50: Trade and labour standards

The Parties reaffirm their commitment to the internationally recognised core labour standards, as defined by the relevant International Labour Organisation (ILO) Conventions and in particular the freedom of association and the right to collective bargaining, the abolition of forced labour, the elimination of worst forms of child labour and non-discrimination in respect to employment.

PART 4: DEVELOPMENT FINANCE COOPERATION

Title II: Financial cooperation

Chapter 6: Humanitarian and emergency assistance

Article 72: Humanitarian and emergency assistance

2. Humanitarian and emergency assistance shall be granted exclusively according to the needs and interests of victims of disasters and in line with the principles of international humanitarian law. In particular, there shall be no discrimination between victims on grounds of race, ethnic origin, religion, gender, age, nationality or political affiliation and free access to and protection of victims shall be guaranteed as well as the security of humanitarian personnel and equipment.

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| | <p>ANNEXE VII: POLITICAL DIALOGUE AS REGARDS HUMAN RIGHTS DEMOCRATIC PRINCIPLES AND THE RULE OF LAW</p> <p>Article 3</p> <p>2. The Parties are committed to transparent interaction before, during and after the formal consultations, bearing in mind the specific benchmarks and targets referred to in Article 2(2) of this Annexe.</p> |
| <p>(e) Establishes priorities that are responsive to the needs of the most vulnerable and marginalized segments of the population, with positive measures to realize their human rights;</p> | <p>PART 3: COOPERATION STRATEGIES</p> <p>Title I: Development strategies</p> <p>Chapter 2: Areas of support</p> <p>Section 2: Social and human development</p> <p>Article 25: Social sector development</p> <p>1. Cooperation shall support ACP States' efforts at developing general and sectoral policies and reforms which improve the coverage, quality of and access to basic social infrastructure and services and take account of local needs and specific demands of the most vulnerable and disadvantaged, thus reducing the inequalities of access to these services.</p> <p>d) promoting the fight against:</p> <ul style="list-style-type: none"> - HIV/AIDS, ensuring the protection of sexual and reproductive health and rights of women; - other poverty-related diseases, particularly malaria and tuberculosis <p>Article 26: Youth issues</p> <ul style="list-style-type: none"> a) protecting the rights of children and youth, especially those of girl children; b) promoting the skills, energy, innovation and potential of youth in order to enhance their economic, social and cultural opportunities and enlarge their employment opportunities in the productive sector; d) reintegrating into society children in post conflict situations through rehabilitation programmes; <p>Title II: Economic and trade cooperation</p> <p>Chapter 5: Trade related areas</p> <p>Article 50: Trade and labour standards</p> <p>The Parties reaffirm their commitment to the internationally recognised core labour standards, as defined by the relevant International Labour Organisation (ILO) Conventions, and in particular the freedom of association and the right to collective bargaining, the abolition of forced labour, the elimination of worst forms of child labour and non-discrimination in respect to employment.</p> |

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| | <p>PART 4: DEVELOPMENT FINANCE COOPERATION Title II: Financial cooperation Chapter 6: Humanitarian and emergency assistance Article 72: Humanitarian and emergency assistance d) address the needs arising from the displacement of people (refugees, displaced persons and returnees) following natural or man-made disasters so as to meet, for as long as necessary, all the needs of refugees and displaced persons (wherever they may be) and facilitate action for their voluntary repatriation and re-integration in their country of origin;</p> <p>ANNEXE IV: IMPLEMENTATION AND MANAGEMENT PROCEDURES Chapter 1: Programming (national) Article 4: Preparation and adoption of the indicative programme 5. Special support may concern peace building policies, conflict management and resolution, post-conflict support, including institution-building, economic and social development activities, taking particular account of the needs of the most vulnerable sections of the population.</p> |
| <p>(f) Recognizes mutual and reciprocal responsibilities among the partners, taking into account their respective capacities and resources and the special vulnerability of Least Developed Countries;</p> | <p>PART 1: GENERAL PROVISIONS Title I: Objectives, principles and actors Chapter 1: Objectives and principles Article 2: Fundamental Principles - differentiation and regionalisation: cooperation arrangements and priorities shall vary according to a partner’s level of development, its needs, its performance and its long term development strategy. Particular emphasis shall be placed on the regional dimension. Special treatment shall be given to the least developed countries. The vulnerability of landlocked and island countries shall be taken into account.</p> <p>PART 4: DEVELOPMENT FINANCE COOPERATION Title I: General provisions Chapter 1: Objectives, principles, guidelines and eligibility Article 57: Guidelines 4. The ACP States and the Community shall be jointly responsible for: a) establishing, within the joint institutions, the guidelines for development finance cooperation; b) adopting the indicative programmes; c) appraising projects and programmes; d) ensuring equality of conditions for participation in invitations to tender and contracts;</p> |

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| | <p>e) monitoring and evaluating the effects and results of projects and programmes; and f) ensuring the proper, prompt and efficient execution of projects and programmes.</p> <p>ANNEXE IV IMPLEMENTATION AND MANAGEMENT PROCEDURES Chapter 6: Fund-resource management and executing agents 2. As a general rule, the financial execution of the Fund resources by the Commission shall be decentralised.</p> <p>In this instance, the execution duties shall be carried out by the ACP States in accordance with Article 35. 3.</p> |
| <p>(g) Ensures that human rights obligations are respected in all aspects of the relationship between the partners, through harmonization of policies;</p> | <p>PART 1: GENERAL PROVISIONS Title II: The political dimension Article 9: Essential elements regarding human rights, democratic principles and the rule of law, and fundamental element regarding good governance 1. Cooperation shall be directed towards sustainable development centred on the human person, who is the main protagonist and beneficiary of development; this entails respect for and promotion of all human rights.</p> <p>Respect for all human rights and fundamental freedoms, including respect for fundamental social rights, democracy based on the rule of law and transparent and accountable governance are an integral part of sustainable development.</p> <p>2. The Parties refer to their international obligations and commitments concerning respect for human rights. They reiterate their deep attachment to human dignity and human rights, which are legitimate aspirations of individuals and peoples. Human rights are universal, indivisible and inter related. The Parties undertake to promote and protect all fundamental freedoms and human rights, be they civil and political, or economic, social and cultural. In this context, the Parties reaffirm the equality of men and women.</p> <p>3. In the context of a political and institutional environment that upholds human rights, democratic principles and the rule of law, good governance is the transparent and accountable management of human, natural, economic and financial resources for the purposes of equitable and sustainable development.</p> |

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| | <p>PART 3: COOPERATION STRATEGIES</p> <p>Title I: Development strategies</p> <p>Chapter 2: Areas of support</p> <p>Section 4: Thematic and cross-cutting issues</p> <p>Article 33: Institutional development and capacity building</p> <p>b) promote and sustain universal and full respect for and observance and protection of all human rights and fundamental freedoms;</p> |
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| Process criteria/obligations | |
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| Current formulation of process criteria (A/HRC/8/WG.2/TF/2, 31 January 2008, Annex II): “The extent to which a partnership...” | Elements of the policies and practices of the global partnership that are relevant to this criterion |
| (h) Ensures that adequate information is freely available to enable effective public scrutiny of its policies, working methods and outcomes; | <p>PART 4: DEVELOPMENT FINANCE COOPERATION Title I: General provisions Chapter 2: Scope and nature of financing Article 61: Nature of financing 2. Direct budgetary assistance in support of macroeconomic or sectoral reforms shall be granted where: a) public expenditure management is sufficiently transparent, accountable and effective; c) public procurement is open and transparent.</p> |
| (i) Promotes gender equality and the rights of women; | <p>PREAMBLE REFERRING to the principles of the Charter of the United Nations, and recalling the (...) Convention on the Elimination of all forms of Discrimination against Women,</p> <p>PART 1: GENERAL PROVISIONS Title I: Objectives, principles and actors Chapter 1: Objectives and principles Article 1: Objectives Systematic account shall be taken of the situation of women and gender issues in all areas - political, economic and social.</p> |

