Response to the Report of the Intergovernmental Committee of Experts on Sustainable Development Financing (Final Draft, 8 August 2014)

The Women's Major Group welcomes the Committee's recognition that its work must be founded on key Rio principles, including human rights, gender equality, and common but differentiated responsibilities, and that the principle of country ownership is also a basic precept in its work. However, we are concerned that the Committee has not sufficiently integrated these principles into its analysis and recommendations, and that it ultimately does not do enough to challenge a model of development that perpetuates inequalities between rich and poor, men and women, and between developed and developing countries. Our key areas of concern relate to the impact on women's human rights and gender equality of the Committee's discussion of:

- Private sector financing;
- Tax policy and cooperation;
- Trade and investment;
- Social protection; and
- Environment

We also consider the extent to which the Report explicitly addresses financing for gender equality and women's rights.

On a general note, we are disappointed that the overall tenor of the Committee's report lacks the urgency called for by the scale and immediacy of the threats to human rights and sustainable development globally. Given that the Sustainable Development Goals make explicit reference to the Committee's input, it was incumbent on the Committee to make clear and bold recommendations for reforms to transform international and domestic frameworks for sustainable development financing. However, the language of the report is often tentative and, where recommendations are made, they are frequently qualified and give governments considerable discretion.[1] Further, the Committee has compromised some of the more ambitious proposals in its earlier work, including a call to make the reduction of inequality between countries a key priority.

Finally, we note that, contrary to the relatively transparent, participatory nature of the Open Working group process, there was extremely limited access to the ICESDF's work output and to its negotiation process. We strongly hope that future processes around development financing, including the Financing for Development conference in 2015, are transparent and provide for significantly more space and participation of civil society.

[1] E.g., para.63: "Notwithstanding the wide range of options proposed below, the choice of specific policy measures should be determined by domestic political considerations and other country-specific circumstances."

Private Sector Financing

Key messages:

- Primacy of private sector's role in financing is extremely problematic without binding social, human rights, and environmental frameworks that ensure accountability and transparency;
- "Multistakeholderism" often obscures the conflicting interests and power of different "stakeholders";
- Elevating role of private sector in development cooperation undermines principle of international solidarity and a global partnership for development.

A key concern of the Women's Major Group is the primacy of private sector financing in the Report. Governments are encouraged to provide an "enabling environment" for investment,[2] but the Committee does not recommend effective measures that would ensure private sector activity supports the environmental and social dimensions of sustainable development. In fact, in relation to domestic private financing, the Committee only recommends that environmental and social sustainability considerations be strengthened in the financial system, leaving open the question of whether or not regulatory frameworks should be made mandatory.[3] The Women's Major Group has consistently called for binding frameworks in relation to both domestic and international private investment that ensures transparency and accountability are the cornerstones of private sector engagement in development. This includes requiring that all privately financed projects comply with binding human rights, social, and environmental standards, including ILO standards. This concern is reflected in the Resolution recently adopted in the UN Human Rights Council, in which States voted to establish an intergovernmental working group with a mandate to elaborate an international legally binding instrument on transnational corporations (TNCs) regarding human rights.[4]

The elevation of the private sector in the Report is also consistent with the Commitment's endorsement of a "multi-stakeholder" approach,[5] which the Women's Major Group has previously flagged as a problematic model that treats all actors, including civil society and the private sector, as equal and sharing a common interest. While we are certainly in favour of the inclusion of marginalised groups and the principle of gender equality in all consultations, multi-stakeholder approaches often obscure the disparities in power and conflicting goals among actors (including among the private sector, e.g. large corporations have overwhelming dominated spaces for the private sector at the exclusion of small and medium-sized enterprises). For example, a model that claims to give space in consultations to the private sector and civil society does not acknowledge the considerable political influence that large corporations already wield, nor the fact that corporations have acted in the past to actively undermine the advocacy of civil society.[6] Indeed, private sector

[2] See, e.g., paras.23, 104.
[3] Paras.105-108.
[4] Human Rights Council Resolution "Elaboration of an international legally binding instrument on Transnational Corporations and other Business Enterprises with respect to Human Rights" (A/HRC/26/L.22) adopted 26 June 2014.
[5] Para. 61.
[6] Global Policy Forum et al, Corporate Influence in the Post-2015 Process (2014).

narratives during the ICESDF multi-stakeholder panels and during the post-2015 process more broadly have not acknowledged the historical responsibility of corporations for contributing to and perpetuating a fundamentally inequitable model of development, including engaging in human rights violations and generally resisting regulation and accountability. In that regard, we are disappointed to see that the Committee's earlier recommendation for the creation of international standards to regulate large-scale land purchases or leases (presumably to curb illegal land-grabbing) has been dropped from the final Report.

