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**THE AFRICAN PEER REVIEW MECHANISM AND THE UNITED NATIONS
ECONOMIC COMMISSION FOR AFRICA (ECA) AND ORGANIZATION FOR
ECONOMIC COOPERATION AND DEVELOPMENT (OECD)-DEVELOPMENT
ASSISTANCE COMMITTEE (DAC) (ECA/OECD-DAC) MUTUAL REVIEW OF
DEVELOPMENT EFFECTIVENESS¹**

**Application of the criteria for periodic evaluation of global development partnerships, as
defined in Millennium Development Goal 8, from the right to development perspective:
further analysis of the African Peer Review Mechanism and the ECA/OECD-DAC Mutual
Review of Development Effectiveness in the context of NEPAD.**

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¹ Note by the Secretariat: The opinions, findings, interpretations or conclusions expressed in this paper are those of the expert, do not necessarily represent the views of the United Nations and do not commit the United Nations. The designations employed and the presentation of the material in this paper are those of the expert and do not imply the expression of any opinion whatsoever on the part of the United Nations concerning the legal status of any country, territory, city or area of its authorities, or concerning the delimitation of its frontiers or boundaries.

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Summary

The 2001 adoption by African heads of state of the New Partnership for Africa's Development (NEPAD) launched a new phase of interest and excitement in the possibilities for lifting the status of most African countries from their position at the bottom of the world's development league tables. Critical to this interest in NEPAD was its recognition of the relationship between economic progress and political good governance, a recognition backed up by an ambitious scheme for peer review of the extent to which African states live up in practice to their paper commitments to good governance. The African Peer Review Mechanism (APRM), a voluntary mechanism by which states can agree to independent review of their fulfilment of the commitments contained in African and international standards, began work in 2004. While progress has been slow, five countries have now completed their APRM reviews, and 22 others have signed up for the process.

At international level, Africa's development partners responded to these developments with renewed commitments to increase aid, improve trade terms, and cancel debt. An Africa Partnership Forum was created in 2003 to include all Africa's major bilateral and multilateral development partners in discussions with the NEPAD Secretariat and other African representatives about strategies and resources for Africa's development. The committee of African heads of government responsible for overseeing NEPAD, meanwhile, commissioned the United Nations Economic Commission for Africa (UNECA) and the Development Assistance Committee (DAC) of the Organisation for Economic Cooperation and Development (OECD) to develop a framework for review of donor countries' performance in relation to development outcomes. The resulting report on mutual accountability in development effectiveness in Africa was completed in 2005, though never formally adopted. A second report is to be published in 2008.

A review of these two mechanisms using the suggested criteria for evaluation of development partnerships adopted by the Working Group on the Right to Development indicates that both make a useful contribution in relation to the right to development, in particular by their emphasis on ensuring respect for international commitments. The APRM provides for a level of popular participation in its reviews that (even if not completely achieved in practice) comes closer to the ideals of the right to development criteria in relation to process than any similar mechanism. Both mechanisms, however, also have their weaknesses from a right to development standpoint, in relation to some aspects of their analytical framework, weak monitoring and enforcement mechanisms, and a lack of access to information about their implementation.

The evaluation of these partnerships also provides a framework to review the suggested criteria for evaluation of development partnerships adopted by the Working Group on the Right to Development. The criteria are helpful in evaluating the strengths and weaknesses of the APRM and mutual review processes. However, they could also be revised and strengthened to provide greater focus and clarity in their content and arrangement, reducing some repetition and providing greater detail in other cases. The key elements of the criteria should include: the integration of human rights principles into development strategies; the recognition of mutual responsibilities between partners; an insistence on processes that enable citizen participation, provide access to information, and enable monitoring and enforcement; and the achievement of outcomes that ensure sustainable development and a fairer distribution of global resources.

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Introduction

1. This paper is commissioned by the United Nations' High-level Task Force on the implementation of the right to development, with a view to deepening the understanding of the right to development in the context of specific practical efforts to facilitate development in the African continent.³

2. At its second session in Geneva from 14 to 18 November 2005, the task force, as requested by the Working Group on the Right to Development and endorsed by the Commission on Human Rights in its resolution 2005/4, considered Millennium Development Goal (MDG) 8 on global partnerships for development and suggested criteria for its periodic evaluation, with the aim of improving the effectiveness of global partnerships with regard to the realization of the right to development.⁴ Following the task force's recommendations, the Working Group adopted a set of criteria for periodic evaluation of global development partnerships from the perspective of the right to development, at its seventh session in January 2006.⁵ The third session of the task force took place in Geneva in January 2007. The task force focused on the pilot application of the criteria to three selected development partnerships, namely: the African Peer Review Mechanism (APRM), the mutual review of development effectiveness in the context of NEPAD, and the Paris Declaration on Aid Effectiveness.⁶ At its eighth session from 26 February to 2 March 2007, the Working Group considered the report of the task force, and adopted its conclusions and recommendations by consensus.⁷ In order to facilitate a focused discussion and analysis of the mandate, the task force has commissioned three background papers for the fourth session of the task force to be held in Geneva, early 2008. This background paper considers two initiatives developed following the adoption by African states of the New Partnership for Africa's Development (NEPAD): the African Peer Review Mechanism and the mutual review of development effectiveness in the context of NEPAD.⁸

3. The objective of the background paper is to provide an in-depth analysis of the two partnerships from the right to development perspective, using as a starting point the UN Declaration on the Right to Development and African Charter on Human and Peoples' Rights (extracts in Annex I) and the criteria for evaluation of global development partnerships set out in the March 2007 report of the Working Group on the Right to Development to the Human Rights Council (Annex II).

³ The task force was constituted under Resolution 2004/7 of the former Commission on Human Rights, upon recommendation of the UN Open-Ended Working Group on the Right to Development. For further background see <http://www.unhcr.ch/development/right.html> and http://ap.ohchr.org/documents/dpage_e.aspx?m=130.

⁴ Report of the high-level task force on the implementation of the right to development on its second meeting, 8 December 2005, E/CN.4/2005/WG.18/TF/3.

⁵ Report of the Working Group on the Right to Development on its seventh session, 22 February 2006, E/CN.4/2006/26, para. 67.

⁶ Report of the High-Level Task Force on the implementation of the right to development on its third session, 13 March 2007, A/HRC/4/WG.2/TF/2.

⁷ Report of the working group on the right to development to the 4th session of the Human Rights Council, 14 March 2007, A/HRC/4/47.

⁸ See the report of the third session of the task force, A/HRC/4/WG.2/TF/2.

I. DEVELOPMENT PARTNERSHIPS IN AFRICA RELATED TO THE NEPAD FRAMEWORK

A. NEPAD

4. The New Partnership for Africa's Development is a strategic framework setting out a 'vision for Africa's renewal', initially adopted by African heads of state in 2001 and endorsed by the first summit of the new African Union (AU) that replaced the Organisation of Africa Unity in Durban in 2002.⁹ It is an amalgamation of different plans for an 'African renaissance' developed by Presidents Thabo Mbeki of South Africa, Olusegun Obasanjo of Nigeria, Abdelaziz Bouteflika of Algeria, and Abdoulaye Wade of Senegal, as well as documentation prepared by UNECA, and was devised originally as a separate initiative from the creation of the AU – in part it seems to avoid the 'lowest common denominator' effect of a continent-wide body. NEPAD is now, at least rhetorically, integrated into the AU's programs; though there is still a separate NEPAD Secretariat in South Africa, distant from the AU institutions in Addis Ababa, and South Africa is still a driving force for the programme.¹⁰ NEPAD is governed by a Heads of State and Government Implementation Committee (HSGIC) made up of three states for each of the AU's five regions, which in turn reports to the AU Assembly; a Steering Committee of personal representatives of the heads of state oversees programmes, supported by the NEPAD Secretariat, which is seen as a technical body.

5. The sixty-three-page NEPAD document is primarily focused on economics: on bridging the infrastructure gap and the digital divide; on agriculture, science, and technology; capital flows; and market access. Its stated aim is to lift Africa out of poverty, to achieve the 7 percent growth rate aspired to by the United Nations Millennium Development Goals – for which it estimated an additional US\$64 billion a year investment, or 12 percent of Africa's GDP, would be needed. In order to achieve this goal, NEPAD emphasizes both the responsibility of Africans and the concept of 'mutual accountability', so that those who trade with or give aid to Africa have their own responsibilities in return.¹¹ Though much criticised by civil society groups for its neoliberal bent and lack of analytical rigour, and even by some of its original government supporters for failure to deliver (notably by President Wade), the NEPAD vision has received wide endorsement from within Africa, and is the official economic development programme of the African Union.

6. NEPAD explicitly recognizes that: 'Peace, security, democracy, good governance, human rights and sound economic management are conditions for sustainable development.'

⁹ Declaration on the New Common Initiative, AHG/Decl.1 (XXXVII), 2001 (Lusaka); Declaration on the Implementation of the New Partnership for Africa's Development (NEPAD), ASS/AU/Decl.1(I), 2002 (Durban). The Durban summit was both the last of the OAU and the first of the AU. The NEPAD Declaration at Durban was adopted by the AU.

¹⁰ The integration of NEPAD into the AU has been a matter of ongoing discussion. In March 2007, heads of state agreed that 'A transitional period of one year is needed for a smooth streamlining of NEPAD activities and processes with those of the African Union Commission' and that a coordinating unit should be created 'to elaborate a detailed roadmap on integration of NEPAD'. Conclusions and Recommendations of the NEPAD Heads of State and Government Implementation Committee (HSGIC) Meeting and Brainstorming on NEPAD, Algiers, Algeria, 21 March 2007.

¹¹ New Partnership for Africa's Development (NEPAD), 2002, Paragraph 68.