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| | <p>Title II: The political dimension Article 9: Essential elements regarding human rights, democratic principles and the rule of law, and fundamental element regarding good governance 2. The Parties refer to their international obligations and commitments concerning respect for human rights. (...) In this context, the Parties reaffirm the equality of men and women.</p> <p>PART 3: COOPERATION STRATEGIES Title I: Development strategies Chapter 1: General framework Article 20: The approach b) promoting human and social development helping to ensure that the fruits of growth are widely and equitably shared and promoting gender equality;</p> <p>Chapter 2: Areas of support Section 2: Social and human development Article 25, Social sector development d) promoting the fight against:- HIV/AIDS, ensuring the protection of sexual and reproductive health and rights of women;</p> <p>Article 26: Youth issues a) protecting the rights of children and youth, especially those of girl children;</p> <p>Section 4: Thematic and cross-cutting issues Article 31: Gender issues Cooperation shall help strengthen policies and programmes that improve, ensure and broaden the equal participation of men and women in all spheres of political, economic, social and cultural life. Cooperation shall help improve the access of women to all resources required for the full exercise of their fundamental rights.</p> |
| <p>(j) Provides for the meaningful consultation and participation of all stakeholders,</p> | <p>PART 1: GENERAL PROVISIONS Title I: Objectives, principles and actors Chapter 1: Objectives and principles Article 2: Fundamental Principles - participation: apart from central government as the main partner, the partnership shall be open to different</p> |

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| <p>including affected populations and their representatives, as well as relevant civil society groups and experts, in processes of elaborating, implementing and evaluating development policies, programmes and projects;</p> | <p>kinds of other actors in order to encourage the integration of all sections of society, including the private sector and civil society organisations, into the mainstream of political, economic and social life;</p> <p>Chapter 2: The actors of the partnership</p> <p>Article 4: General approach</p> <p>The ACP States shall determine the development principles, strategies and models of their economies and societies in all sovereignty. They shall establish, with the Community, the cooperation programmes provided for under this Agreement. However, the parties recognise the complementary role of and potential for contributions by non State actors and local decentralised authorities to the development process.</p> <p>Article 6: Definitions</p> <p>1. The actors of cooperation will include:</p> <ul style="list-style-type: none">a) State (local, national and regional);b) Non-State:<ul style="list-style-type: none">- Private sector;- Economic and social partners, including trade union organisations;- Civil Society in all its forms according to national characteristics. <p>Article 7: Capacity building</p> <p>The contribution of civil society to development can be enhanced by strengthening community organisations and non-profit non-governmental organisations in all spheres of cooperation. This will require:</p> <ul style="list-style-type: none">- encouraging and supporting the creation and development of such organisations;- establishing arrangements for involving such organisations in the design, implementation and evaluation of development strategies and programmes. <p>PART 2: INSTITUTIONAL PROVISIONS</p> <p>Article 17: The Joint Parliamentary Assembly</p> <p>3. The Joint Parliamentary Assembly shall organise regular contacts with representatives of the ACP EU economic and social partners and the other actors of civil society in order to obtain their views on the attainment of the objectives of this Agreement.</p> |
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| | <p>PART 3: COOPERATION STRATEGIES Title I: Development strategies Chapter 1: General framework Article 19: Principle Objectives 1. (...) In this context, cooperation framework and orientations shall be tailored to the individual circumstances of each ACP country, shall promote local ownership of economic and social reforms and the integration of the private sector and civil society actors into the development process.</p> <p>3. Governments and non-State actors in each ACP country shall initiate consultations on country development strategies and community support thereto.</p> <p>PART 4: DEVELOPMENT FINANCE COOPERATION Title II: Financial cooperation Chapter 7: Investment and private sector development support Article 75: Investment promotion i) promote national, regional and ACP-EU private sector business dialogue, cooperation and partnerships, in particular through an ACP-EU private sector business forum.</p> |
| <p>(k) Respects the right of each state to determine its own development policies in accordance with international law, and the role of national parliaments to review and approve such policies.</p> | <p>PART 1: GENERAL PROVISIONS Title I: Objectives, principles and actors Chapter 1: Objectives and principles Article 2: Fundamental Principles ACP-EC cooperation, underpinned by a legally binding system and the existence of joint institutions, shall be exercised on the basis of the following fundamental principles: - equality of the partners and ownership of the development strategies: for the purposes of implementing the objectives of the partnership, the ACP States shall determine the development strategies for their economies and societies in all sovereignty and with due regard for the essential elements described in Article 9; the partnership shall encourage ownership of the development strategies by the countries and populations concerned;</p> <p>Chapter 2: The actors of the partnership Article 4: General approach The ACP States shall determine the development principles, strategies and models of their economies and societies in all sovereignty. They shall establish, with the Community, the cooperation programmes</p> |

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| | <p>provided for under this Agreement.</p> <p>PART 3: COOPERATION STRATEGIES Title I: Development strategies Chapter 1: General framework Article 20: The approach 1. (...) Cooperation shall thus provide a coherent enabling framework of support to the ACP's own development strategies, ensuring complementarity and interaction between the various elements.</p> <p>PART 4: DEVELOPMENT FINANCE COOPERATION Title I: General provisions Chapter 1: Objectives, principles, guidelines and eligibility Article 57: Guidelines 1. Operations financed within the framework of this Agreement shall be implemented by the ACP States and the Community in close cooperation, the concept of equality between the partners being recognised.</p> <p>2. The ACP States shall be responsible for: a) defining the objectives and priorities on which the indicative programmes are based; b) choosing projects and programmes; c) preparing and presenting the dossiers of projects and programmes; d) preparing, negotiating and concluding contracts; e) implementing and managing projects and programmes; and f) maintaining projects and programmes.</p> |
| <p>(1) Includes fair institutionalized mechanisms of mutual accountability and review, through which the fulfillment by all partners of their agreed commitments is monitored and publicly reported,</p> | <p>PART 1: GENERAL PROVISIONS Title I: Objectives, principles and actors Chapter 1: Objectives and principles Article 2: Fundamental Principles - the pivotal role of dialogue and the fulfilment of mutual obligations: the obligations assumed by the Parties in the framework of their dialogue shall be central to their partnership and cooperation relations;</p> <p>PART 2: INSTITUTIONAL PROVISIONS Article 17: The Joint Parliamentary Assembly 1. The Joint Parliamentary Assembly shall be composed of equal numbers of EU and ACP representatives.</p> |