A broader concern is that shifting responsibility to the private sector for financing sustainable development erodes the fundamental obligation of developed countries to assist and support developing countries, which is based on the principle of international solidarity enshrined in multiple international instruments, including the Universal Declaration on Human Rights and the Millennium Declaration. This principle recognises that governments are the principal duty-bearers of human rights obligations and that development assistance is essentially a fulfilment of the duty of States to assist other States to fulfil their human rights obligations.

This is in line with the notion of a global partnership for development, which found expression in MDG 8, albeit without sufficiently strong targets and indicators. The Committee rightly endorses a "renewed and strengthened global partnership for sustainable development, defining a compact of commitments by Member States of the UN"[7] and acknowledges the critical role that international public finance and Official Development Assistance (ODA) have in financing sustainable development.[8] However, it is alarming that the Report did not establish any timetable in relation to the fulfillment of the ODA commitments, nor explicitly prohibit the attachment of harmful conditionalities to ODA.

Blended financing

The Committee gives considerable space in its Report to exploring the potential of blended finance instruments to contribute to sustainable development. While it rightly acknowledges the risks of blended finance, and the high failure rate of public-private partnerships in developing countries,[9] the Committee does not go far enough in stressing the major risks of using public finance to leverage private finance, which was highlighted by the UN Secretary-General in his report to the Development Cooperation Forum:

> *"lack of clarity about additionality and purpose; limited influence of donors and recipients on investment design and implementation; diminished transparency and accountability; risk of misalignment of private sector and country priorities; danger of increased debt burden; inattention to small- and medium-sized enterprises; the opportunity cost incurred when use of public money to mobilize private resources does not have the same or a larger development impact than if it had been devoted directly to a developmental purpose; and the risks of misappropriation."*[10]

Moreover, the Committee urges the exploration of the role of Development Finance Institutions (DFIs) in support of blended finance, despite the clear lack of evidence of sustainable development outcomes of existing leveraging and blending by DFIs. Far from

[7] Para.173.
[8] Paras. 109-110.
[9] Paras.134-139.
[10] Report of the Secretary General, Trends and Progress in International Development Cooperation (2014) E/2014/77, para.16.

being consistent with the "country ownership" precept of the Committee's work, an assessment of all the investment projects by the World Bank's IFC and the European Investment Bank in the world's poorest countries from 2005 until 2010 revealed that only 25% of all companies supported were domiciled in developing countries.[11] Further, there is little evidence to suggest that developing countries are calling for this shift in financing, underlining the fact that the involvement of DFIs—in which developing countries have very little say—is part of a donor-driven agenda. Indeed, the role, accountability and governance of DFIs need to be fundamentally re-examined.

Tax Policy and Cooperation

Key messages:

- Welcome the recognition that strengthened international tax cooperation and an end to harmful tax competition are crucial for sustainable development, but this requires:
  - An inclusive intergovernmental body to devise tax policy, i.e. the conversion of the UN Committee of Experts on International Cooperation in Tax Matters into an intergovernmental body; and
  - A regional or global tax floor.
- Progressive domestic taxation is necessary for domestic resource mobilisation, redistribution of wealth, and for the realisation of human rights.

The Committee rightly recognises that strengthened international cooperation on taxation and an end to harmful tax competition is necessary to create an international enabling environment for sustainable development.[12] To that end, we welcome its recommendations on "the enhancement of international tax cooperation [that] could cover country-based reporting, notification of owners, automatic exchange of tax information, transfer pricing regulations, lists of tax havens and standards for non-economic reporting."[13] (Para 161).

However, in its final Report, the Committee has dropped some of its most critical earlier suggestions, including the creation of a regional or global tax floor to prevent a race to the bottom in tax incentives, and the conversion of the UN Committee of Experts on International Cooperation in Tax Matters into an intergovernmental body. Without these two key developments, tax evasion, tax competition and tax avoidance are likely to continue to cost developing countries vast amounts of resources.