Accordingly, democracy and good governance form the second point on an eight-point agenda, by which ‘African leaders will take joint responsibility for ... promoting and protecting democracy and human rights in their respective countries and regions, by developing clear standards of accountability, transparency and participatory governance at the national and sub-national levels.’ Within the democracy and good governance initiative, ‘Africa undertakes to respect the global standards of democracy, which core components include political pluralism, allowing for the existence of several political parties and workers’ unions, fair, open, free and democratic elections periodically organised to enable the populace [to] choose their leaders freely.’¹²

7. The NEPAD document has many weaknesses, but this central recognition of the dependence of economic progress on political good governance is of critical importance: hitherto, many African governments had been content to blame their economic problems on the history of colonialism and continuing injustice of the international system rather than allowing for any contribution from contemporary failings on their own account. The document does not, however, go on to use concepts of rights-based development or the right to development in its analysis of existing problems and proposals for future action: NEPAD’s endorsement of human rights is segregated from its discussion of objectives in relation to infrastructure, health or education.¹³

8. The NEPAD Secretariat is not itself an implementing body, and it must work through the AU’s regional economic communities (RECs) – the building blocks of African economic integration recognised in the 1991 Abuja treaty establishing the African Economic Community – and other AU institutions for the realisation of its vision. While it may have been a good decision not to create another new institution with overlapping authority, this means that NEPAD’s ability to act is constrained by the will of its collaborating partners to move forward along the same path. The RECs vary greatly in their own institutional capacity, and already overlap each other in geographical reach. In operation, the NEPAD Secretariat has focused largely on economic matters and development policies, especially the building of new infrastructure for development, rather than the governance questions its founding document recognises are closely linked. Governance issues are mostly left to NEPAD’s companion institution, the African Peer Review Mechanism.

B. THE AFRICAN PEER REVIEW MECHANISM

9. In July 2002, the AU summit supplemented NEPAD with a Declaration on Democracy, Political, Economic and Corporate Governance. According to the Declaration, states participating in NEPAD ‘believe in just, honest, transparent, accountable and participatory government and probity in public life’.¹⁴ The Declaration sets out an action plan with three main substantive headings: on democracy and good political governance; economic and corporate governance; and socio-economic development. The section on democracy and good political

¹² NEPAD, Paragraphs 71, 49, 79.

¹³ See Bronwen Manby, ‘The African Union, NEPAD, and Human Rights: The Missing Agenda’, (2004) 26 *Human Rights Quarterly* 983-1027.

¹⁴ Declaration on Democracy, Political, Economic and Corporate Governance (Declaration on Democracy and Governance), AHG/235 (XXXVIII) Annex I, art. 15.

governance focuses on support for democratic institutions of government, strengthening the civil service and judicial system, and respect for human rights. Under human rights, states pledge to facilitate the development of vibrant civil society institutions, support the African Charter on Human and Peoples' Rights, and the African Commission and African Court, ensure 'responsible free expression' including freedom of the press, and strengthen cooperation with the Office of the UN High Commissioner for Human Rights.

10. The Declaration also committed participating states to establish an African Peer Review Mechanism, 'to promote adherence to and fulfilment of the commitments contained in this Declaration'. The first document describing the mechanism in some detail, adopted at the same summit in July 2002, sets out its mandate as 'to ensure that the policies and practices of participating states conform to the agreed political, economic and corporate governance values, codes and standards contained in the Declaration on Democracy, Political, Economic and Corporate Governance'.¹⁵ The concept of the APRM was to some extent a 'home-grown' response by African heads of state to what they saw as the biased governance assessments carried out by donor countries without the participation of the countries being assessed.

11. In March 2003, the NEPAD HSGIC adopted a memorandum of understanding (MOU) on the APRM.¹⁶ States that do not sign the MOU are not subject to peer review: the APRM is a voluntary process that AU member states are not under any obligation to undertake. As of late 2007, 27 countries had agreed to do so, just over half the member states of the AU, representing around three quarters of Africa's population.¹⁷ The meeting agreed to the establishment of a secretariat for the APRM and the appointment of a seven-person 'panel of eminent persons' to oversee the conduct of the APRM process and ensure its integrity. In May 2003, the HSGIC announced the members of the peer review body.¹⁸ The competence and credibility of these individuals is central to the effectiveness of the APRM reviews.

12. Under the APRM, states undertake to submit to and facilitate periodic peer reviews by a team directed and managed by the eminent persons 'to ascertain progress being made towards achieving mutually agreed goals'. The report of the team will be discussed with the government concerned, which will include establishing whether there is 'the will on the part of the Government to take the necessary decisions and measures to put right what is identified to be amiss'. Then, 'if the necessary political will is not forthcoming' there are steps to engage in 'constructive dialogue'. Ultimately, 'If dialogue proves unavailing, the participating Heads of State and Government may wish to put the Government on notice of their collective intention to proceed with appropriate measures by a given date'. These measures shall be undertaken as a 'last resort'. 'Six months after the report has been considered by the Heads of State and

¹⁵ African Peer Review Mechanism, AHG/235 (XXXVIII), Annex II, art. 1.

¹⁶ Memorandum of Understanding on the African Peer Review Mechanism (APRM MOU), 9 March 2003, NEPAD/HSGIC/03-2003/APRM/MOU.

¹⁷ The countries are: Algeria, Angola, Benin, Burkina Faso, Cameroon, Republic of Congo, Djibouti, Egypt, Ethiopia, Gabon, Ghana, Kenya, Lesotho, Malawi, Mali, Mauritius, Mozambique, Nigeria, Rwanda, Senegal, Sierra Leone, São Tomé and Príncipe, South Africa, Sudan, Tanzania, Uganda and Zambia. Djibouti was the last of these to sign up, at the July 2007 Accra summit of the AU.

¹⁸ Communiqué issued at the end of the Seventh Summit of the HSGIC, 28 May 2003. As at October 2007, the seven members were: Adebayo Adedeji (Nigeria); Bethuel Kiplagat (Kenya); Graça Machel (Mozambique); Mohamed-Séghir Babès (Algeria); Dorothy Njeuma (Cameroon); Marie-Angelique Savane (Senegal); and Chris Stals (South Africa).

Government of the participating member countries, it should be formally and publicly tabled' at various regional structures, including the African Commission on Human and Peoples' Rights.¹⁹

13. The APR Secretariat, functioning by late 2003 and also based in South Africa, developed a questionnaire to guide the assessment of participating states' compliance with the principles of NEPAD and its Declaration. Recognising that the NEPAD documents were inadequate in themselves for this task, it drew on a wide range of African and international human rights treaties and standards, including all the African human rights treaties, as well as non-binding documents such as the Grand Bay (Mauritius) Declaration and Plan of Action for the Promotion and Protection of Human Rights (1999), and best practices and codes adopted by the World Bank and International Monetary Fund (IMF). The questions are grouped under four broad thematic headings (expanded from the initial three in the NEPAD Declaration on Democracy, Political, Economic and Corporate Governance): democracy and political governance, economic governance and management, corporate governance, and socio-economic development. The questionnaire was formally adopted in February 2004, in Kigali, Rwanda, by the first meeting of the APR Forum, made up of the heads of state or government of all states participating in the APRM – a separate group from the NEPAD HSGIC. While still not as detailed as many in civil society would like, the questionnaire is much more conceptually rigorous and comprehensive in its lines of inquiry around governance than the original NEPAD documents.

14. In order to implement the APRM, several institutions are established at country level, according to the 'country guidelines' issued by the APRM Secretariat. Although these have varied somewhat in form, they have generally included: (a) a national APRM focal point, ideally at ministerial level or in the office of the presidency, and reporting directly to the head of state; (b) a national commission or national governing council responsible for overseeing the national process and signing off on the documents produced, that should be diverse and representative of a wide range of interest groups and should be autonomous of government (though not all countries have fully respected this rule); (c) a national APRM secretariat, to provide administrative and technical support to the national commission or governing council, ideally established outside of government and with an independent budget; and (d) technical research institutions, given the responsibility to administer the APRM questionnaire and carry out background research.²⁰

15. The work of these institutions results in three important documents. The first is a 'self assessment' by the country concerned against the APRM questionnaire. The development of this self-assessment is supposed to be highly participatory and not controlled by the government, a 'national dialogue' about the challenges the country faces. In practice, the record in relation to participation has been mixed, but positive.²¹ The eminent person allocated to the country and representatives of the APR Secretariat visit during the preparation of the self-assessment to oversee the process and assist in its implementation (the 'country support mission'). In several cases, the eminent persons have intervened during these missions to insist, for example, on greater representation of civil society in the national governing councils. Once the draft report is

¹⁹ African Peer Review Mechanism, AHG/235 (XXXVIII), Annex II.

²⁰ See *African Peer Review Mechanism: Annual Report 2006*, APRM Secretariat, 2007.

²¹ See the guidelines for civil society and national focal points available on the website of the South African Institute of International Affairs (<http://www.saiia.org.za>) and the evaluations of the APRM processes in Ghana, Kenya, Rwanda and Mauritius available on the website of the Africa Governance Monitoring and Advocacy Project (AfriMAP) (<http://www.afrimap.org>).

completed, it must be 'validated' at a series of meetings with different stakeholder groups, where presentations are made about the findings and recommendations and comments solicited. Based on the self-assessment report, each country prepares a draft programme of action (PoA) to address the problems identified, the second important document at national level. Both documents are then submitted to the APRM Secretariat. From this documentation and separate expert inputs, the APRM Secretariat generates an internal 'issues paper' that highlights questions for the eminent person and his or her support team to consider during a second 'country review mission'. Based on all the documentation and information collected during the country review mission, the APRM Secretariat then drafts a separate 'country review report', the third important document, and also comments on the PoA. The APRM Secretariat is assisted in this work by technical partners, including the African Development Bank, UNECA and the UN Development Programme (UNDP), who supply information and also participate in its country missions.