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| <p>responsibility for action is indicated, and effective remedies are provided;</p> | <p>2. The role of the Joint Parliamentary Assembly, as a consultative body, shall be to:</p> <ul style="list-style-type: none">- promote democratic processes through dialogue and consultation;- adopt resolutions and make recommendations to the Council of Ministers with a view to achieving the objectives of this Agreement. <p>ANNEXE Ib: MULTI-ANNUAL FINANCIAL FRAMEWORK FOR THE PERIOD 2008 TO 2013</p> <p>7. The Parties will conduct a performance review, assessing the degree of realisation of commitments and disbursements, as well as the results and impact of the aid provided. This review will be undertaken on the basis of a proposal prepared by the Commission in 2010. It shall contribute to a decision on the amount of the financial cooperation after 2013.</p> <p>ANNEXE IV: IMPLEMENTATION AND MANAGEMENT PROCEDURES</p> <p>Chapter 1: Programming (national)</p> <p>Article 5: Review process</p> <p>1. (...) In this context, the National Authorising Officer and the Commission shall:</p> <ul style="list-style-type: none">a) annually undertake an operational review of the indicative programme; andb) undertake a mid-term and end-of-term review of the CSS and the indicative programme in the light of current needs and performance. <p>4. The annual operational review of the indicative programme shall consist of a joint assessment of the implementation of the programme and take into account the results of relevant activities of monitoring and evaluation. This review shall be conducted locally and shall be finalised between the National Authorising Officer and the Commission within a period of 60 days. It shall in particular cover an assessment of:</p> <ul style="list-style-type: none">a) the results achieved in the focal sector(s) measured against the identified targets and impact indicators and sectoral policy commitments;b) programmes and projects outside the focal sector(s) and/or in the framework of multi annual programmes;c) the use of resources set aside for non State actors;d) the effectiveness in implementation of current operations and the extent to which the timetable for commitments and payments have been respected; ande) an extension of the programming perspective for the following years. |
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| | <p>6. In the light of the annual operational reviews, the National Authorising Officer and the Commission may at the mid-term and end-of-term reviews, and within the above time frames, review and adapt the CSS:</p> |
| <p>(m) Monitors and evaluates progress in achieving development strategies by carrying out systematic assessments of the human rights impact of its policies and projects based on appropriate indicators and contributes to strengthening the capacity to collect and disseminate timely data, which should be disaggregated sufficiently to monitor the impacts on vulnerable population groups and the poor;</p> | <p>ANNEXE IV: IMPLEMENTATION AND MANAGEMENT PROCEDURES Chapter 1: Programming (national) Article 5: Review process 2. In exceptional circumstances referred to in the provisions on humanitarian and emergency assistance, the review can be carried out on the demand of either Party.</p> <p>Chapter 5: Monitoring and evaluation Article 32: Objectives The objective of monitoring and evaluation shall consist in the regular assessment of development operations (preparation, implementation and subsequent operation) with a view to improving the development effectiveness of on-going and future operations.</p> <p>Article 33: Modalities 2. Monitoring and evaluation activities shall notably: a) provide regular and independent assessments of the Fund’s operations and activities by comparing results with objectives; and thereby b) enable the ACP States and the Commission and the Joint Institutions, to feed the lessons of experience back into the design and execution of future policies and operations.</p> <p>ANNEXE VII: POLITICAL DIALOGUE AS REGARDS HUMAN RIGHTS, DEMOCRATIC PRINCIPLES AND THE RULE OF LAW Article 2 2. The Parties may jointly develop and agree specific benchmarks or targets with regard to human rights, democratic principles and the rule of law within the parameters of internationally agreed standards and norms, taking into account special circumstances of the ACP State concerned. Benchmarks are mechanisms for reaching targets through the setting of intermediate objectives and timeframes for compliance.</p> |

Annex II

The Africa-EU Strategic Partnership: A Joint Africa-EU Strategy

| Structural criteria/ obligations | |
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| <p>Current formulation of structural criteria (A/HRC/8/WG.2/TF/2, January 31, 2008, Annex II): “The extent to which a partnership...”</p> | <p>Elements of the policies and practices of the global partnership that are relevant to this criterion</p> |
| <p>a) Contributes to creating an enabling environment for sustainable development and the realization of all human rights;</p> | <p>I. CONTEXT, SHARED VISION AND PRINCIPLES</p> <p>2. Shared Vision</p> <p>4. The purpose of this Joint Strategy is to take the Africa-EU relationship to a new, strategic level with a strengthened political partnership and enhanced cooperation at all levels. The partnership will be based on a Euro-African consensus on values, common interests and common strategic objectives. This partnership should strive to bridge the development divide between Africa and Europe through the strengthening of economic cooperation and the promotion of sustainable development in both continents, living side by side in peace, security, prosperity, solidarity and human dignity.</p> <p>3. Principles</p> <p>6. This partnership and its further development will be guided by the fundamental principles of the unity of Africa, the interdependence between Africa and Europe, ownership and joint responsibility, and respect for human rights, democratic principles and the rule of law, as well as the right to development.</p> <p>II. OBJECTIVES</p> <p>8. The four main objectives of this long-term strategic partnership are:</p> <p><i>ii.</i> To strengthen and promote peace, security, democratic governance and human rights, fundamental freedoms, gender equality, sustainable economic development, including industrialisation, and regional and continental integration in Africa, and to ensure that all the Millennium Development Goals (MDGs) are met</p> |

in all African countries by the year of 2015.

iii. (...) and to address global challenges and common concerns such as human rights, including children's rights and gender equality, fair trade, migration, HIV/AIDS, malaria, tuberculosis and other pandemics, climate change, energy security and sustainability, (...)

IV. STRATEGIES

2. Strategic Priorities

b) Governance and Human Rights: Upholding our Values and Principles

Common and Global Governance and Human Rights Challenges

27. The promotion of democratic governance and human rights constitutes a central feature of the Africa-EU dialogue and partnership. The two continents will join efforts towards the enhancement of the effectiveness of the multilateral system and the promotion of the values of democracy, rule of law and human rights. In this regard, the Africa-EU strategic partnership will facilitate an open, intensive and comprehensive dialogue on all aspects and concepts of governance including human rights, children's rights, gender equality, democratic principles, the rule of law, local governance, the management of natural resources, the transparent and accountable management of public funds, institutional development and reform, human security, security sector reform, the fight against corruption, corporate social responsibility, and institution building and development.

d) Key Development Issues: Accelerating Progress towards the MDGs

49. (...) Midway between 2000 and 2015, supporting Africa's efforts to achieve the MDGs remains the key challenge for the EU's external and development cooperation policy vis-à-vis the continent. In this regard, efforts should focus on making a key contribution to the achievement of the 8 MDGs on (1) poverty and hunger, (2) universal primary education, (3) gender equality and empowerment of women, (4) child mortality, (5) maternal health, (6) HIV/AIDS, malaria and other diseases, (7) environmental sustainability, and (8) the development of a partnership for development

Environmental Sustainability and Climate Change

64. Africa and the EU have a clear common interest to address environmental sustainability and climate change. Environmental degradation and climate change undermine sustainable development and represent threats to the achievement of the MDGs.

