

Mandate 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

FINAL EXPERT CONSULTATION ON THE DRAFT GUIDING PRINCIPLES ON FOREIGN DEBT AND HUMAN RIGHTS

Concept Note

I. Background

1. The Mandate 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 was established by the United Nations Human Rights Council in its resolution 7/4 (2008). This resolution continued three mandates that had existed earlier: (a) the Independent Expert on structural adjustment policies (Mr. Fantu Cheru, 1997-2001); (b) the Special Rapporteur on the effects on foreign debt on the full enjoyment of economic, social and cultural rights (Mr. Reinaldo Figueredo, 1998-2000); and (c) the Independent Expert on the effects of economic reform policies and foreign debt on the enjoyment of all human rights, particularly economic, social and cultural rights (Mr. Bernards A.N. Mudho, 2002-2008).
2. In March 2008, the Human Rights Council appointed Mr. Cephias Lumina as 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. Resolution 16/14 (2011) extended his mandate.
3. In resolution 2004/18, the then Commission on Human Rights requested the Independent Expert on economic reform policies "to draft general guidelines to be followed by States and by private and public, national and international financial institutions in the decision-making and execution of debt repayments and structural reform programmes, including those arising from foreign debt relief, to ensure that compliance with the commitments derived from foreign debt will not undermine the obligations for the realization of fundamental economic, social and cultural rights, as provided for in the international human rights instruments, and to present a preliminary draft on this matter to the Commission at its sixty-first session and a final draft at the sixty-second session of the Commission."
4. By its decision 2/109, the Human Rights Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to convene an expert consultation for the purpose of contributing to the process of drafting the general Guidelines. The consultation was expected to provide: (a) an overall picture of how foreign debt and debt relief programmes, as well as different kinds of economic reform programme, impact on the capacity of States to comply with human rights standards; and (b) identify suggestions on possible recommendations to States, international organizations and other stakeholders regarding possible policy elements to promote and protect human rights in developing countries while implementing debt and economic reform programmes".

5. Following the expert consultation, Mr. Mudho informally presented a preliminary draft of the guidelines to the seventh session of the Human Rights Council (March 2008), and noted in his report that the guidelines needed further consultation and work (A/HRC/7/9).
6. In subsequent resolutions (7/4, 11/5, and 12/119), the Council requested 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 to continue to work on the guidelines, including by seeking “the views and suggestions of States, international organisations, United Nations agencies, funds and programmes, regional economic commissions, international and regional financial institutions and non-governmental organisations”. The Council also called on OHCHR to assist the Independent Expert in the organisation and holding of regional consultations on the draft general guidelines.

II. Regional Consultations on the Draft General Guidelines on Foreign Debt and Human Rights

7. With the support of OHCHR, the Independent Expert held four regional consultations on the draft general guidelines between June 2010 and June 2011 (Latin America and Caribbean in June 2010; Africa in November 2010; Asia Pacific in February 2011; and Western Europe and other groups in June 2011). The purpose of the regional consultations was to generate ideas, based on regional experiences and perspectives, on the form and content of the draft guidelines with a view to improving them.
8. The regional consultations brought together government representatives, members of Parliament, regional economic commissions, individual experts, civil society organisations and other stakeholders to formulate ideas and recommendations on how best the guidelines could serve the purpose of assisting States and public and private, national and international financial institutions in the decision-making and execution of debt repayments and structural reforms programmes, including those arising from foreign debt relief, to ensure that compliance with the commitments derived from foreign debt do not undermine the obligations for the realisation of fundamental economic, social and cultural rights”. A report on the regional consultations was presented to the seventeenth session of the Human Rights Council in April 2011 (A/HRC/17/37).
9. A new draft which incorporates the various perspectives from the regional consultation has been prepared and will form the basis of the discussions at the final expert consultation. The Independent Expert has suggested that the draft general guidelines on foreign debt and human rights be renamed “Draft Guiding Principles on External Debt and Human Rights” in line with standards developed by other special procedures mandates.

III. Final Expert Consultation on the Draft Guiding Principles on Foreign Debt and Human Rights

10. *Purpose:* The Final Expert Consultation aims to review the new draft with the view to finalising it and making it available for further public consultation.

11. *Participation and methodology*: Recognised experts in the fields of sovereign debt, human rights law and economics will undertake a thorough revision of the new draft. Where appropriate, amendments to the draft will be made.
12. *Agenda*: The programme of work for consultation is annexed hereto. It is expected that the review of the new draft will be completed over two days. Consequently, participants are kindly requested to read through the draft and formulate any ideas concerning the form and content **prior** to the meeting.

IV. The way Forward

13. After the Final Expert Consultation, a further draft reflecting the input of the expert meeting will be prepared and made available for public comment through, inter alia, through the mandate's website.
14. A multi-stakeholder meeting of States will be convened in early 2012 with the aim of affording Member States an opportunity to share their views on the guiding principles.
15. The Independent Expert will submit the Final Draft of the Guiding Principles on External Debt and Human Rights to the Human Rights Council for consideration at its June 2012 session.
