

# Chapter 11

## Implementing the 2030 Agenda for Sustainable Development: Operationalizing the Right to Development for International Cooperation

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### Learning Objectives:

- To understand the importance of international cooperation for a successful implementation of the 2030 Agenda for Sustainable Development.
- To examine international cooperation as a “duty” of States under the UN Charter and the UN Declaration on the Right to Development, rather than as a charity.
- To analyze how operationalizing the right to development can help better execute the “means of implementation” goals and targets in the 2030 Agenda, particularly with reference to financial aid, technology and capacity-building.

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## Introduction

International cooperation is a basic means to realize the Right to Development (RtD). The United Nations Declaration on the Right to Development, 1986 (DRTD), emphasizes repeatedly the importance of international cooperation with at least five references.<sup>1</sup> The Vienna Declaration and Programme of Action adopted at the Second World Conference on Human Rights in 1993 points out that “States should cooperate with each other in ensuring development and eliminating obstacles to development. The international community should promote an effective international cooperation for the realization of the right to development and the elimination of obstacles to development”.<sup>2</sup>

The United Nations Millennium Development Goals (MDGs) adopted by the UN System in 2000 comprised eight internationally agreed development goals mostly to be realized before 2015.<sup>3</sup> The eighth goal was to “develop a global partnership for development”,<sup>4</sup> which was rightfully recognized as an essential pre-requisite for realizing the first seven goals. Global partnership for development is also a crucial element of the UN’s development agenda and is especially necessary for the development of developing countries.

The 2030 Agenda for Sustainable Development,<sup>5</sup> adopted by the UN General Assembly in 2015, incorporates 17 Sustainable Development Goals (SDGs) to replace the MDGs. This Agenda stresses the significance of international cooperation about 23 times. Paragraph 18 of the 2030 Agenda states that,

“We are announcing today 17 Sustainable Development Goals with 169 associated targets [...]. We are setting out together on the path towards sustainable development, devoting ourselves collectively to the pursuit of global development and of ‘win-win’ cooperation which can bring huge gains to all countries and all parts of the world”.<sup>6</sup>

In particular, SDG 17 aims to “strengthen the means of implementation and revitalize the global partnership for sustainable development”.<sup>7</sup> This brings new hope for realizing the RtD. This also opens up the opportunity to ensure success in implementation of the 2030 Agenda through the

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<sup>1</sup> A/RES/41/128. See Preamble, Paragraph 1, “Bearing in mind the purposes and principles of the Charter of the United Nations relating to the achievement of international cooperation”; Preamble, Paragraph 4, “the further promotion of friendly relations and cooperation among States in accordance with the Charter”; Article 3(2), “The realization of the right to development requires full respect for the principles of international law concerning friendly relations and cooperation among States in accordance with the Charter of the United Nations”; Article 3(3), “promote a new international economic order based on [...] cooperation among all States”; Article 4(2), “effective international cooperation is essential in providing these countries with appropriate means and facilities to foster their comprehensive development”.

<sup>2</sup> United Nations, *Vienna Declaration and Programme of Action*, 25 June 1993, A/CONF.157/2, paragraph 10.

<sup>3</sup> The 8 MDGs were: 1. To eradicate extreme poverty and hunger; 2. To achieve universal primary education; 3. To promote gender equality and empower women; 4. To reduce child mortality; 5. To improve maternal health; 6. To combat HIV/AIDS, malaria, and other diseases; 7. To ensure environmental sustainability; and 8. To develop a global partnership for development. See: United Nations, *Millennium Development Goals*, available at <http://www.un.org/millenniumgoals/>, accessed on 30 July, 2017.

<sup>4</sup> *Ibidem*.

<sup>5</sup> A/RES/70/1

<sup>6</sup> *Ibid*, paragraph 18.

<sup>7</sup> *Ibid*, SDG 17.

operationalization of the RtD. Indeed, as noted by Mihir Kanade in Chapter 3, the 2030 Agenda reaffirms the RtD, is grounded in it, and is informed by the DRTD.

This Chapter elaborates on international cooperation for sustainable development with respect to three specific domains, namely, aid (including financial), technology transfer, and capacity-building.

## I. Aid

International Development Aid refers to the fact that international organizations, developed countries, some developing countries and their subsidiary organs with a high level of economic development, and some non-governmental organizations provide funding, materials, equipment, and skills to help developing countries improve economic growth, social welfare, and sustainable development.