As Eurodad have stated, a substantial part of international work on tax matters currently takes place under the G20 and the OECD, including processes on automatic exchange of information and base erosion and profit shifting. Intergovernmental negotiations and decision-making in these fora exclude developing countries, leading to tax policy being developed without the representation of developing country interests. While the Committee recognises that the UN, "with its universal membership and legitimacy, could be a catalyst

[11] Eurodad, A Dangerous Blend? The EU's agenda to 'blend' public development finance with private finance (2013).
[12] See paras. 66, 161.
[13] Para.161.

for further strengthening international cooperation" in relation to tax policy, it stops short of recommending the establishment of a universal intergovernmental body. The recommendation that the UN Committee of Experts be upgraded to an intergovernmental body was endorsed by the UN Special Rapporteur on Human Rights and Extreme Poverty, and has been repeatedly called for by the G77 bloc of countries.

Domestic tax policy

The Committee takes a disappointingly weak, at times contradictory, stance in relation to the role of tax policy in domestic resource mobilisation. While generally endorsing progressive tax policies, the Committee also encourages governments to widen the tax base as much as possible, which may be read as an endorsement of increased taxation of poorer groups and regressive schemes such as VAT (although the Committee notes that there should be a VAT exemption on basic goods and service[14]). Moreover, the Committee misses the opportunity to make recommendations that realise the full potential of tax collection as a tool to generate revenue for the fulfilment of human rights obligations and to redress discrimination and inequality, and to integrate principles of participation, transparency, and accountability throughout the whole revenue-raising cycle. This includes conducting human rights assessments of fiscal policy, including analysis of the distributional consequences and tax burden borne by different income sectors and disadvantaged groups.[15]

Further, in its final Report, the Committee has significantly lessened its support for a financial transaction tax, which it previously recognised as providing important regulatory incentives to guide behavioural change towards sustainable development. Indeed, the Special Rapporteur on Extreme Poverty and Human Rights specifically recommended implementing a financial transaction tax to raise revenue to contribute to the realisation of human rights.[16]

Investment and Trade

Key messages:

- Welcome the call to ensure that investment and trade agreements are consistent with human rights standards, although regret that this is not expressed in stronger terms.
- Otherwise fails to recognise the fundamental inequities in the global trading system, including the dominance of corporate interests.

The Committee acknowledges the considerable challenges to sustainable development posed by current trends in international investment and trade, including the tightening link between trade and foreign direct investment (FDI) that characterises BITs and global value chains more generally.[17] BITs can have seriously deleterious impacts on national sustainable

[14] Para. 65.
[15] This would be in line with the recommendations made in the Report of the UN Special Rapporteur on Extreme Poverty and Human Rights, para.79, A/HRC/26/28. (2014).
[16] This would be in line with the recommendations made in the Report of the UN Special Rapporteur on Extreme Poverty and Human Rights, para.79, A/HRC/26/28. (2014).
[17] See, e.g., paras. 153-154.

development strategies through the inclusion, for example, of investor-state dispute settlement clauses. To that end, the Committee recommends that "a better balance between investor rights and sovereign capacity to regulate in the public interest" may be struck through "the further elaboration of standards for investment in areas that directly impact domestic sustainable development outcomes and ensuring investments don't undermine international human rights standards."[18]

While we welcome the call to ensure that investment and trade agreements are consistent with human rights standards, the language is again weaker than the Committee has previously articulated, for example in recommending standards to address the impact of large-scale land purchases or leases in developing countries. The Committee has also missed an opportunity to directly address the infringement on national regulatory sovereignty signalled by the negotiation of a number of large trade and investment agreements, such as the Trans-Pacific Partnership Agreement, the Trans-Atlantic Trade and Investment Partnership, and the Trade in Services Agreement, including the highly coercive and oppressive impact of the dispute resolution mechanisms being proposed.

With respect to the broader multilateral trade agenda, the Committee calls for an "open, fair and dynamic world trading and investment system that support sustainable development and poverty reduction and respects social and environmental standards."[19] While it rightly notes that this requires addressing "politically sensitive issues, such as agricultural export subsidies", it otherwise fails to recognise the fundamental inequities in the current international trading system. One example is the current refusal of developed countries to exempt the food security programs of developing countries from unfair competition penalties under the flawed WTO Agreement on Agriculture, which is causing the current stalemate over the Trade Facilitation Agreement (the benefits of which are also largely overstated and are likely to primarily benefit the private sector in rich countries).[20]

This is yet another reason why the G77 bloc of countries plus China specifically called in the negotiations of the SDGs for "breaking the dominance of finance and corporate interest in the formulation of policies and operation of global markets.