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| | <p><i>Development of Knowledge-based Societies</i></p> <p>84. Both sides recognise that the development of S&T and innovation is one of the essential engines of socio-economic growth and sustainable development in Africa;</p> |
| <p>(b) Draws on all relevant international human rights instruments, including those relating to the RTD, in elaborating the content of development strategies and tools for monitoring and evaluating their implementation;</p> | <p>II. OBJECTIVES</p> <p>8. The four main objectives of this long-term strategic partnership are:</p> <p><i>iii.</i> To jointly promote and sustain a system of effective multilateralism, with strong, representative and legitimate institutions, and the reform of the United Nations (UN) system and of other key international institutions,</p> <p>IV. STRATEGIES</p> <p>2. Strategic Priorities</p> <p>b) Governance and Human Rights: Upholding our Values and Principles</p> <p><i>Common and Global Governance and Human Rights Challenges</i></p> <p>29. With regard to human rights, Africa and the EU will work together to protect and promote the human rights of all people in Africa and Europe, including through enhanced dialogue between relevant institutions from both continents, such as the European Court of Human Rights of the Council of Europe, the African Court on Human and Peoples' Rights and the African Commission on Human and Peoples' Rights, the African Committee on the Rights and Welfare of the Child, and African and European national human rights institutions.</p> <p>30. Similarly, Africa and the EU will also work together on a global level and international fora, including in the UN Human Rights Council, for the promotion and protection of human rights and international humanitarian law and for the effective implementation of international and regional human rights instruments.</p> <p>d) Key Development Issues: Accelerating Progress towards the MDGs</p> <p>49. (...) Midway between 2000 and 2015, supporting Africa's efforts to achieve the MDGs remains the key challenge for the EU's external and development cooperation policy vis-à-vis the continent. In this regard, efforts should focus on making a key contribution to the achievement of the 8 MDGs on (1) poverty and hunger, (2) universal primary education, (3) gender equality and empowerment of women, (4) child mortality, (5) maternal health, (6) HIV/AIDS, malaria and other diseases, (7) environmental sustainability, and (8) the development of a partnership for development.</p> |

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| <p>(c) Promotes good governance, democracy and the rule of law and effective anti-corruption measures at the national and international levels;</p> | <p>I. CONTEXT, SHARED VISION AND PRINCIPLES</p> <p>3. Principles</p> <p>This partnership and its further development will be guided by the fundamental principles of the unity of Africa, the interdependence between Africa and Europe, ownership and joint responsibility, and respect for human rights, democratic principles and the rule of law, as well as the right to development.</p> <p>II. OBJECTIVES</p> <p>8. The four main objectives of this long-term strategic partnership are:</p> <p><i>ii.</i> To strengthen and promote peace, security, democratic governance and human rights, fundamental freedoms, gender equality, sustainable economic development, including industrialisation, and regional and continental integration in Africa, and to ensure that all the Millennium Development Goals (MDGs) are met in all African countries by the year of 2015.</p> <p>IV. STRATEGIES</p> <p>2. Strategic Priorities</p> <p>b) Governance and Human Rights: Upholding our Values and Principles</p> <p><i>Common and Global Governance and Human Rights Challenges</i></p> <p>27. The promotion of democratic governance and human rights constitutes a central feature of the Africa-EU dialogue and partnership. The two continents will join efforts towards the enhancement of the effectiveness of the multilateral system and the promotion of the values of democracy, rule of law and human rights. In this regard, the Africa-EU strategic partnership will facilitate an open, intensive and comprehensive dialogue on all aspects and concepts of governance, including human rights, children's rights, gender equality, democratic principles, the rule of law, local governance, the management of natural resources, the transparent and accountable management of public funds, institutional development and reform, human security, security sector reform, the fight against corruption, corporate social responsibility, and institution building and development.</p> <p><i>Cooperation between Africa and the EU on Democratic Governance</i></p> <p>33. Two particularly promising cases of Africa-owned governance reform programmes and democracy-building efforts are the African Peer Review Mechanism (APRM) and the African Charter on Democracy, Elections and Governance.</p> <p>34. Africa and the EU will together support the strengthening of the rule of law in Africa, through enhanced</p> |
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| | <p>support for national Human Rights Commissions, national Parliaments and independent electoral commissions, as well as civil society organisations.</p> <p>36. Africa and the EU will enhance cooperation in the context of international initiatives to counter the illicit trade and to promote the transparent and equitable management of natural resources, such as the Kimberley certification process, the Forest Law Enforcement Governance and Trade (FLEGT) and the Extractive Industry Transparency Initiative (EITI). Africa and the EU will also, together, address issues relating to the fight against corruption, bribery, counterfeiting, money-laundering, tax-fraud, as well as other aspects of economic governance.</p> <p><i>Private Sector Development</i></p> <p>40. In this context, it will also be necessary to address key investment disincentives such as fraud, corruption, money laundering and organised crime.</p> |
| <p>(d) Follows a human rights-based approach to development, and integrates the principles of equality, non-discrimination, participation, transparency, and accountability in its development strategies;</p> | <p>I. CONTEXT, SHARED VISION AND PRINCIPLES</p> <p>3. Principles</p> <p>6. This partnership and its further development will be guided by the fundamental principles of the unity of Africa, the interdependence between Africa and Europe, ownership and joint responsibility, and respect for human rights, democratic principles and the rule of law, as well as the right to development.</p> <p>7. The partnership will furthermore be governed by strengthened political dialogue, co-management and co-responsibility in our bilateral cooperation and towards global issues, burden-sharing and mutual accountability, solidarity and mutual confidence, equality and justice, common and human security, respect for international law and agreements, gender equality and non-discrimination and, not least, a long-term approach.</p> <p>IV. STRATEGIES</p> <p>2. Strategic Priorities</p> <p>b) Governance and Human Rights: Upholding our Values and Principles</p> <p><i>Common and Global Governance and Human Rights Challenges</i></p> <p>27. (...) In this regard, the Africa-EU strategic partnership will facilitate an open, intensive and comprehensive dialogue on all aspects and concepts of governance, including human rights, children’s rights, gender equality, democratic principles, the rule of law, local governance, the management of natural resources, the transparent and accountable management of public funds, institutional development and</p> |

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| | <p>reform, human security, security sector reform, the fight against corruption, corporate social responsibility, and institution building and development.</p> <p><i>Cooperation between Africa and the EU on Democratic Governance</i></p> <p>36. Africa and the EU will enhance cooperation in the context of international initiatives to counter the illicit trade and to promote the transparent and equitable management of natural resources, such as the Kimberley certification process, the Forest Law Enforcement Governance and Trade (FLEGT) and the Extractive Industry Transparency Initiative (EITI). Africa and the EU will also, together, address issues relating to the fight against corruption, bribery, counterfeiting, money-laundering, tax-fraud, as well as other aspects of economic governance.</p> <p>37. On all these issues, Africa and the EU recognise that civil society, the media and democratic institutions have important roles to play in ensuring transparency and accountability.</p> |
| <p>(e) Establishes priorities that are responsive to the needs of the most vulnerable and marginalized segments of the population, with positive measures to realize their human rights;</p> | <p>IV. STRATEGIES</p> <p>2. Strategic Priorities</p> <p>d) Key Development Issues: Accelerating Progress towards the MDGs</p> <p><i>Human and Social Development</i></p> <p>60. (...) Efforts to scale up towards universal access to basic health services, HIV/AIDS, Tuberculosis Malaria prevention, treatment, care and support by 2010, and cooperation on other pandemics as well as on issues relating to meningitis, will be intensified, with special focus on women, children and adolescents, older and disabled persons as well as members of vulnerable groups.</p> |
| <p>(f) Recognizes mutual and reciprocal responsibilities among the partners, taking into account their respective capacities and resources and the special vulnerability of Least Developed Countries;</p> | <p>I. CONTEXT, SHARED VISION AND PRINCIPLES</p> <p>2. Shared vision</p> <p>5. This Joint Strategy, which will provide an overarching long-term framework for Africa-EU relations, will be implemented through successive short-term Action Plans and enhanced political dialogue at all levels, resulting in concrete and measurable outcomes in all areas of the partnership.</p> <p>3. Principles</p> <p>6. This partnership and its further development will be guided by the fundamental principles of the unity of Africa, the interdependence between Africa and Europe, ownership and joint responsibility, and respect for human rights, democratic principles and the rule of law, as well as the right to development. In the light of this new partnership, both sides also commit themselves to enhance the coherence and effectiveness of</p> |