16. The country review report is submitted to the government concerned for its comments, to give an opportunity to correct any factual errors; though the APRM secretariat is not obliged to accept everything the government asserts. The report, with the government commentary annexed, and the final PoA are ultimately presented and approved by the APR Forum; six months after this meeting they are made public. The PoA includes a detailed log frame presentation of costed activities and targets to achieve; the APRM Secretariat tries to ensure that it is not just a 'wish list' but a serious attempt to cost and prioritise national objectives. The self-assessment report is only made public after the completion of the entire process and at the discretion of the country concerned, and none developed so far are easily available. Three country review reports and PoAs were published by the end of 2006: Ghana, Kenya and Rwanda. The country review reports of South Africa and Algeria were considered at an APR Forum meeting held in the margins of the AU summit in Accra in July 2007, and the South Africa report was released in October. Uganda's report is due to be considered at the July 2008 AU summit.

17. The time taken in completing all these steps has varied greatly.²² As at the end of 2006, eight other countries had received country support missions but had not yet reached the review stage; and 12 countries had not yet even established national APRM structures.²³

18. The APRM reviews are funded by the governments concerned, with assistance from a 'basket fund' managed by UNDP into which bilateral and other donors can add voluntary contributions. Costs of implementation have varied, but the Kenyan government, for example, indicated that the total cost of the self-assessment was around US\$1 million. An important review of the APRM process at the sixth Africa Governance Forum (AGF-VI) held in 2006 noted that 'the highly consultative nature of the APRM process has been quite expensive for the weaker economies'.²⁴ To that must be added the costs of the APRM Secretariat and technical partners in preparing the country review reports, initially estimated at US\$15 million for the first three years. Countries that have signed up for review contribute a minimum of US\$100,000, and some have contributed more than the minimum. As at the end of 2006, the total financial contributions received from member states stood at US\$8.8 million; this was equal to 62 per cent of the total contributions to the mechanism since it was established, with the remaining 38 per

²² South Africa spent eight months between the country support mission and the country review mission, Ghana and Rwanda each spent ten months and Kenya fourteen months.

²³ *African Peer Review Mechanism: Annual Report 2006*, APRM Secretariat, 2007.

²⁴ *Implementing the APRM: Challenges and Opportunities*, Report of the Sixth Africa Governance Forum (AGF-VI), Kigali, Rwanda, May 2006, p.37.

cent coming from bilateral and multilateral development partners (largely the governments of Canada, Spain and the United Kingdom, and UNDP). The African Development Bank, UNDP and UNECA fund their own participation in the country missions carried out by the APRM and other support.²⁵

19. The implementation of the programmes of action resulting from the APRM reviews was not addressed in detail in the APRM founding documents. One result is that the relationship of the PoA to other national development plans, in particular to national poverty reduction strategy papers (PRSPs), is not clear. Thus, there have been calls for the APRM results to be coordinated with other strategies.²⁶ UNDP, the African Development Bank and UNECA organised a consultative meeting in Tunisia in March 2007 to discuss support for the implementation of the plans of action of Ghana, Kenya and Rwanda.²⁷ Countries that have completed the process are supposed to prepare progress reports on their implementation of the national PoA for the APR Forum meetings, and all three countries that completed the process in 2006 have done so, but there is currently no real capacity in the APRM Secretariat for independent monitoring of these reports.

20. In practice, the APRM process is now to a great extent delinked from NEPAD. Although the APRM and NEPAD secretariats are located close to each other in Midrand, South Africa, there is not a great deal of communication between them. The APRM founding questionnaire relies only to a limited extent on the NEPAD documents, ranging much wider for the standards and sources of best practice that inform the assessment process. The eminent persons operate independently of the NEPAD Secretariat and the NEPAD HSGIC. And the focus of the APRM reports is not on the big-ticket infrastructure issues that have come to dominate the NEPAD programme but on the machinery of government itself and on domestic accountability for resource management.

C. THE G8 AND AFRICA PARTNERSHIP FORUM

21. The NEPAD document acknowledges that ‘the bulk of the needed resources [for development] will have to be obtained from outside the continent’, and so challenges Africa’s ‘development partners’ to match African governments’ commitment to economic reform with their own commitments to promote investment, to increase development assistance, and to provide debt relief.²⁸

22. At a rhetorical level, that response was quickly forthcoming. NEPAD has been endorsed by virtually all international agencies and bilateral donors, from the UN General Assembly to the European Union, Japan, China and the United States, as the general framework around which the international community should structure its development efforts in Africa. In June 2002, in

²⁵ *African Peer Review Mechanism: Annual Report 2006*, APRM Secretariat, 2007; *New Partnership for Africa’s Development: fifth consolidated report on progress in implementation and international support*, United Nations, 3 August 2007, A/62/203.

²⁶ *Implementing the APRM: Challenges and Opportunities*, Report of the Sixth Africa Governance Forum (AGF-VI), Kigali, Rwanda, May 2006, p.38.

²⁷ *United Nations system support for the New Partnership for Africa’s Development*, United Nations, 30 March 2007, E/AC.51/2007/4.

²⁸ NEPAD, paragraph 147 et seq.

explicit response to the adoption of NEPAD, the G8 group of industrialized nations adopted an Africa Action Plan at the summit held at Kananaskis in Canada, elaborating and strengthening statements on Africa adopted at previous summits.²⁹ The G8 plan sets out a detailed list of engagements in support of NEPAD's priorities, focusing on human rights and political governance as well as economic issues. G8 nations also pledged to give increased support for the adoption and implementation of effective measures to combat corruption, and for the African effort to promote and protect human rights. These promises were elaborated and repeated at successive summits, most importantly in 2005 at Gleneagles, which followed the publication of the report of the Commission for Africa appointed by British former Prime Minister Tony Blair; regular updates have been published on progress toward the plan's goals.³⁰

23. In November 2003, the G8 established the Africa Partnership Forum (APF), in the wake of the Evian summit, as a way of broadening the existing high-level G8/NEPAD dialogue to encompass Africa's major bilateral and multilateral development partners.³¹ The APF has become an important space for discussing and monitoring policy issues, strategies and priorities in support of Africa's development. Its members include representatives of African and G8 states as well as the NEPAD Secretariat, OECD, World Bank, and other development partners. The concept behind the APF is that the leading participants from the African and G8 states are individuals with the ear of the head of state: in some cases ministers have attended; in others, it has been high level officials. Although the quality of discussion varies, there is an appreciation that these discussions allow each party to get to know the others' constraints and concerns, from a position of greater 'equality of arms' than is usual in such meetings. On the other hand, the fact that the APF is not itself a decision-making forum means that it does risk becoming a simple talking-shop with no concrete outcomes or clear links to other processes.

24. During 2005-2006, there was an intention for the Africa Partnership Forum to agree on a joint Africa Action Plan, agreed to by both G8 and African countries, to replace the G8's version developed for the Kananaskis summit without African participation. The ambition agreed at the G8 Gleneagles summit was to produce an annual report, measuring progress against some or all elements of the Joint Action Plan, beginning in October 2006.³² The African representatives at the APF presented a plan prepared by the NEPAD Secretariat that was essentially a list of infrastructure projects with price tags attached.³³ The APF prepared a version that was uncosted and much less concrete in terms of specific projects, but much more detailed on next steps to be taken by OECD and African countries and the governance commitments attached.³⁴ The two documents were never successfully merged to produce a joint plan, while the focus of APF discussions has moved rather to discussing development challenges and priorities and monitoring existing commitments, rather than developing new proposals.

25. The APF meets twice each year and is hosted and chaired on an alternating basis by representatives of the African Union and NEPAD, and by G8 and non-G8 OECD member countries. The 9th APF meeting was held in Algiers, Algeria from 12-13 November 2007, and

²⁹ G8 Africa Action Plan adopted June 2002, Kananaskis, Canada, available at <http://www.g8.gc.ca>.

³⁰ See <http://www.dfid.gov.uk/g8/milestones.asp>.

³¹ See <http://www.africapartnershipforum.org/>.

³² See <http://www.dfid.gov.uk/news/files/africa-partnership-forum.asp>.

³³ Table 1: Summary of Africa's Priority Program and Project Needs, NEPAD/14-2006/HSGIC/AFRICAN ACTION PLAN, available at <http://www.oecd.org/dataoecd/0/19/37702265.pdf>.

³⁴ Available at <http://www.dfid.gov.uk/pubs/files/apf/apf-action-plan-donors.xls>.

considered two themes: governance in Africa's development – progress, prospects and challenges and the partnership for development; and a review of the G8/OECD commitments to Africa since the 2002 G8 Kananaskis Summit.³⁵

D. THE UNECA / OECD-DAC MUTUAL REVIEW OF DEVELOPMENT EFFECTIVENESS IN THE CONTEXT OF NEPAD

26. The NEPAD document concluded that 'the New Partnership for Africa's Development offers an historic opportunity for the developed countries of the world to enter into a genuine partnership with Africa, based on mutual interest, shared commitments and binding agreements'.³⁶ Yet NEPAD heads of state remained concerned that Africa's development partners would maintain a relationship in which African countries are required to prove their compliance with conditions, but the development partners are never held to any of their commitments. Accordingly, the NEPAD HSGIC considered the question of mutual accountability at its meeting in November 2002, stressing the importance that donor countries as much as African countries should also be accountable for their performance in relation to development outcomes. The HSGIC therefore commissioned a review of development partners' performance, requesting UNECA to develop a framework for mutual review in collaboration with the OECD Development Assistance Committee.³⁷

27. The first mutual review exercise took shape over the following year, though the final product was not published until almost three years later, reflecting difficulties in completing the process to the agreement of all parties. After discussions with OECD-DAC, the ECA Executive Secretary presented a proposed approach to the mutual review exercise to the HSGIC in March 2003. The heads of state urged that the review be comprehensive and that the coverage go beyond the issues related to official development assistance, to cover issues of policy coherence including market access, subsidies, debt relief, and similar questions. DAC members agreed at their April 2003 High Level Meeting to move forward with work on the mechanism. The June 2003 meeting of the ECA Conference of Ministers of Finance and Planning and Economic Development Ministers took the decision that the work should be undertaken on a biennial basis.³⁸ The OECD Council endorsed the mutual review process in January 2004.³⁹ The first mutual review report, *Development Effectiveness in Africa: Promise and Performance: Applying Mutual Accountability*, was finalised in October 2005, following the Gleneagles summit, after discussion by the APF in April of that year, the OECD-DAC high-level meeting, also in April 2005, and the UNECA conference of ministers of finance, development and planning in May 2005.⁴⁰

³⁵ *NEPAD Dialogue*, 26 October 2007.