[18] Para. 153.
[19] Para. 145.
[20] "Supports announced for WTO TFA insufficient or misdirected", South-North Development Monitor (SUNS) #7853, 28 July 2014.

Financing for gender equality and women's human rights

Key messages:

- Welcome the integration of some gender analysis into the Report, but ultimately the Report not only falls short of previous commitments, it fails to challenge a model of financing and development that undermines the fulfilment of women's human rights. E.g. foreign direct investment that treats gender gaps in wages & labour conditions as an incentive.
- Fails to address a range of other policy issues necessary for gender equality and women's human rights, e.g. the valuation and redistribution of unpaid care work; guarantees of decent work and a living wage, etc.
- Fails to recognise the importance of guaranteeing women's rights organisations funding and political space.

The realisation of women's human rights is fundamentally affected by sustainable development financing—not only in terms of whether or not resources are mobilised, but also how those resources are mobilised. Just one example of this is clearly demonstrated in the 2012 report of the Independent Expert on the effects of Foreign Debt on Human Rights, which focused on the deleterious impact of sovereign debt—and of the policies of international financial institutions—on women's human rights.[21] Additionally, the UN Working Group on the issue of Discrimination against Women in Law and in Practice recently observed that free trade and investment agreements that cede increasing power to TNCs vis-a-vis host States have led to corporate abuse and violations of human rights, of which most of the victims are women.[22] Ensuring that there is sufficient funding available for women's rights organisations and to support the women's movement is also crucial for achieving the structural change necessary to fulfil women's human rights.

We therefore welcome the Committee's inclusion of gender equality as a key precept in its work (especially given its alarming and conspicuous absence from earlier drafts of the Report), and its endorsement of public investment projects that are pro-poor and gender sensitive.[23] Gender is rightly recognised as a key dimension of vulnerability to poverty;[24] and consistency with gender goals is identified as an element of good financial governance.[25] The Committee also refers to providing access to and expanding the scope and scale of financial services available to women;[26] and addressing gender aspects in the design phase of the blended finance projects.[27]

However, the Report misses some of the key aspects of the financing for gender equality agenda, and at times falls short of commitments made in Doha (2008) or Busan (2009). The

[21] Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social, and cultural rights (2012) UN Doc. A/67/304

[22] Thematic Report of the Working Group on the Issue of Discrimination against Women in Law and in Practice, A/HRC/26/39, para.69.

[23] Paras.78-79.

[24] Para. 27.

[25] Para.70.

[26] Para 90.

[27] Para. 137.

Doha Declaration made explicit references to eliminating gender-based discrimination, including in the labour and financial markets, promoting women's economic empowerment, gender-responsive budgeting and mainstreaming gender in business support; while the Busan Declaration included commitments to gender-sensitive collection of data, gender responsive accountability frameworks, and addressing gender equality in all aspects of development efforts. To that end, we call for the adoption of strong gender-sensitive and human rights-based approaches to development financing as an integral strategy.

Moreover, the fact remains that any model of financing that confers greater responsibility on the private sector and rolls back the role the State in providing and protecting key public goods and polices—such as the provision of affordable healthcare, education, childcare, and the valuation and redistribution of unpaid care work—is one that will undermine gender equality and women's human rights. This is borne out by a pattern of foreign direct investment in the global South that treats gender gaps in wages and labour conditions as an incentive for investment.

Additionally, there is a need to address other structural and policy issues essential to progress towards gender equality and women's rights, including ensuring gender-responsive budgets; decent work and a living wage for women; protecting access to property and productive resources; valuing and redistributing women's unpaid care work; and collecting gender sensitive data. These are all key elements of any financing for development agenda and should have been reflected in the Report.

Women's rights organizations, movements and grassroots activists organizations, are doing some of the most effective and innovative work in this field, including holding the line on past gains, pushing for new policy and behavioral changes, providing critical services, and holding governments accountable for their commitments. In order to foster positive and sustainable change in women's lives around the world, it is important to ensure that women's rights organizations' creative strategies and close connection to local and grassroots women's concerns are at the forefront in guiding and shaping funding strategies. Therefore, the role of feminist and women's rights organizations' in the processes around the UN Financing for Development Conference and other intergovernmental development processes must be ensured. This extends to their role as equal partners in the implementation of commitments, including through the provision of financial support and space in the policy dialogue.