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| | <p>existing agreements, policies and instruments.</p> <p>III. NEW APPROACHES</p> <p>9. In order to meet these fundamental objectives, Africa and the EU will need to jointly address a number of key political challenges that are essential for the success of the new partnership, including:</p> <p>(a) To move away from a traditional relationship and forge a real partnership characterised by equality and the pursuit of common objectives;</p> |
| <p>(g) Ensures that human rights obligations are respected in all aspects of the relationship between the partners, through harmonization of policies;</p> | |

| Process criteria/obligations | |
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| <p>Current formulation of outcome criteria (A/HRC/8/WG.2/TF/2, January 31, 2008, Annex II): “The extent to which a partnership...”</p> | <p>Elements of the policies and practices of the global partnership that are relevant to this criterion</p> |
| <p>(h) Ensures that adequate information is freely available to enable effective public scrutiny of its policies, working methods and outcomes;</p> | <p>V. INSTITUTIONAL ARCHITECTURE AND IMPLEMENTATION 2. Implementation and Follow-up Mechanisms Monitoring, Evaluation and Review Mechanisms 118. Finally, and in order to ensure a wide ownership of the process and transparency in the monitoring, civil society organisations in the EU, Africa and beyond are invited to prepare general and sector-specific reports, the conclusions of which will be taken into account in the progress reports prepared by the two Commissions and the EU Council Secretariat and inform the further implementation of the Joint Strategy.</p> |
| <p>(i) Promotes gender equality and the rights of women;</p> | <p>I. CONTEXT, SHARED VISION AND PRINCIPLES 3. Principles 7. The partnership will furthermore be governed by strengthened political dialogue, co-management and co-responsibility in our bilateral cooperation and towards global issues, burden-sharing and mutual accountability, solidarity and mutual confidence, equality and justice, common and human security, respect for international law and agreements, gender equality and non-discrimination and, not least, a long-term approach.</p> <p>II. OBJECTIVES 8. The four main objectives of this long-term strategic partnership are: <i>ii.</i> To strengthen and promote peace, security, democratic governance and human rights, fundamental freedoms, gender equality, sustainable economic development, including industrialisation, and regional and continental integration in Africa, and to ensure that all the Millennium Development Goals (MDGs) are met in all African countries by the year of 2015.</p> |

iii. (...) and to address global challenges and common concerns such as human rights, including children's rights and gender equality, fair trade, migration, HIV/AIDS, malaria, tuberculosis and other pandemics, climate change, energy security and sustainability, (...)

IV. STRATEGIES

2. Strategic Priorities

b) Governance and Human Rights: Upholding our Values and Principles

Common and Global Governance and Human Rights Challenges

27. (...) In this regard, the Africa-EU strategic partnership will facilitate an open, intensive and comprehensive dialogue on all aspects and concepts of governance including human rights, children's rights, gender equality, democratic principles, the rule of law, local governance, the management of natural resources, the transparent and accountable management of public funds, institutional development and reform, human security, security sector reform, the fight against corruption, corporate social responsibility, and institution building and development.

d) Key Development Issues: Accelerating Progress towards the MDGs

49. (...) Mid-way between 2000 and 2015, supporting Africa's efforts to achieve the MDGs remains the key challenge for the EU's external and development cooperation policy vis-à-vis the continent. In this regard, efforts should focus on making a key contribution to the achievement of the 8 MDGs on (1) poverty and hunger, (2) universal primary education, (3) gender equality and empowerment of women, (4) child mortality, (5) maternal health, (6) HIV/AIDS, malaria and other diseases, (7) environmental sustainability, and (8) the development of a partnership for development.

Gender Equality

63. Africa and the EU will also strengthen the inter-institutional fabric of their administrations to mainstream gender equality in all strategies, policies, programmes and actions. They will address the entire range of women's rights and strengthen their efforts to eliminate illiteracy and to ensure equal access of girls to education, to fight the feminisation of poverty, to promote women in decision-making positions and peace processes, and fight sexual and gender based violence against women and early forced marriage, and work towards the abandonment of female genital mutilation and cutting (FGM/C) and other harmful traditional practices, as set out in the Beijing Platform for Action and the AU Solemn Declaration on Gender Equality.

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| <p>(j) Provides for the meaningful consultation and participation of all stakeholders, including affected populations and their representatives, as well as relevant civil society groups and experts, in processes of elaborating, implementing and evaluating development policies, programmes and projects;</p> | <p>II. OBJECTIVES</p> <p>8. The four main objectives of this long-term strategic partnership are:</p> <p><i>iv.</i> To facilitate and promote a broad-based and wide-ranging people-centred partnership, Africa and the EU will empower non-state actors and create conditions to enable them to play an active role in development, democracy building, conflict prevention and post-conflict reconstruction processes. Both sides will also promote holistic approaches to development processes, and make this Joint Strategy a permanent platform for information, participation and mobilisation of a broad spectrum of civil society actors in the EU, Africa and beyond. Ongoing dialogue with civil society, the private sector and local stakeholders on issues covered by this Joint Strategy will be a key component to ensure its implementation.</p> <p>III. NEW APPROACHES</p> <p>9. j) To bear in mind that we can only achieve our objectives if this strategic partnership is owned by all stakeholders, including civil society actors and local authorities, and if they are actively contributing to its implementation.</p> <p>IV. STRATEGIES</p> <p>2. Strategic Priorities</p> <p>b) Governance and Human Rights: Upholding our Values and Principles</p> <p><i>Common and Global Governance and Human Rights Challenges</i></p> <p>29. With regard to human rights, Africa and the EU will work together to protect and promote the human rights of all people in Africa and Europe,</p> <p><i>Cooperation between Africa and the EU on Democratic Governance</i></p> <p>35. The AU and EU will also work together to support democratic elections in accordance with international and regional standards, including the AU standards for elections, through election assistance and electoral observation. To that end they will strive to reinforce the role of the AU, the regional organisations and of civil society in election observation in line with the UN-endorsed Declaration of Principles for International Election Observation of 2005 and the Durban Declaration on the Principles Guiding Democratic Elections in Africa.</p> <p>37. On all these issues, Africa and the EU recognise that civil society, the media and democratic institutions have important roles to play in ensuring transparency and accountability.</p> |
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| | <p>V. INSTITUTIONAL ARCHITECTURE AND IMPLEMENTATION</p> <p>1. Institutional Architecture and Actors</p> <p>93. The partnership will involve a large number of institutional and non-institutional actors in Africa and the EU at continental, regional, national and local levels, with a central role of the AU and the EU.</p> <p><i>The AU and EU: Different Levels of Interaction</i></p> <p>97. In this context, partners recognise a need for a more defined division of roles and responsibilities between the pan-African, sub-regional, national and local levels and between the different actors on the EU side, as well as for coherence and complementarity with other international actors.</p> <p>2. Implementation and Follow-up Mechanisms</p> <p>Monitoring, Evaluation and Review Mechanisms</p> <p>118. Finally, and in order to ensure a wide ownership of the process and transparency in the monitoring, civil society organisations in the EU, Africa and beyond are invited to prepare general and sector-specific reports, the conclusions of which will be taken into account in the progress reports prepared by the two Commissions and the EU Council Secretariat and inform the further implementation of the Joint Strategy.</p> |
| <p>(k) Respects the right of each state to determine its own development policies in accordance with international law, and the role of national parliaments to review and approve such policies.</p> | |
| <p>(l) Includes fair institutionalized mechanisms of mutual accountability and review, through which the fulfillment by all partners of their agreed commitments is monitored</p> | <p>V. INSTITUTIONAL ARCHITECTURE AND IMPLEMENTATION</p> <p>2. Implementation and Follow-up Mechanisms</p> <p>Monitoring, Evaluation and Review Mechanisms</p> <p>118. Finally, and in order to ensure a wide ownership of the process and transparency in the monitoring, civil society organisations in the EU, Africa and beyond are invited to prepare general and sector-specific reports, the conclusions of which will be taken into account in the progress reports prepared by the two Commissions and the EU Council Secretariat and inform the further implementation of the Joint Strategy.</p> |