³⁶ NEPAD, para 205.

³⁷ See NEPAD HSGIC Communiqués from 3 November 2002 and 9 March 2003.

³⁸ *ECA/OECD-DAC Mutual Review of Development Effectiveness in the context of NEPAD*, OECD, Note by the Secretary-General, 3 December 2003, C(2003)246.

³⁹ *Mutual Review of Development Effectiveness: Presentation to the ECA Committee of Experts*, by Elene Makonnen, Principal Adviser, Economic Commission for Africa (UNECA), May 2005, at <http://www.uneca.org/cfm/2005/speech4.asp>.

⁴⁰ 'Preparing for the 2007 mutual review of development partners', *NEPAD Dialogue No.156*, 6 October 2006.

28. The report considers the policies and performance of both African countries and partner countries in seven chapters: progress of African countries towards the Millennium Development Goals; achievements, constraints, and challenges in agriculture performance and trade; trends in political and economic governance in the region; capacity development; aid flows; aid quality; and policy coherence. The report proposed ‘main’ and ‘supporting’ messages on each theme, and then ‘action frontiers’ and ‘2007 performance benchmarks’ for both African and OECD countries.⁴¹ The action frontiers are top-level recommendations for both African and OECD countries, while the ‘performance benchmarks’ are an attempt to set out some indicators against which performance could be measured for 2007. Neither the action frontiers nor the performance benchmarks reference existing specific commitments, and as a consequence they are very vague and generalised.

29. The NEPAD heads of state did not formally adopt the report. The main reason for this appears to be a sense that the process of developing it had been too much influenced by the rich country agenda: too closed within the UN and (especially) OECD policy circles and not sufficiently opened up to African institutions. Thus, from the NEPAD HSGIC perspective, the report was problematically dominated by an agenda for aid technicians located in the development agencies rather than designed for African policy-makers. African states asserted that they had adopted the APRM to review compliance with commitments from their side, and what was missing was a review of OECD countries’ compliance with their own commitments – and from a qualitative and not just statistical perspective. Finally, the vagueness of the report’s language, failing to include any concrete findings, meant that it was of limited use to policy makers.

30. Discussions over how to resolve these issues meant that the second report was not produced as planned in 2007. However, agreement has been reached for the second round to be completed, using a revised set of questions: the mandate of the OECD-DAC and UNECA was confirmed at a January 2007 meeting of the steering committee of HSGIC in Brazzaville, Congo. UNECA is leading this process and publication is targeted to be in advance of the July 2008 G8 Hokkaido summit.

31. The five (revised) themes agreed between the NEPAD Secretariat (which has been much more closely involved in the development of this second review), ECA and OECD-DAC that will form the focus of the 2008 mutual review are: the achievement of the Millennium Development Goals; economic growth; governance and capacity building; financing for development; policy coherence and development partnerships.⁴² There is an ambition to give the report more life than the first version, and to make it more useable by both officials and civil society organisations. Among other ways of giving it greater legitimacy, it is intended to validate the draft report at a partners’ meeting to include representatives of the African regional economic

⁴¹ *Development Effectiveness in Africa: Promise and Performance: Applying Mutual Accountability*, ECA and OECD, 2005.

⁴² Under each heading there will be subheadings as follows: the achievement of the Millennium Development Goals (poverty and inequality, education, health, gender, environment); economic growth (agriculture, trade, infrastructure, financial sector); governance and capacity building (political, economic, regional cooperation, peace and security, capacity development); financing for development (aid volumes, aid quality, domestic resource mobilisation, other); policy coherence and development partnerships (OECD country issues, African country issues and regional cooperation, African voice in international institutions). UNECA / OECD-DAC spreadsheet on ‘focus areas and responsibilities’ for mutual review of development effectiveness 2008, September 2007.

communities, relevant multilateral organisations and civil society and private sector organisations, as well as the NEPAD Secretariat and other relevant AU structures. In addition, it is intended that the second report will not only report on developments since 2005 but also highlight best and worst practices and make policy recommendations. A broader dissemination of the report is planned, led by the NEPAD Secretariat, among member states, development partners, African and international civil society organisations and others.

32. Although the APF was initially formally related only to the G8-Africa discussion process, its mandate has broadened and many of its concerns overlap with those of the mutual review of development effectiveness in the context of NEPAD.⁴³ The NEPAD Secretariat and the APF Support Unit, created in mid-2006, for the first time presented joint papers to the APF meeting in Germany advance of the Heiligendamm G8 summit in July 2007.⁴⁴ Although there are discussions about integrating the APF Support Unit – which, in the absence of a permanent G8 secretariat, is located in the OECD Secretariat in Paris – into the discussions over the mutual review, there is resistance to the idea that the APF might take over the running of the project. From the African side, the APF Support is seen as being too tied to donors and effectively in competition with the NEPAD Secretariat.

33. In 2006, British former Prime Minister Tony Blair announced the establishment of an Africa Progress Panel, an independent body with the aim of monitoring the extent to which world leaders (especially the G8) deliver on their commitments to development in Africa.⁴⁵ The Panel was formally launched in April 2007 by former UN Secretary-General Kofi Annan, who also serves as chair. The Panel's work has the potential to complement and make use of the reports of the mutual review for advocacy with the OECD countries in particular.

E. IS THE APRM A 'DEVELOPMENT PARTNERSHIP'?

34. Although NEPAD explicitly calls for development assistance to support its programmes, it is seen by African states and its own secretariat as an African initiative that is in the first instance about mobilising African resources and generating African policies and actions. Once these policies are developed, donors may be asked for assistance as part of the new partnership. The APRM that NEPAD set in motion was also developed as a free-standing African initiative to improve continental governance, referring to African-endorsed standards and working in an African context. Indeed, the APRM was in part adopted specifically because of suspicion of the governance monitoring efforts of the World Bank, the European Union, bilateral donors and American or European non-governmental organisations such as Freedom House. These exercises were and are seen as essentially nothing more than old-fashioned conditionality externally imposed and without roots in African realities. There is a very strong resistance to scores that

⁴³ 'Mutual accountability and the role of the Africa Partnership Forum', Discussion paper for the Abuja APF meeting of 9-10 April 2005.

⁴⁴ Compilation of documents prepared for the 8th Meeting of the Africa Partnership Forum, Berlin, Germany, 22-23 May 2007, available at http://www.g-8.de/Content/EN/Artikel/___g8-summit/2007-06-07-summit-documents.html.

⁴⁵ See <http://www.africaprogresspanel.org/english/index.php>. In addition to Kofi Annan, the Panel consists of Tony Blair, Michel Camdessus, Peter Eigen, Bob Geldof, Graça Machel, Olusegun Obasanjo, Bob Rubin, Tidjane Thiam and Muhammad Yunus.

rank countries on the basis of rich country experts' opinions, whatever the strength or otherwise of the methodology used.⁴⁶

35. Thus, the APRM has, since it really began its work in 2004, taken on its own life in Africa and operates with little reference to development assistance. The APRM does not examine development assistance to African countries and the extent to which it may comply with the Paris Declaration or other relevant standards: its focus (more than NEPAD's) is almost exclusively internal. To that extent, it does not really fit within the 'global partnership for development' heading of MDG8.

36. However, the APRM provides an interesting and unique example of south-south peer review. No other regional grouping has committed itself to similar peer review on political as well as economic governance issues.⁴⁷ In this respect, it is an example of a genuine partnership among states of more equal economic power than has generally been the case in the supply of development assistance.

37. The country review reports and programmes of action are discussed in plenary session by the heads of state of all the countries that have signed up for peer review: the head of state of the country concerned must defend his record to his peers against the comments of the eminent person assigned to lead the reporting on his particular country. In this regard, though the APRM could certainly be strengthened in terms of its enforcement powers, and though it may be charged that heads of state are unlikely to be too hard on each other, it provides a useful model for other development partnerships, including the mutual review in the context of NEPAD: even its most powerful participants can potentially be embarrassed, and the accountability does not run only in one direction.

38. Moreover, the APRM focus on governance and domestic accountability for resource management makes it a particularly useful tool for examining right to development issues outside the highly politicised debates over the international economic order. The APRM was developed in a context of full consciousness of the many injustices of the international trade, aid and debt regimes, but also by people who were convinced that complaints over these injustices would not in themselves actually help delivery of development within Africa. Thus, much as the fight should continue for international economic reform, African governments should also be held to account for their own commitments to use the resources that are already at their disposal to deliver respect for the full range of human rights and governance standards at national level.

39. Nevertheless, the APRM does of course have links to international trade, aid and debt negotiations. At the outset there was a certain deal implicit (at times explicit) in the NEPAD and G8 interactions: the NEPAD heads of state attending the Kananaskis and subsequent G8 summits promised to improve governance in Africa (through the APRM among other tools); in return, the understanding was that the G8 should commit to increase the level and quality of assistance and

⁴⁶ From the civil society side at least, this resistance extends to the recently published Mo Ibrahim Index of African Governance.