Social Protection

Key messages:

- Welcome recognition of the role universal social protection can play in reducing vulnerability and poverty, but there should be a clear recommendation for universal social protection;
- Costing of social protection must include care services, which are essential for supporting women's rights;
- Use of $1.25 a day as a threshold for extreme poverty is unacceptable.

We are pleased to see that the Committee recognizes that structural vulnerabilities can be "reduced by aiming for universal provision of basic social services,"[28] although we would have preferred if the Committee also explicitly acknowledged the important contribution of social protection to advancing economic development.[29]

Moreover, we regret the Committee then stops short of recommending universal social protection, and instead states that countries "should consider policies to strengthen social protection floors"[30], leaving considerable discretion in this matter to governments. This also ignores that the obligation to provide universal social protection has been recognized by governments[31] including in ILO Recommendation 202: Recommendation concerning National Floors of Social Protection (2012), which recommends that governments establish social protection floors as a fundamental element of their national security systems. Further, we recommend expanding the concept of social protection beyond income transfers to include access to essential services.

Indeed, it is not clear that the Committee's costing of social protection floors accounts for care services, which are essential for supporting women's economic rights and is critical for the reduction of poverty and wealth and gender inequality. While the Committee recognizes that international financing may have some role to play in providing access to social services, we would have preferred that the Committee made more concrete recommendations for models of funding universal social protection. For example, a global social protection floor fund could be set up to supplement domestic public financing of access to essential social services and income transfers, mainly in low-income countries.

Finally, we are disappointed to see that the Committee adopts a measure of extreme poverty as below $1.25 a day in its calculation of the cost of a global safety net.[32] This threshold for extreme poverty has been widely discredited. No developed country accepts a measurement of poverty for their citizens of less than ten dollars a day, and most have poverty lines that are much higher than that. In the Asia Pacific region, the poverty line is also measured above $1.25 a day. This is because $1.25 is not an amount that allows even a minimum quality of life—it is not enough to secure sufficient food, housing, healthcare and education, let alone to live a life of dignity.

Multi-dimensional indicators of poverty are required that recognise that monetary measurements are poor indicators and the more marginalized people rely on money, the more likely they are to live in poverty. At a minimum, poverty should be measured at ten dollars a day, which is closer to the poverty line adopted by developed countries of about fifteen dollars a day. This is more appropriate as a standard that will allow people to acquire basic necessities and live a life in which they are not irrevocably condemned to poverty. There are clear incentives for defining extreme poverty at a lower, less ambitious standard—particularly for donors and technocrats--but it is fundamentally at odds with the idea that sustainable development is about creating a just and equitable world that ensures the realisation of human rights for all.

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[28] Para.79.

[29] See, e.g., UN ESCAP, The Promise of Protection: Social Protection and Development in Asia and the Pacific (2011).

[30] Para.80.

[31] See, e.g., the outcome document of the High-Level Plenary Meeting of the GA on the MDGs, Keeping the Promise (para. 70(g); Rio+20 Outcome Document, The Future We Want (2012), para. 156

[32] Para.33.

Environment

Key messages:

- Report does not challenge paradigm of green growth nor explicitly address the need to transition economies to sustainable patterns of consumption and production.

Although environmental sustainability is a key pillar of sustainable development, we were disappointed to see that the Report does little to challenge the problematic paradigm of green growth and does not explicitly address the need to transition economies to sustainable patterns of consumption and production.

In fact, the Committee has re-drafted earlier, more appropriate language in its Report which recognised that we have passed the earth's carrying capacity with respect to a number of fundamental parameters, and that this makes adopting a new kind of economic and financial paradigm urgent. Further, it had previously called for all countries to "prioritise economic and policies and measures that seek to decouple economic growth from environmental degradation", whereas the notion of decoupling development and environmental harm is altogether absent from the final Report. Instead, the Committee's final suggestions—which include mainstreaming environmental sustainability, carbon trading, and payments for ecosystem services—do little to challenge the model of growth and commodification of the environment that has been responsible for climate change and other kinds of environmental damage.

Finally, while the Committee cites the principle of common but differentiated responsibilities in the introduction to the Report it does not elaborate on the implications of this principle for the financing obligations of developed States. Specifically, it does not apply the principle in a way that recognises the different present and historical contribution of States to environmental degradation and, therefore, their differentiated obligations to finance adaptation, mitigation, loss and damage.