International Development Aid has a long history. After the Second World War, in order to realize economic recovery in Europe, the United States of America proposed the “Marshall Plan” to assist Western Europe and the “Point Four Programme” to assist the underdeveloped countries of Asia, Africa, and Latin America, thereby marking the growth of international development assistance. Since then, such assistance has been gradually institutionalized and standardized. In 1961 and 1970, the UN General Assembly adopted two resolutions on “Development” within the strategic framework of what was known as the first and second “United Nations Development Decade”.<sup>8</sup> This was the first time it was resolved that Official Development Assistance (ODA) from developed countries should “reach a minimum net amount of 0.7 per cent of their gross national product at market prices by the middle of the Decade”.<sup>9</sup> The 2002 Monterrey Consensus reaffirmed that “substantial increase in official development assistance” was particularly necessary, in order to achieve the Millennium Development Goals.<sup>10</sup> The Monterrey Consensus also urged developed countries that had not done so “to make concrete efforts towards the target of 0.7 per cent of gross national product (GNP) as ODA to developing countries and 0.15 to 0.20 per cent of GNP of developed countries to least developed countries”, and to put a bigger share of their development aid into reducing poverty, promoting education and health, and some other related issues.<sup>11</sup>

The approach to situating aid as one of the essential engines for realizing development has received support from many States worldwide. For example, donor countries have repeatedly reaffirmed their commitments to increase ODA to reach the aforementioned thresholds in many important international conferences such as the “Brussels Programme of Action for the Least Developed Countries for the Decade 2001-2010 (2001),<sup>12</sup> World Summit (2005),<sup>13</sup> the Conference on World Financial and Economic Crisis and Its Impact (2009),<sup>14</sup> the Summit

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<sup>8</sup> See United Nations General Assembly, *United Nations Development Decade: A Programme for International Economic Co-operation*, A/RES/1710(XVI), 19 December 1961; United Nations General Assembly, *International Development Strategy for the Second United Nations Development Decade*, A/RES/25/2626(XXV), 24 October 1970.

<sup>9</sup> United Nations General Assembly, *International Development Strategy for the Second United Nations Development Decade*, A/RES/2626(XXV), 24 October 1970, paragraph 43.

<sup>10</sup> United Nations, *Monterrey Consensus of the International Conference on Financing for Development Monterrey, Mexico, 18-22 March 2002*, available at <http://www.un.org/esa/ffd/monterrey/MonterreyConsensus.pdf>, accessed on 30 July 2017, paragraph 41.

<sup>11</sup> *Ibid*, paragraph 42.

<sup>12</sup> A/CONF.191/11, paragraphs 55 and 87(ii).

<sup>13</sup> A/RES/60/1, paragraph 23.

<sup>14</sup> A/RES/63/303, p. 5.

Meeting on Speeding up the Millennium Development Goals (2010),<sup>15</sup> and at the OECD,<sup>16</sup> G8,<sup>17</sup> and Rio+20.<sup>18</sup>

In addition to increasing the amount of international aid, the means to improve the effectiveness of such aid has also received considerable attention from the international community. In March 2005, more than 100 donors and developing countries signed the “Paris Declaration on Aid Effectiveness” and highlighted five basic principles for ensuring the effectiveness of aid, viz. ownership, alignment, harmonisation, managing for results, and mutual accountability.<sup>19</sup> In 2008, the third OECD High-Level Meeting on Aid Effectiveness was held in Accra, and it set out an agenda to implement the targets of the Paris Declaration.<sup>20</sup> From 29th November to 1st December 2011, the fourth High-Level Meeting of the OECD on Aid Effectiveness was held in Busan, South Korea. The “Busan Declaration” formally stated that more attention will be paid to “development effectiveness” rather than to “aid effectiveness”.<sup>21</sup>

Amongst other reasons, the economic recession and a slow recovery caused by the global financial crisis have exerted a negative impact on the development aid committed by the developed countries. However, the development aid from other sources is gradually increasing. Among them, the South-South Cooperation Model established by the emerging donors has begun to play an increasingly important role.<sup>22</sup> Overall, the achievements of global development aid are undeniable. ODA increased by 66% in real terms between 2000 and 2014, reaching \$135.2 billion, the highest level ever recorded,<sup>23</sup> and 79 percent of imports from developing countries

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<sup>15</sup> A/RES/65/1, paragraph 78(f).

<sup>16</sup> The United States of America, Britain, France, and West Germany held a summit meeting at the end of 1959, whereby they agreed to set up a special development assistance agency to increase aid effectiveness. In September 1961, the OECD was established by western countries, and the DAG (Development Assistance Group) was reorganized as the OECD subsidiary body by the name of DAC (Development Assistance Committee), to set norms, standards, guidelines for official development assistance to coordinate and supervise the member States for setting up relevant policies. For more details, see: United Nations, *The Global Partnership for Development: Time to Reach the Targets – the Millennium Development Goals Gap Task Force Report, 2011*, available at [http://www.un.org/en/development/desa/policy/mdg\\_gap/mdg\\_gap2011/mdg8report2011\\_engw.pdf](http://www.un.org/en/development/desa/policy/mdg_gap/mdg_gap2011/mdg8report2011_engw.pdf), accessed on 30 July 2017, p. 9.