⁴⁷ Prior to the APRM, the OECD had developed the concept of peer review furthest, and has put in place mechanisms for a peer review of a range of economic issues, including development assistance. The OECD does not, however, review human rights or political governance performance. See Fabrizio Pagani, 'Peer Review: A Tool for Co-operation and Change--An Analysis of an OECD Working Method', OECD, 11 September 2002, SG/LEG(2002)1.

access they gave to Africa. In that sense, the APRM is also relevant to the concept of development partnerships at they are usually understood.

40. Insofar as this more conventional development partnership aspect of the APRM's role is concerned – the quid pro quo of increased aid from the donor countries in return for action on governance within Africa – there appear to be distinctly different interpretations from the G8 and African sides of what the APRM should achieve. From the G8 (and OECD more generally), the view seems to be prevalent that the purpose of the APRM and similar assessments should be to rate African countries on their governance performance: if a country achieves a certain standard, then it should be rewarded with additional aid. This approach is made explicit in the European Commission's governance profiles that have been developed in the last couple of years.⁴⁸ From the side of African governments, meanwhile, the understanding is rather that the purpose of the APRM is for each country to decide for itself what its main challenges are, and that whatever the challenges identified in the national programme of action, development assistance should be awarded to support the process of addressing them. This seems to be the interpretation that would much more closely fit into an analysis from the point of view of the right to development.

F. GLOBAL PARTNERSHIPS FOR DEVELOPMENT IN THE ERA OF CLIMATE CHANGE AND PEAK OIL

41. It seems certain that the greatest threat to sustainable development today is that of climate change caused by the too-rapid exploitation of fossil fuels. Africa (outside South Africa) has contributed little to the creation of this problem on a per capita basis, yet Africa is especially vulnerable to climate change because of its position in the hotter regions of the planet, dependence on climate-sensitive resources, other pre-existing stresses on the environment and lack of capacity to adapt. This crisis is coinciding with the probability that the planet has reached close to 'peak oil' production: the total number of barrels of conventional oil produced per day will soon start to decline while demand continues to grow, leading to sharp increases in the price. In this context, a critical issue in relationship to development partnerships is one of equitable access to energy sources: the right to development essentially becomes the right to a fair share of the world's energy on a per capita basis.⁴⁹ The term used for this concept in the environmental sector is 'contraction and convergence': after a sustainable level of carbon emissions per capita of population at the end of this century is determined for the planet, the industrialised countries must reduce their carbon emissions to this rate; other countries may raise their carbon emissions to the same rate.

42. Under the regime put forward by the UN Framework Convention on Climate Change (FCCC), developed countries are obliged both to take steps to reduce their greenhouse gas emissions and to assist vulnerable developing countries to adapt to climate change. The Kyoto Protocol to the FCCC commits developed countries to individual, legally-binding targets to limit or reduce their emissions. The main mechanisms used by the Protocol that could benefit Africa

⁴⁸ See European Commission, Communication on Governance in the European Consensus on Development, August 2006, COM (2006) 421, and the Working Document that accompanied it, SEC(2006) 1020.

⁴⁹ Recognising the critical need for energy, the second conference of African Ministers of Finance on financing for development, held in Accra in May 2007, focused on 'Infrastructure for Growth—the Energy Challenge'; see <http://www.financingfordevelopment.org/concept.pdf>.

are the ‘clean development mechanism’, which provides for industrialised countries to claim emission credits for projects that reduce emissions in poor countries, and an adaptation fund that is to be established to assist poor countries to adapt to the threats of climate change. Under the FCCC, each country is supposed to develop a ‘national adaptation programme of action’ to plan for the threats of climate change. These programmes of action are supposed to be developed in a participatory way, in line with the spirit of the right to development, as elaborated by the High-level Task Force.

43. There are many problems with the FCCC regime, starting from the fact that the limits set by the Kyoto Protocol are generally recognised to be insufficient to address the need, yet they are unlikely to be met by 2012, the date the Protocol is due to be replaced. The FCCC also fails to deal seriously with the historical injustice that the rich countries have benefited from exploiting fossil fuels – much of them extracted from under the ground of the developing world – to develop their economies, but the scientific realities mean that this avenue is no longer open to those who most need the energy resources. Even within the framework that the FCCC does provide to assist the least developed countries, another outstanding question is how the flows of money from developed to least developed countries to assist with adaptation and under emissions trading schemes will be enforced and managed.

44. MDG8 provides, among other things, for the development of ‘an open trading and financial system that is rule-based, predictable and non-discriminatory’, that ‘includes a commitment to good governance, development and poverty reduction – nationally and internationally’, and that addresses the special needs of least developed countries. While MDG8 does not specifically mention climate change in this regard, it seems clear that climate change mitigation (reduction in emissions) and adaptation (taking steps to adjust to the impact) should both be included within the concept of the ‘trading and financial system’ it describes. It is worth noting that the MDG framework deals with environment issues in MDG 7 (on ensuring environmental sustainability). Moreover, although there are (or should be) specialised monitoring frameworks under the FCCC on climate change commitments, it is also appropriate for climate change to be integrated into other monitoring frameworks where the issues can be highlighted for policy makers. This is particularly appropriate in connection with the right to development, given the threat that climate change poses to sustainable development most especially for poor countries.

II. ASSESSMENT AND RECOMMENDATIONS: THE INTEGRATION OF THE RIGHT TO DEVELOPMENT INTO THE APRM AND MUTUAL REVIEW PROCESSES

45. There are two main areas in which the APRM and mutual review initiatives could be improved in relation to their commitment to the right to development: the first is in the content of the subject matter that they are investigating; and the second is the process by which they carry out their work. Currently, the APRM is stronger on both content and process, but both the APRM and mutual review processes have potential to make a useful contribution.

Content

A. REVISION OF THE APRM QUESTIONNAIRE

46. The four headings of the APRM questionnaire used to guide country self-assessments and review reports – democracy and good political governance; economic governance and management; corporate governance; and socio-economic development – give it many strengths from the right to development perspective. In particular, it includes detailed questions for countries to consider for themselves and as benchmarks to be evaluated against related to respect for human rights, good governance, the rule of law, democracy, gender equality and the rights of women and other disadvantaged groups. However, there are also areas in which it could be substantially strengthened.

47. There have been many complaints from countries undertaking the APRM that the questionnaire tries to cover too many issues, has a somewhat confusing structure with questions that often overlap with each other, and is unmanageable both for governments and for civil society organisations seeking to respond to it. At the same time, there are questions that could usefully be added to in order to address some important issues that are currently not covered. The APRM secretariat has indicated its intention of reviewing the questionnaire that guides the self-assessment and country review reports.⁵⁰ This would provide an opportunity to improve its structure and content and integrate right to development concerns into the new version.

48. The questionnaire opens with the section on democracy and good political governance. The first issue to be noticed in relation to the human rights content is that the opening list of ‘standards and codes’ to which states are invited to indicate their adherence is strangely random. Conventions are mixed up with declarations and other non-binding standards, and many important documents are omitted at both UN and African level. Among the African documents of relevance to human rights and good governance that are missing are: the Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court on Human and Peoples’ Rights (1998); the AU Convention on the Prevention and Combating of Terrorism (1999); the Charter for the Public Service in Africa (2001); the Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa (2001); the Declaration of Principles on Freedom of Expression in Africa (2002); the Robben Island Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (2002); and the Protocol to the AU Constitutive Act on the Court of Justice of the African Union (2003).⁵¹ The Memorandum of Understanding on the African Peer Review Mechanism (2003) is also missing, but the fact that a country is completing the

⁵⁰ The review of the questionnaire was among other issues considered at a workshop hosted by the APRM Secretariat 8-9 November 2007 in Algiers. The workshop brought together those involved in APRM assessments at national level, the members of the eminent persons panel, and representatives of the APRM Secretariat and technical partners. The aim of the meeting was to carry forward the recommendations of the AGF-VI held in Kigali, May 2006, with a view to presenting revisions to the questionnaire and other documents for adoption by the APR Forum at the January 2008 AU summit. See, ‘APRM Secretariat gears up for major implementation workshop in Algiers’, *NEPAD Dialogue No.200*, 19 October 2007.

⁵¹ There is an agreement in principle to merge the African Court of Human and Peoples’ Rights (ACtHPR) with the African Court of Justice (ACJ) to create a single African Court of Justice and Human Rights with two chambers. A draft protocol to achieve this has been on the table since 2006 but has not yet been adopted. In the meantime, the ACtHPR protocol has entered into force (in 2006) and the judges have been appointed, but the ACJ protocol is not yet in force.

questionnaire means that it has signed. Relevant documents adopted since the APRM questionnaire was finalised include the Solemn Declaration on Gender Equality in Africa (2004); the African Union Non-Aggression and Common Defence Pact (2005); the African Youth Charter (2006); and the African Charter on Democracy Elections and Governance (2007). Sub-regional standards from the RECs are also absent: in particular, both the Southern African Development Community (SADC) and the Economic Community of West African States (ECOWAS) have many that would be important to apply to the countries in their regions. At the UN level, the Declaration on the Right to Development is one of many others that is not listed here. The questionnaire does not ask about cooperation with the monitoring mechanisms for these treaties, in particular the submission of state reports to the African Commission on Human and Peoples' Rights and compliance with the decisions of the Commission on individual complaints. The absence of these documents is not just an omission from the list, but also appears to be reflected in an absence of some of the issues they consider in the questions that follow.

49. Objective three, question 1 in the democracy and good political governance section is a 'catch all' question on 'what measures have been put in place to promote and protect economic, social, cultural civil and political rights?' The breadth of this question is not helpful in prompting a clear response, especially since other questions also touch on some of these concerns. This question, however, includes the only mention in the entire questionnaire of freedom of speech, as one in a list of six rights whose recognition by law is to be described (the others are employment, education, health, housing, and freedom of religion). There are no follow up questions relating to freedom of expression more generally, including freedom of the press and broadcast media⁵²; nor of freedom of assembly and association, including questions that could be derived from the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms. Also missing from this section are questions related to discrimination and equal citizenship (apart from discrimination against women) and access to information. The questions on elections have little detail on election management and do not draw on the existing best practices available in 2004. All of these issues are critical to the development of accountable and responsive government – and thus the achievement of development outcomes that are rights-respecting.