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| <p>and publicly reported, responsibility for action is indicated, and effective remedies are provided;</p> | <p>I. CONTEXT, SHARED VISION AND PRINCIPLES</p> <p>3. Principles</p> <p>7. The partnership will furthermore be governed by strengthened political dialogue, co-management and co-responsibility in our bilateral cooperation and towards global issues, burden-sharing and mutual accountability, solidarity and mutual confidence, equality and justice, common and human security, respect for international law and agreements, gender equality and non-discrimination and, not least, a long-term approach.</p> <p>IV. STRATEGIES</p> <p>2. Strategic Priorities</p> <p>b) Governance and Human Rights: Upholding our Values and Principles</p> <p><i>Cooperation between Africa and the EU on Democratic Governance</i></p> <p>33. Two particularly promising cases of Africa-owned governance reform programmes and democracy-building efforts are the African Peer Review Mechanism (APRM) and the African Charter on Democracy, Elections and Governance.</p> |
| <p>(m) Monitors and evaluates progress in achieving development strategies by carrying out systematic assessments of the human rights impact of its policies and projects based on appropriate indicators and contributes to strengthening the capacity to collect and disseminate timely data, which should be disaggregated sufficiently to monitor the impacts on vulnerable population groups and the poor;</p> | <p>IV. STRATEGIES</p> <p>2. Strategic Priorities</p> <p>b) Governance and Human Rights: Upholding our Values and Principles</p> <p><i>Cooperation between Africa and the EU on Democratic Governance</i></p> <p>33. Two particularly promising cases of Africa-owned governance reform programmes and democracy-building efforts are the African Peer Review Mechanism (APRM) and the African Charter on Democracy, Elections and Governance.</p> |

Annex III

Mapping of the Right to Development criteria to the EC’s proposed Strategy for Partnership with the Caribbean region

| Structural criteria/ obligations | |
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| Current formulation of structural criteria (A/HRC/8/WG.2/TF/2, January 31, 2008, Annex II): “The extent to which a partnership...” | Elements of the policies and practices of the global partnership that are relevant to this criterion |
| <p>a) Contributes to creating an enabling environment for sustainable development and the realization of all human rights;</p> | <p>The objective is a strong mutually beneficial partnership on the international scene within which the two sides will work together towards the shared ideals of democracy and human rights and in the fight against poverty and global threats to peace, security and stability. (Page 2)</p> <p>In the Caribbean the EU will prioritise its relations with CARIFORUM in order to cover a wide range of issues of importance to both sides including the consolidation of democracy, human rights, gender equality, social cohesion and decent work opportunities, security, stability, conflict prevention, migration, drugs and regional integration. (Page 5)</p> <p>The EU and the Caribbean will work as partners in the global effort to support democracy, universal human rights, peace and stability in the world, and to combat the scourge of poverty. (Page 11)</p> <p>Security, stability and conflict prevention are essential prerequisites for sustainable development. Security has become a major priority worldwide in recent times as many countries have been victims of terror attacks. Ensuring security and the rule of law, with equity, justice and full respect for human rights, are now fully recognised as fundamental, shared priorities. (Page 25)</p> <p>The EU should also continue to promote human rights and equal opportunities and protect vulnerable groups, especially women. (Page 25)</p> |

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| | <p>Environment and natural resources represent an important asset for the region, the countries and, particularly, the poorer part of the local population. The links between environment and socio-economic development will be highlighted in EU support to the region. In addition to natural disasters, Caribbean states face many environmental challenges including land degradation, deforestation, scarce water resources, fish stocks management, biodiversity loss, waste and toxic chemical management and more recently climate change, all of which impact strongly on the region's economic and social development. The EU will continue to support actions to address environmental challenges and to build capacity in such areas as climate change, mitigation and adaptation, and sustainable natural resource management. (Page 8)</p> <p>The EDF funded Caribbean Regional Environment Programme with the Caribbean Environment Corporation aimed at strengthening of regional capacity in conservation, management and sustainable development of regional amenity areas (marine, terrestrial, watersheds), illustrated that institutional weaknesses exist in regional bodies which need to be addressed. The EU will therefore also contribute to the building of institutional capacity for environmental management. (Page 29)</p> <p>The EU's overarching development objective is to assist all the countries in the region to achieve their long term development goals in a self sustaining manner. This includes the generalized achievement of MDGs and poverty reduction, reversing the trend of HIV/AIDS prevalence, the consolidation and building upon the region's Human Development achievements and the ambition expressed by some of the Caribbean MICs to join the ranks of the developed states by 2020, at the expiry of the current Cotonou Agreement. (Page 30)</p> |
| <p>(b) Draws on all relevant international human rights instruments, including those relating to the RTD, in elaborating the content of development strategies and tools for monitoring and evaluating their implementation;</p> | <p>Specifically, a structured political dialogue with the region and mutually agreed strategic policy objectives to be supported through the existing EU development cooperation and instruments must be used more effectively alongside Caribbean endeavours to further develop its potentials and to prevent the region from becoming a pole of insecurity. (Page 3)</p> <p>The EU should increasingly use regional and national development strategies and instruments to address the root-causes of conflict, including poverty, inequality and lack of social cohesion degradation of and access to already scarce natural resources, ethnic and political violence, weak governance, human rights abuses and gender inequality. (Page 24)</p> |

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| <p>(c) Promotes good governance, democracy and the rule of law and effective anti-corruption measures at the national and international levels;</p> | <p>Good and effective governance is recognised by the Caribbean as a crucial prerequisite for sustainable development and is another of EU’s guiding principles, as outlined in the 2003 Communication on Governance and Development. Central to good and effective governance is the strengthening of credible institutions – such as parliaments, the judiciary system and public financial management systems – both at national and regional level. The EU will systematically support these key institutions as central elements of the EU governance priority in the Caribbean. However, it is recognised that governance is not only about institution building, but also about appropriate policies and adequate legal and regulatory frameworks, both in the economic, social and political sphere. The EU will, therefore, continue to promote transparency and effective exchange of information between authorities in order to fight corruption as well as corporate and financial malpractices. The EU will also promote good governance in the financial, tax and judicial areas. (Pages 5-6)</p> <p>The EU is committed to accelerating the process of ratification of the UN Convention against International Organised Crime and the UN Convention against Corruption. Moreover the EU will encourage the adoption and implementation of international standards relating to the prevention and the fight against money laundering, terrorism, tax fraud and tax avoidance. The EU will also address the limited institutional and technical capacity of Caribbean countries to deal with organized crime and drugs in an effective and comprehensive manner, through the development of internal strategies as well as capacity building. (Page 6)</p> <p>Security, stability and conflict prevention are essential prerequisites for sustainable development. Security has become a major priority worldwide in recent times as many countries have been victims of terror attacks. Ensuring security and the rule of law, with equity, justice and full respect for human rights, are now fully recognised as fundamental, shared priorities. (Page 24)</p> <p>The EU should increasingly use regional and national development strategies and instruments to address the root-causes of conflict, including poverty, inequality and lack of social cohesion degradation of and access to already scarce natural resources, ethnic and political violence, weak governance, human rights abuses and gender inequality. (Page 25)</p> |
| <p>(d) Follows a human rights-based approach to development, and integrates the principles of equality,</p> | <p>The EU should therefore continue to promote transparency and effective exchange of information between authorities in order to prevent and combat corporate and financial malpractices and corruption. It should in particular encourage transparency in the financial and banking sectors, as well as administrative and judicial cooperation permitting effective exchange of information. (Page 6)</p> |