50. The section of the questionnaire dealing with economic governance and management is notable for not mentioning the process of drafting PRSPs that (however problematically in practice) have been the principal tool for ensuring that the national economic policies move towards a fairer distribution of national wealth and also involve participation of a wider set of actors in their development than simply government officials and aid agencies. The right to development is also not mentioned: again, the list of standards and codes at the outset of the chapter seems lacking in comprehensiveness. The questions in the chapter are – as has been widely noted by civil society commentators – quite focused on macroeconomic orthodoxy with little if any attention to distributive justice. Although objective one, question 1 refers to 'sustainable development' there is no definition of this term, and the need for models for development that adapt to climate change and a low carbon future is not addressed. Subsequent questions refer to public financial management, yet do not address the well known challenges of

⁵² Although the APRM questionnaire does not refer to it, the reference in the NEPAD Declaration to 'responsible' free expression is also unfortunate in this regard.

management of primary resource revenues (especially from oil) that afflict many African states: the Extractive Industries Transparency Initiative would be an important example in this area.

51. The inclusion of the third section, on corporate governance, is an important and unusual recognition of the importance of holding powerful private sector institutions to account. However, the opening list again omits many relevant standards and codes, including the rapidly increasing number of (largely voluntary) standards that apply to the operations of multinational corporations operating in African countries, which could be drawn on even if not specifically addressed to African governments: for example, the OECD Guidelines for Multinational Enterprises. These omissions are reflected in some lack of detail and preciseness in the questions that follow.

52. The fourth section of the questionnaire, on socio-economic development, is perhaps of most interest to the right to development as it has been traditionally understood – and, indeed, the opening section does finally refer to the UN Declaration on the Right to Development (though once again, the list of standards and codes is not exhaustive). It is in this section that questions are asked about outcomes in social and economic rights: health, education and other indicators of relevance to the MDGs, including in relation to vulnerable groups. The APRM thus makes an important contribution to ensuring accountability in achieving these goals that is often not integrated into ‘governance’ assessments (even though they may be the subject of separate reviews). Objective one, question 1, asks about participation in the design and implementation of national development programmes, which would allow for discussion of the PRSPs and similar initiatives. Objective six, question 1, also asks about mechanisms to ‘encourage broad-based participation in development by stakeholders at all levels’. However, it is unfortunate that this discussion is segregated from the second section of the questionnaire on economic governance and management: these are important additions, key to the right to development, which should be integrated into the questions about economic strategies and not regarded as separate from macroeconomic policy and the other issues dealt with under that heading.

B. REVISION OF THE UNECA / OECD-DAC MUTUAL REVIEW TEMPLATE

53. The template used for the mutual review of development effectiveness in the context of NEPAD is changing for the second iteration of the review. There are thus opportunities to improve the framework, and also to integrate concepts derived from both the right to development and rights-based approaches to development that were not addressed the first time around. The most important step forward would simply be to provide content to the review that goes beyond the vague exhortations to do better of the 2005 report. In particular, the ‘action frontiers’ and ‘performance benchmarks’ should be more specific and more useful for policy makers, and connected to existing (or suggesting new) commitments in a clearer way. In itself, a much more detailed examination of the fulfilment of existing commitments would strengthen the mutual review’s contribution to the right to development, even without any specific referencing of right to development criteria. The specific inclusion of benchmarks informed by human rights and other treaties could greatly assist in this regard: often, the mutual review framework does not seem to be informed by existing standards in the field.

54. One problem with both the mutual review and the APRM questionnaire is that different sections overlap each other – often because many international instruments also overlap each

other, and the questions follow the templates set by those instruments. So for example, in the case of the mutual review framework, the examination of the MDGs includes, of course, MDG8 – which is then re-examined in issues under separate headings related to financing for development, policy coherence and global partnership. In other cases, overlap is introduced by the mutual review itself: in 2005, good governance was addressed both as an element in achieving the MDGs and in its own right. ‘Building a capable state’ appears under both political and economic governance and capacity development. It would be useful to create analytical categories that mean that one issue is examined at a time, rather than several times over: there is already progress in doing this with the revised set of themes being considered by the 2008 mutual review. This would assist with logical organisation of the issues and help to make the assessment of progress towards a right to development more focused.

55. An important function that the mutual review could play but that the 2005 version did not attempt would be to undertake evaluations of the extent to which both OECD and African countries have lived up to specific commitments in each area, summarising and providing analysis of the existing monitoring work rather than seeking to replicate it and reinvent the wheel. So, for example, in the case of MDG2 and 3 on education and gender equality, the mutual review could summarise the reports from the MDG reviews and Education for All Fast Track Initiative, presenting them in a form that related specifically to Africa and in a way that is useful to policy makers and activists working on the issues. The 2005 mutual review rather created a performance benchmark for African countries of ‘Education for All strategies in place and progress towards access to free universal primary education that meets quality standards’ and for OECD countries of ‘Education for All and Fast Track Initiative fully funded’. Both of these are too all-encompassing and broad-brush to be helpful in assessing progress towards the next logical steps needed in the area. It would be much more useful to report a summary of key facts and figures from other sources, and then to analyse what they mean for progress in relation to each theme, and what they show about the will to move forward and what the key actions would be by which actors over the next two years (or other set review period) to demonstrate progress.

56. A human rights critique of the MDGs is that the targets exclude large numbers of people: if you are aiming to halve the proportion of people suffering from hunger, the question from a human rights perspective becomes who benefits and which groups are excluded from this ambition. The mutual review should remedy this defect by integrating into its questions related to the MDGs concerns about non-discrimination and vulnerable groups, especially disadvantaged regions and non-dominant ethnic groups, as well of course as rural populations, women, children and the disabled.

57. An absence of human rights analysis and benchmarking is particularly notable in the mutual review 2005 framework in relation to the themes of governance, building the capable state and capacity development. For example, the framework does not make any reference to the effectiveness of Africa’s human rights machinery (including the newly established African Court on Human and Peoples’ Rights, which is intended to be replaced with a merged African Court of Justice and Human and Peoples Rights with the jurisdiction to rule on issues related to all African treaties and not only the Charter on Human and Peoples’ Rights), nor to African participation in and respect for the UN human rights machinery, including reports to the UN treaty monitoring bodies. There is a failure to reference other important African treaties and commitments that are not monitored by the human rights machinery, such as the African Convention on Corruption and the Charter for the Public Service in Africa. Preference is rather

given to the implementation of the APRM – which is important, but a complementary rather than alternative framework of analysis and set of institutions. For 2008, addition of benchmarks related to the ratification and early entry into force of the newly adopted African Charter on Democracy, Elections and Governance would be important.

58. From the OECD side, also, there is no attention to the role of human rights standards and institutions in guiding or attracting OECD assistance to Africa, while the attention given to OECD support to the APRM and the programmes of action that are the result of APRM reviews is very vague. There are some odd asymmetries between the African and OECD performance benchmarks: for example, OECD countries' ratification of the UN Convention on Corruption is mentioned, but not African countries' ratification of the African Convention on Corruption. Reference to OECD countries' responsibility on corruption, money laundering, asset recovery and corporate governance for operations in African states is generally brief and lacking in detail – failing to refer even to the OECD's own standards on these issues. There is no consideration of the role of OECD countries in recruiting key public service workers from African countries, and the effect that this has on African countries' ability to fulfil the MDGs and respect human rights.

59. The 2005 review also seemed to include some out of place questions that if anything undermine a commitment to the right to development. For example, under the heading on the MDGs, there is a performance benchmark for African countries related to 'substantial improvements in the size and diversity of the private sector', which seems entirely out of place under this heading (though it may be appropriate elsewhere) given that the involvement of the private sector in delivery of public services critical for achievement of the MDGs (such as clean water) has been very controversial. Similarly, under political governance, the 2005 mutual review includes as an action frontier 'consolidation and extension of progress with establishing capable democratic states, based on democratic institutions and processes with increasing roles for legislatures, civil society, women, local government and traditional governance systems'. Although traditional governance systems may well have an important contribution to the building of 'capable democratic states', and there are many democratic models among traditional systems, not all are democratic: thus there is a need for nuance in the question rather than appearing to endorse any traditional governance mechanism however it is constituted.

60. The most important set of commitments from the OECD side are those relating to quantity and quality of aid, and policy coherence. The 2005 mutual review was as non-specific in relation to these questions as in other areas, though it did annex the OECD-DAC's analysis of trends in aid flows to Africa over the last decade, which included more detail than present anywhere else in the review – though it also avoided any analysis by donor country of quantity and quality of aid. What was absent from the main body of the text, however, was any analysis that would assist African and OECD policy makers in identifying the key blockages, especially in relation to quality of aid and the fulfilment of the criteria of the Paris Declaration on Aid Effectiveness (and its predecessors).⁵³ In relation to policy coherence, completely missing from the review was any discussion of climate change and OECD country efforts to reduce greenhouse gas emissions and assist adaptation and promote clean development in African

⁵³ Although the Paris Declaration itself was only adopted in 2005, there were already pre-existing documents which the mutual review could have drawn on in assessing the key points it makes; however, the 2005 mutual review simply annexed the Declaration, with no further comment on specific issues to be monitored for 2007.

countries.⁵⁴ Also missing was an analysis of the extent to which aid undermines or reinforces democratic accountability, including the ability of national parliaments and civil society to access information and influence aid discussions, the harmonisation of development assistance with nationally devised programmes, and direct support for human rights and democratic accountability (including to civil society organisations working on the issues) within aid budgets.

61. African implementation of and OECD funding for the APRM is supported by the 2005 mutual review, but without much thought for what is required in practice: perhaps understandably since the APRM was still very new at the time. The APRM is an important process, and should be supported by the OECD countries. Appropriate areas for the 2008 mutual review to monitor would be OECD countries' contributions to the APRM Secretariat and the self-assessment reviews and for the implementation of the programmes of action endorsed by the APR Forum that are the final outcome of the peer review.

Process

C. ACCESS TO INFORMATION

62. A critical aspect of a rights based approach to development (and thus also the right to development) is that citizens should have access to information about decisions that are being taken on their behalf. NEPAD is formally committed to such access to information, yet in practice it is extremely difficult to find out what NEPAD is doing: the website is rarely updated and extremely uninformative. Even the communiqués of the meetings of the HSGIC are not readily available. The *NEPAD Dialogue* newsletter does provide updates on public events, but is not available online in an easily accessible archive and is difficult to subscribe to.⁵⁵ The APRM website is also out of date and fails to include many relevant documents, including APR Forum communiqués and core texts. It is left to UNECA and especially NGOs like the Institute for Security Studies, South African Institute for International Affairs and AfriMAP to provide useful background information on how the NEPAD initiatives are progressing – but these organisations do not have access to all relevant documents.

63. Aside from the availability of information online, neither NEPAD nor the APRM have made significant efforts to publish and disseminate material about what they are doing to a wider audience than those who are specifically invited to their meetings or to report back on the inputs received. The self-assessment reports are only published at the discretion of the governments of the countries concerned; and indeed the APRM Secretariat instructs governments not to publish them until the process is completed and the country review report and PoA approved by the APR Forum. In practice, though a select few have been able to access these documents, and presentations are made during the national validation process that summarise their content, they are not generally available, meaning that there is no way for civil society to see how individual inputs were reflected in the report submitted to the APRM Secretariat: the excuse often given,

⁵⁴ Although the Kyoto Protocol to the UN Framework Convention on Climate Change only came into force in 2005, it was adopted in 1997, and the commitments it established were thus easily available to be commented upon.

⁵⁵ The copies on the NEPAD website are almost two years out of date; up to date versions are available at the website www.triomediamedia.co.za, but only by searching the internet, not as a link from the NEPAD website or even the Triomedia front page, so that you have to know the newsletter exists to find it. Emails to Triomedia to subscribe do not always bring results.

that the material is extremely voluminous and publication is not practical, is not a sufficient response to this criticism. It is also problematic that the publication of the country review report and PoA is delayed by six months after the APR Forum meeting that adopts it, while the discussions of the report by heads of state at the APR Forum are held in camera and are only fed back to national level in a haphazard way depending on the efforts of independent journalists. In addition to more prompt publication of the reports, it would be desirable if, following the example of the UN treaty monitoring bodies, the APR Forum adopted public 'concluding observations' on each country review report and plan of action, and held a press conference after each meeting.

64. The OECD/UNECA mutual review process has even less information in the public domain: though the 2005 report is available online, its status is not made clear, nor is there any update on the current status of the proposed biannual reporting process. Neither the OECD nor UNECA websites – nor the NEPAD website – give any details on who to contact in case of interest in the process.

65. In the case of the NEPAD and APRM secretariats, these problems due are at least in part simply to a lack of staff to prepare such material. (However, even the NEPAD e-Africa Commission website – where there should be real expertise – is not very informative: as of mid-October 2007, the latest news story on the website was from May.) The OECD and UNECA have less excuse. In any event, making relevant and complete information available to interested parties is absolutely essential to fulfil any minimum right to development evaluation criteria and should be remedied by all parties.

D. INDEPENDENCE AND STATUS OF THE REVIEW PROCESSES

66. A strength of the APRM process is the role of the eminent persons, whose competence and credibility and willingness to criticise states undergoing review has been of critical importance in establishing the usefulness and legitimacy of the process to a wider audience than only heads of state. The eminent persons have not been afraid to speak out when they have believed that national self-assessment processes have been insufficiently participatory or lacking in content. At national level, the establishment of an independent governing council outside the control of the executive to govern the APRM process and validate the self-assessment reports has also been of key importance – though not implemented in every case.

67. Similarly, the fact that heads of state consider and debate the country review reports and programmes of action – which are then made public, enabling others also to comment on them – gives them a status and importance across African countries that is not present in any other development assessment process. On the other hand, there is criticism that the fact that the formal debate is only before heads of state means that the process is at risk of complete political capture by individuals with no interest in seriously addressing the issues at stake. Although the head of the APRM Secretariat has presented the APRM reports to the recently-established Pan-African Parliament (PAP), there is no formal process of validation of the reports and programmes of action by the PAP; nor do representatives of the governments concerned appear before the PAP to answer questions on the findings and recommendations of the reports.

68. No similar eminent persons body exists for the mutual review of development effectiveness in the context of NEPAD, nor is there an independent governing council. Although the officials working for UNECA and the OECD-DAC are competent and expert in their areas, they do not have the political mandate or authority to insist on the inclusion of controversial issues in the review process, nor to criticise heads of state at African or OECD level in a direct way. The lack of a sense of ownership of the 2005 report by the commissioning body, the NEPAD HSGIC, was in part due to the impression that the report was not in fact really independent.

E. PARTICIPATION

69. One of the strengths of the APRM process has been its emphasis on national level participation in the completion of the self-assessment reports. Each one of the review processes so far has had weaknesses in this regard, but, overall, they have generally provided new space for national dialogue that did not previously exist, especially for civil society groups that are not among the leading policy think tanks invited to other meetings. The involvement of national parliaments has been more mixed, and is an area that could get more emphasis. As the country review reports and programmes of action are adopted, the role of national parliaments and civil society groups in monitoring their implementation will be critical. To date, it is not clear whether the participatory ideal has been extended to the implementation phase.

70. In addition, as the revision of the APRM questionnaire is undertaken, the outcomes could be greatly strengthened by making this a public rather than a closed process: although the initial drafting of the questionnaire did include some consultation (far more than the NEPAD document did), those who participated were members of a relatively limited circle. For the proposed revisions, the APRM Secretariat could invite submissions about the questionnaire, and make these available on its (upgraded) website. Although the review meeting held in Algiers in November 2007 included representation from national APRM governing councils, which include civil society representation, this is not a sufficient opportunity for wider civil society to make a contribution.

71. Furthermore, a useful way to improve the APRM questionnaire would be to provide an adaptation in language that can be used by non-technical specialists, and thus enhance participation in the processes of self-assessment. This is already well-recognised, and several of the countries that have carried out self-assessments for the APRM have adapted the questionnaire for use at national level in focus groups and opinion poll surveys. While this methodology has been shared among participants by the APRM Secretariat, it is not available publicly. Making it so available would be very useful to others who are seeking to make contributions to the APRM process.

72. The mutual review of development effectiveness carried out by UNECA and OECD-DAC for the NEPAD HSGIC has been much more closed. Few if any civil society experts on aid issues have been invited to contribute to the development of the intellectual framework or comment on the results. To fulfil right to development criteria, the process could and should be far more inclusive the second time around, with drafts of the report published for comment, and meetings at which it is discussed open to a wider range of players, including civil society

(including those most likely to be critical). National parliaments should also be briefed and, where possible, offered the opportunity to comment in advance on the draft report.

F. HARMONISATION

73. Many commentators have noted the potential or actual overlap between the APRM process and other governance and development initiatives in Africa: this was recognised also by the AGF-VI discussions on implementation of the APRM.⁵⁶ To be most effective in promoting the right to development, the APRM programmes of action need to be appropriately integrated and harmonised with national PRSPs, the national adaptation programmes of action required under the FCCC, and other processes; and the country review reports (if well done) should be the major source of information by bilateral and multilateral donors who themselves seek to assess governance performance. This need for harmonisation relates also to the concept of ‘policy coherence’ among different interactions between the same partners: a human rights analysis should not only be integrated throughout the APRM assessments themselves, but that analysis should also inform other development strategies that guide government policy at national level and interactions between the same partners internationally.⁵⁷ Consensus on what the key measures of governance and what needs to be done are will greatly assist in the agreement of a rights-respecting national development framework which development partners can successfully fund.

74. The APRM has also not been able to coordinate effectively with the bodies responsible for monitoring compliance with Africa’s human rights treaties, in particular the African Commission on Human and Peoples’ Rights; at least in part this is due to capacity limitations from the side of the African Commission. However, the African Commission has a longstanding tradition of good relations with civil society organisations, who would certainly be able to assist in providing input to national self-assessment processes, revision of the APRM questionnaire, and other tasks. The state reports to the African Commission could also provide useful source material for the APRM process.

75. Similarly, the mutual review of development effectiveness needs to be coordinated with the G8 and Africa Partnership Forum, and other monitoring frameworks used by the UN MDG reviews, OECD-DAC, European Union, World Bank, and other donors, as well as discussions by African ministers of finance on converting aid commitments into development.⁵⁸ Again, a human rights analysis should apply as much to these other frameworks as to the mutual review itself.

⁵⁶ *Implementing the APRM: Challenges and Opportunities*, Report of the Sixth Africa Governance Forum (AGF-VI), Kigali, Rwanda, May 2006, p.38.

⁵⁷ I am grateful to Dr. Margot Salomon of the London School of Economics for this point.

⁵⁸ The first African finance ministers meeting on financing for development, held in Abuja, May 2006, discussed ways to operationalise the 2005 Gleneagles G8 and 2005 UN General Assembly commitments in support of the Millennium Development Goals (MDGs) in Africa. The second conference was hosted by the government of the Republic of Ghana in May 2007. The next meeting will be held in Rwanda in 2008. See <http://www.financingfordevelopment.org/>.