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| <p>non-discrimination, participation, transparency, and accountability in its development strategies;</p> | <p>This is why, the development of financial services in this region has to go parallel with the development of an appropriate regulatory framework, notably in order to prevent and combat corporate and financial malpractices. In the cooperation with the Caribbean, ACPs and OCTs, the EU will support good governance in the financial, tax and judicial areas, in particular with regard to transparency and effective exchange of information for tax purposes. This issue will also be addressed in the context of Economic Partnership Agreements (EPAs). (Page 7)</p> <p>As it enters its third phase, the EU will intensify its support to the EPA process so as to make sure that an agreement is concluded by 2007. In this context, it will promote progressive integration of financial markets as well as the development of an appropriate regulatory framework based on transparency. (Page 27)</p> |
| <p>(e) Establishes priorities that are responsive to the needs of the most vulnerable and marginalized segments of the population, with positive measures to realize their human rights;</p> | <p>The EU should increasingly use regional and national development strategies and instruments to address the root-causes of insecurity, instability and conflict, which include poverty, inequality and lack of social cohesion. Especially in certain fragile states that risk slipping from middle to low income status, a culture of conflict prevention needs to be developed and fostered. Caribbean states themselves must also take responsibility for this task. (Page 5)</p> <p>The EU should increasingly use regional and national development strategies and instruments to address the root-causes of conflict, including poverty, inequality and lack of social cohesion degradation of and access to already scarce natural resources, ethnic and political violence, weak governance, human rights abuses and gender inequality. (Page 24)</p> <p>The EU should also continue to promote human rights and equal opportunities and protect vulnerable groups, especially women. (Page 25)</p> |
| <p>(f) Recognizes mutual and reciprocal responsibilities among the partners, taking into account their respective capacities and resources and the special vulnerability of Least Developed Countries;</p> | <p>Specifically, a structured political dialogue with the region and mutually agreed strategic policy objectives to be supported through the existing EU development cooperation and instruments must be used more effectively alongside Caribbean endeavours to further develop its potentials and to prevent the region from becoming a pole of insecurity. This can best be achieved by ensuring that the EU encourages long lasting socio-economic growth in the Caribbean. In parallel, by promoting good governance in the financial, tax and judicial areas and assisting in areas such as countering organised crime, migration and drug trafficking, the EU can prevent the Caribbean from becoming a fragile region. Leadership and local responsibility at the Caribbean level are crucial. (Page 3)</p> <p>The EU and the Caribbean will work as partners in the global effort to support democracy, universal human</p> |

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| | rights, peace and stability in the world, and to combat the scourge of poverty. (Page 11) |
| (g) Ensures that human rights obligations are respected in all aspects of the relationship between the partners, through harmonization of policies; | <p>The objective of the EU Communication on the Caribbean is to highlight how the challenges facing the Caribbean can be transformed into opportunities by focusing on the right ‘policy-mix’. (Page 3)</p> <p>In the Caribbean the EU will prioritise its relations with CARIFORUM in order to cover a wide range of issues of importance to both sides including the consolidation of democracy, human rights, gender equality, social cohesion and decent work opportunities, security, stability, conflict prevention, migration, drugs and regional integration. (Page 5)</p> |

| Process criteria/obligations | |
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| Current formulation of outcome criteria (A/HRC/8/WG.2/TF/2, January 31, 2008, Annex II): “The extent to which a partnership...” | Elements of the policies and practices of the global partnership that are relevant to this criterion |
| (h) Ensures that adequate information is freely available to enable effective public scrutiny of its policies, working methods and outcomes; | |
| (i) Promotes gender equality and the rights of women; | <p>In the Caribbean the EU will prioritise its relations with CARIFORUM in order to cover a wide range of issues of importance to both sides including the consolidation of democracy, human rights, gender equality, social cohesion and decent work opportunities, security, stability, conflict prevention, migration, drugs and regional integration. (Page 5)</p> <p>The EU should increasingly use regional and national development strategies and instruments to address the root-causes of conflict, including poverty, inequality and lack of social cohesion degradation of and access to already scarce natural resources, ethnic and political violence, weak governance, human rights abuses and gender inequality. (Page 24)</p> <p>The EU should also continue to promote human rights and equal opportunities and protect vulnerable groups, especially women. The EU will support gender mainstreaming and initiatives on gender equality in order to contribute to the implementation of the commitments in the MDGs, the Beijing Platform for Action, the Cairo Programme of Action and the Convention on the Elimination of All Forms of Discrimination against Women. (Page 25)</p> |
| (j) Provides for the meaningful consultation and participation of all stakeholders, including affected populations and their representatives, as well as relevant | <p>In the Caribbean the EU will prioritise its relations with CARIFORUM in order to cover a wide range of issues of importance to both sides including the consolidation of democracy, human rights, gender equality, social cohesion and decent work opportunities, security, stability, conflict prevention, migration, drugs and regional integration. (Page 5)</p> |

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| <p>civil society groups and experts, in processes of elaborating, implementing and evaluating development policies, programmes and projects;</p> | <p>National Governments, civil society, private enterprise and regional structures in the Caribbean will obviously carry the responsibility for shaping their own future. (Page 11)</p> <p>Support should be provided to the civil society and the non-state actors (NSA). Support will mainly be aimed at enhancing the capacity building efforts of the civil society and the non-state actors including social partners.</p> <p>Support should be provided to the private sector and especially small and medium size enterprises that are expected to be the driving force behind sustainable growth and job creation. (Page 28)</p> <p>Civil society and the non-state actor University co-operation will also be promoted in the widest sense, eventually including Universities in the French DOMs, the Dutch OCTs and beyond with Universities in Europe and in Latin America. Twinning operations will be promoted. (Page 32)</p> |
| <p>(k) Respects the right of each state to determine its own development policies in accordance with international law, and the role of national parliaments to review and approve such policies.</p> | <p>The European Commission has proposed in early 2006 a common format for a Joint Framework for multi-annual planning to be applicable to all EU Member States plus an EU action plan to monitor implementation of coordination. (Page 34)</p> |
| <p>(l) Includes fair institutionalized mechanisms of mutual accountability and review, through which the fulfillment by all partners of their agreed commitments is monitored and publicly reported, responsibility for action is indicated, and effective remedies are provided;</p> | <p>National Governments, civil society, private enterprise and regional structures in the Caribbean will obviously carry the responsibility for shaping their own future. Based on a shared vision of the future, and through an enhanced political partnership and the support of actions to address the region's socio-economic and environmental vulnerabilities and to promote social cohesion and combat poverty, the EU will be a steadfast partner for the Caribbean in its efforts. (Page 11)</p> |
| <p>(m) Monitors and evaluates progress in achieving development strategies by carrying out systematic assessments of the human rights</p> | <p>The European Commission has proposed in early 2006 a common format for a Joint Framework for multi-annual planning to be applicable to all EU Member States plus an EU action plan to monitor implementation of coordination. (Page 34)</p> |