G. MONITORING AND ENFORCEMENT

76. One other concern that has been raised about the APRM is its voluntary nature. In favour of this approach is the argument that countries are not signing up because they feel compelled, or as an empty exercise (as sadly seems to be the case with many human rights treaties), but because they see real value in the process. The counter argument is that NEPAD is premised on the notion that Africa's development has to be approached from a holistic perspective that recognizes a more integrated approach: making the APRM voluntary undermines the integration efforts. There are merits in both sides of this debate.

77. Similarly, there is discussion among those following APRM about the relative importance of 'national ownership' – which everyone agrees is critical for the success of the project – and independent monitoring and enforcement of its findings and conclusions. Certainly, there is a rejection of the concept that the APRM should issue condemnations of countries' performance on governance in the style of a human rights group or 'take action' on the behaviour of recalcitrant governments: the APRM is not a human rights monitoring body, but rather a tool for mutual learning, and there are other AU institutions that are more appropriate for the more obviously critical and political role. On the other hand, civil society groups also feel strongly that peer review by fellow heads of state is all very well, but should be backed up by a greater effort by the APRM Secretariat or other independent groups to monitor performance of a government against the programmes of action to which they have signed up. The Pan-African Parliament (PAP) could also play an important role in this respect. Both the APRM Secretariat and civil society groups, as well as national parliaments and PAP, would need resources to enable them to undertake an effective monitoring exercise.

78. With regards to the mutual review of development effectiveness, the lack of any specific targets or benchmarks in the 2005 report means that monitoring and advocacy on its commitments would be very difficult. The concept of the mutual review was originally that in itself it should be a monitoring tool of performance against existing targets; but this was not the outcome in 2005.

III. THE RIGHT TO DEVELOPMENT CRITERIA AS AN ASSESSMENT TOOL FOR DEVELOPMENT PARTNERSHIPS

79. The criteria for evaluation of global development partnerships from the perspective of the right to development adopted by the Working Group on the Right to Development in March 2007 do provide a useful guide for evaluating development partnerships. However, based on the analysis of the APRM and mutual review they could both be elaborated upon to provide greater detail in some areas, and at the same time simplified to reduce repetition. Annex III provides a suggested reworking of the criteria, based on the assessment and recommendations above in relation to the APRM and mutual review.

IV. CONCLUDING REMARKS

80. The most important innovation of the APRM and mutual review initiatives is the move towards providing more serious accountability for resource allocation and implementation of

policy decisions at both domestic and international levels. It is this innovation that makes them both, whatever their faults, useful steps forward in realising a right to development in the relationships between Africa and the rich world. If the concerns of content and process raised here are dealt with, their contribution will be that much stronger.

81. This report on the implementation of the APRM and of the mutual review has been prepared during the middle of a major discussion about the future direction of continental integration in Africa. There is an agreed ambition for the creation of a ‘Union Government’; though much disagreement about what exactly the realisation of this ambition should look like in practice.⁵⁹ Both NEPAD and the APRM were developed as part of a process already under way towards strengthening continental integration in both the economic and political spheres; yet their application and impact will be played out in the national arena. Although this paper has not examined NEPAD, the APRM and the mutual review in the context of the debates over Union Government, the future institutional structures of the African Union and the procedures by which the member states interact with each other may have a profound impact on their implementation. The status of NEPAD within the AU has been a point of debate since it was first established; the relationship of the APRM to other AU structures is also not clear, which has relevance for its impact in other AU decision-making fora; many states are also holding onto concepts of national sovereignty that are no longer tenable and that undermine the integrationist ideal – and others are so fragile that their chances of implementing any collective vision are slim. The contribution of NEPAD, the APRM and the mutual review to the right to development will depend also on the outcome of these discussions over the restructuring of the AU itself and the extent to which its existing or new structures themselves conform to the core values of participation, respect for human rights and fairness set out in the criteria for evaluation of the right to development adopted by the Working Group.

⁵⁹ For an outline of the background and discussion of the issues, see L Muthoni Wanyeki, *Africa Unite! AfriMAP*, 2007, available at http://www.afriMAP.org/english/images/paper/AU_Wanyeki.pdf. See also the discussions on the AU Monitor website, <http://www.pambazuka.org/aumonitor/C13/>.

Annex I: The Right to development

UN Declaration on the Right to Development, Articles 1 and 2

Article 1

1. The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.
2. The human right to development also implies the full realization of the right 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 all their natural wealth and resources.

Article 2

1. The human person is the central subject of development and should be the active participant and beneficiary of the right to development.
2. All human beings have a responsibility for development, individually and collectively, taking into account the need for full respect for their human rights and fundamental freedoms as well as their duties to the community, which alone can ensure the free and complete fulfilment of the human being, and they should therefore promote and protect an appropriate political, social and economic order for development.
3. States have the right and the duty to formulate appropriate national development policies that aim at the constant improvement of the well-being of the entire population and of all individuals, on the basis of their active, free and meaningful participation in development and in the fair distribution of the benefits resulting therefrom.

African Charter on Human and Peoples' Rights, Article 22

1. All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind.
2. States shall have the duty, individually or collectively, to ensure the exercise of the right to development.

Annex II: Criteria for evaluation of global development partnerships from the perspective of the right to development

[From the Report of the Working Group on the Right to Development to the 4th session of the Human Rights Council, 14 March 2007, A/HRC/4/47]

The criteria for periodic evaluation include:

Structure/enabling environment

- (a) The extent to which a partnership contributes to creating an environment and supports a process in which all human rights are realized;
- (b) The extent to which partnerships for development promote the incorporation by all parties concerned of all human rights, and particularly the right to development, into their national and international development strategies, and the extent to which partner countries receive support from international donors and other development actors for these efforts;
- (c) The extent to which a partnership values and promotes good governance, democracy and the rule of law at the national and international levels; (formerly e)
- (d) The extent to which a partnership values and promotes gender equality and the rights of women;
- (e) The extent to which a partnership reflects a rights-based approach to development, and promotes the principles of equality, non-discrimination, participation, transparency and accountability;
- (f) The extent to which a partnership ensures that adequate information is available to the general public for the purpose of public scrutiny of its working methods and outcomes;
- (g) The extent to which a partnership respects the right of each State to determine its own development policies, in accordance with its international obligations;

Process

- (h) The extent to which, in applying the criteria, statistical and empirically developed data are used, and, in particular, whether the data are disaggregated as appropriate, updated periodically, and presented impartially and in a timely fashion;
- (i) The extent to which a partnership applies human rights impact assessments and provides, as needed, for social safety nets;
- (j) The extent to which a partnership recognizes mutual and reciprocal responsibilities between the partners, based on an assessment of their respective capacities and limitations;
- (k) The extent to which a partnership includes fair institutionalized mechanisms of mutual accountability and review;
- (l) The extent to which a partnership provides for the meaningful participation of the concerned populations in processes of elaborating, implementing and evaluating related policies; programmes and projects;

Outcome

- (m) The extent to which policies supported by a partnership ensure the constant improvement of the well-being of the entire population and of all individuals, on the basis of their

active, free, and meaningful participation in development and in the fair distribution of the benefits resulting therefrom, as required by article 2, paragraph 3, of the Declaration on the Right to Development;

- (n) The extent to which the priorities set by a partnership are sensitive to the concerns and needs of the most vulnerable and marginalized segments of the population, and include positive measures in their favour;
- (o) The extent to which a partnership contributes to a development process that is sustainable and equitable, with a view to ensuring continually increasing opportunities for all.

Annex III: Proposed revisions to the evaluation criteria for development partnerships

The criteria for periodic evaluation include:

Analytical framework

- (a) The extent to which a partnership seeks to create an enabling environment for sustainable human development with justice and equity and the realisation of all human rights;
- (b) The extent to which a partnership draws on all relevant international human rights instruments, including the right to development, in developing the content of development strategies and criteria for monitoring their implementation;
- (c) The extent to which a partnership follows a rights-based approach to development, and integrates the principles of equality (including gender equality), non-discrimination, participation, transparency and accountability in its development strategies;
- (d) The extent to which a partnership recognizes mutual and reciprocal responsibilities among the partners, based on an assessment of their respective capacities and resources;

Process

- (e) The extent to which a partnership ensures that adequate information is freely available for the purpose of public scrutiny of its policies, working methods and outcomes;
- (f) The extent to which a partnership provides for the meaningful consultation and participation of relevant stakeholders, including affected populations and their elected and other representatives, civil society groups and individual experts, in processes of elaborating, implementing and evaluating development policies;
- (g) The extent to which a partnership respects the right of each state to determine its own development policies, in accordance with its international obligations, including the extent to which it respects the right of national parliaments to review and approve such strategies;
- (h) The extent to which a partnership includes even-handed and independent institutionalized mechanisms of mutual accountability and review, by which the fulfilment by all partners of their agreed commitments is monitored and publicly reported, and responsibility for action indicated;
- (i) The extent to which, in monitoring and evaluating progress in achieving development strategies, a partnership ensures a systematic assessment of the human rights impact of its policies, including by collecting and publishing regularly updated data that are disaggregated sufficiently to monitor the impacts on vulnerable population groups and the poor;
- (j) The extent to which a partnership establishes effective mechanisms for coordination and harmonisation of its strategies with other relevant institutions and partnerships;

Outcome

- (k) The extent to which a partnership ensures that resources are provided in practice to enable development strategies that conform with these criteria to be successfully implemented and that these resources are effectively used;
- (l) The extent to which a partnership achieves the constant improvement of the well-being of populations and all individuals, on the basis of their active, free, and meaningful participation in development and in the fair distribution of the benefits resulting

therefrom, as required by article 2, paragraph 3, of the Declaration on the Right to Development;

- (m) The extent to which a partnership achieves both nationally and internationally a fairer distribution of global resources (especially those that are limited), and contributes to development outcomes that are sustainable and equitable.