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| <p>impact of its policies and projects based on appropriate indicators and contributes to strengthening the capacity to collect and disseminate timely data, which should be disaggregated sufficiently to monitor the impacts on vulnerable population groups and the poor;</p> | |
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Annex IV

Mapping of the Right to Development criteria to the EC's proposed Strategy for Partnership with the Pacific region

| Structural criteria/ obligations | |
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| Current formulation of structural criteria (A/HRC/8/WG.2/TF/2, January 31, 2008, Annex II): “The extent to which a partnership...” | Elements of the policies and practices of the global partnership that are relevant to this criterion |
| a) Contributes to creating an enabling environment for sustainable development and the realization of all human rights; | <p>(...) the European Consensus identifies poverty eradication in the context of sustainable development as the core, primary objective, taking into account the importance of ensuring policy coherence for development and generating synergies between different policies, both internal and external, and the objectives of the EU external action. (Page 1)</p> <p>The EU will continue to seek to address the root causes of conflict, such as poverty, degradation, exploitation and unequal distribution and access to land and natural resources, weak governance, human rights abuses, gender inequality and democratic deficits. It will promote dialogue, participation and reconciliation. Good governance is a crucial prerequisite for sustainable development. (Page 6)</p> <p>Investment in science and technology in the Pacific islands together with investment in human resources and institution building will reinforce the capacity in a range of areas essential for their sustainable development such as fisheries management, biodiversity and disaster preparedness. (Page 10)</p> <p>The Pacific ACP countries and the EU share core values, such as democracy, human rights, rule of law, effective multilateralism and environmental protection. (Page 24)</p> <p>These aim at arriving at an ambitious and development-oriented arrangement, which should promote regional integration and economic development, policy reform, sustainable management of resources, such as fisheries,</p> |

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| | thereby also contributing to the reduction of poverty. (Page 25) |
| (b) Draws on all relevant international human rights instruments, including those relating to the RTD, in elaborating the content of development strategies and tools for monitoring and evaluating their implementation; | Poverty and progress towards the Millennium Development Goals (MDGs) remain important challenges in a number of the countries. (Page 17) |
| (c) Promotes good governance, democracy and the rule of law and effective anti-corruption measures at the national and international levels; | <p>Good governance is a crucial prerequisite for sustainable development. A central part of good and effective governance is to strengthen credible institutions – such as parliaments, the judiciary and public financial management systems, including statistical services – at both national and regional levels. The EU will continue to offer, in cooperation with other donors, support to the democracies in the Pacific. Some Pacific ACP countries face governance problems in the fisheries and forestry sectors, notably with leakages, e.g. in the form of tax exemptions, which result in much lower revenue for the governments concerned. Furthermore, as regards governance it is essential to encourage greater compliance with international standards in the fight against corruption, money laundering and terrorist financing. In the past there has been an issue with money-laundering in the region. Although this is still a risk, the problem is now much more under control. However, the EU will continue to promote transparency and effective exchanges of information between authorities in order to fight corruption and corporate and financial malpractice. (Page 6)</p> <p>A number of Pacific countries, notably PNG and Solomon Islands, face important problems of governance and corruption. (Page 17)</p> <p>The Pacific ACP countries and the EU share core values, such as democracy, human rights, rule of law, effective multilateralism and environmental protection. (Page 23)</p> |
| (d) Follows a human rights-based approach to development, and integrates the principles | The EU will continue to seek to address the root causes of conflict, such as poverty, degradation, exploitation and unequal distribution and access to land and natural resources, weak governance, human rights abuses, gender inequality and democratic deficits. It will promote dialogue, participation and reconciliation. (Page 6) |

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| <p>of equality, non-discrimination, participation, transparency, and accountability in its development strategies;</p> | |
| <p>(e) Establishes priorities that are responsive to the needs of the most vulnerable and marginalized segments of the population, with positive measures to realize their human rights;</p> | <p>The EU will continue to seek to address the root causes of conflict, such as poverty, degradation, exploitation and unequal distribution and access to land and natural resources, weak governance, human rights abuses, gender inequality and democratic deficits. (Page 6)</p> |
| <p>(f) Recognizes mutual and reciprocal responsibilities among the partners, taking into account their respective capacities and resources and the special vulnerability of Least Developed Countries;</p> | <p>The EU intends to apply more systematically the budget support instrument in its cooperation with the Pacific ACP countries. To this end, given the limited involvement of Bretton Woods institutions in the Pacific region the plan is to enter into a dialogue with the IMF in particular in order to share analyses, experience and studies with a view to developing stronger cooperation in the Pacific regarding budget support. (Page 11)</p> |
| <p>(g) Ensures that human rights obligations are respected in all aspects of the relationship between the partners, through harmonization of policies;</p> | <p>(...) the European Consensus identifies poverty eradication in the context of sustainable development as the core, primary objective, taking into account the importance of ensuring policy coherence for development and generating synergies between different policies, both internal and external, and the objectives of the EU external action. (Page 1)</p> <p>The Pacific ACP countries and the EU share core values, such as democracy, human rights, rule of law, effective multilateralism and environmental protection. (Page 24)</p> |

| Process criteria/obligations | |
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| Current formulation of outcome criteria (A/HRC/8/WG.2/TF/2, January 31, 2008, Annex II): “The extent to which a partnership...” | Elements of the policies and practices of the global partnership that are relevant to this criterion |
| (h) Ensures that adequate information is freely available to enable effective public scrutiny of its policies, working methods and outcomes; | |
| (i) Promotes gender equality and the rights of women; | <p>The EU will continue to seek to address the root causes of conflict, such as poverty, degradation, exploitation and unequal distribution and access to land and natural resources, weak governance, human rights abuses, gender inequality and democratic deficits. It will promote dialogue, participation and reconciliation. (Page 6)</p> <p>While the region, apart from Tonga, is not in general marred by grave human rights problems, there are serious issues related to gender. While the situation differs from country to country, violence against women and polygamy constitute important problems and women still have far to go in terms of empowerment. (Page 17)</p> |
| (j) Provides for the meaningful consultation and participation of all stakeholders, including affected populations and their representatives, as well as relevant civil society groups and experts, in processes of elaborating, implementing and evaluating development policies, programmes and projects; | <p>In this context, non-state actors play an important role, because of their crucial contribution to open societies, notably by promoting improved governance, nation-building and empowerment. (Page 10)</p> |
| (k) Respects the right of each state to determine its own development | |

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| <p>policies in accordance with international law, and the role of national parliaments to review and approve such policies.</p> | |
| <p>(l) Includes fair institutionalized mechanisms of mutual accountability and review, through which the fulfillment by all partners of their agreed commitments is monitored and publicly reported, responsibility for action is indicated, and effective remedies are provided;</p> | |
| <p>(m) Monitors and evaluates progress in achieving development strategies by carrying out systematic assessments of the human rights impact of its policies and projects based on appropriate indicators and contributes to strengthening the capacity to collect and disseminate timely data, which should be disaggregated sufficiently to monitor the impacts on vulnerable population groups and the poor;</p> | |