<sup>17</sup> Ibid, p.7.

<sup>18</sup> *Report of the United Nations Conference on Sustainable Development, Rio de Janeiro, Brazil, 20–22 June, 2012*, (A/CONF.216/16), Chapter 1, Paragraph 258.

<sup>19</sup> *The Paris Declaration on Aid Effectiveness*, available at <http://www.oecd.org/dac/effectiveness/34428351.pdf>, accessed on 30 July 2017.

<sup>20</sup> *The Accra Agenda for Action*, available at <http://www.oecd.org/dac/effectiveness/34428351.pdf>, accessed on 30 July 2017.

<sup>21</sup> *Busan Partnership for Effective Development Cooperation*, available at <http://www.oecd.org/dac/effectiveness/49650173.pdf>, accessed on 30 July 2017, paragraph 35 (c); see also: United Nations, *The Global Partnership for Development: Making Rhetoric a Reality - the Millennium Development Goals Gap Task Force Report 2012*, available at [http://www.un.org/chinese/millenniumgoals/pdf/Chinese%20version%20MDG%20Gap%20Report%20%202012\\_Web.pdf](http://www.un.org/chinese/millenniumgoals/pdf/Chinese%20version%20MDG%20Gap%20Report%20%202012_Web.pdf), accessed on 30 July 2017, p. xii.

<sup>22</sup> See: United Nations, *Development and Globalization: Facts and Figures, 2016, Target 17.3, Additional Financial Resources*, available at [http://stats.unctad.org/Dgff2016/partnership/goal17/target\\_17\\_3.html](http://stats.unctad.org/Dgff2016/partnership/goal17/target_17_3.html), accessed on 30 July 2017.

<sup>23</sup> See: OHCHR, *Development is a Human Right*, available at <http://www.ohchr.org/EN/Issues/Development/Pages/SearchOfDignity.aspx>, accessed on 30 July 2017.

entered developed countries duty-free by 2014.<sup>24</sup> The debt burden on developing countries remained stable at about three percent of export revenue.<sup>25</sup> However, at the same time, while ODA increased substantially over the past 15 years, with respect to LDCs, it has declined in recent years.<sup>26</sup> Importantly, the \$135 billion in total ODA from OECD DAC countries, equivalent to 0.29 per cent of developed-country combined gross national income, lags far behind the longstanding commitment of countries to devote 0.7 per cent of their GNI to ODA.<sup>27</sup>

In this backdrop, the landmark Addis Ababa Action Agenda of the Third International Conference on Financing for Development, 2015, (AAAA), specifically states the following:

“We welcome the increase in volume of ODA since Monterrey. Nonetheless, we express our concern that many countries still fall short of their ODA commitments and we reiterate that the fulfilment of all ODA commitments remains crucial. ODA providers reaffirm their respective ODA commitments, including the commitment by many developed countries to achieve the target of 0.7 per cent of ODA/GNI and 0.15 to .20 per cent of ODA/GNI to least developed countries. We are encouraged by those few countries that have met or surpassed their commitment to 0.7 per cent of ODA/GNI and the target of 0.15 to 0.20 per cent of ODA/GNI to least developed countries. We urge all others to step up efforts to increase their ODA and to make additional concrete efforts towards the ODA targets. We welcome the decision by the European Union which reaffirms its collective commitment to achieve the 0.7 per cent of ODA/GNI target within the time frame of the post-2015 agenda, and undertakes to meet collectively the target of 0.15 to 0.20 per cent of ODA/GNI to least developed countries in the short term, and to reach 0.20 per cent of ODA/GNI to least developed countries within the time frame of the post-2015 agenda. We encourage ODA providers to consider setting a target to provide at least 0.20 per cent of ODA/GNI to least developed countries.”<sup>28</sup>

A couple of months later, the 2030 Agenda was adopted explicitly recognizing that “the full implementation of the AAAA is critical for the realization of the Sustainable Development Goals and targets”<sup>29</sup>, and therefore, incorporates the AAAA as “an integral part of the 2030 Agenda”<sup>30</sup>.

As a result, SDG17, which encapsulates the “means of implementation” of all other SDGs, establishes the following specific targets related to “Finance”:<sup>31</sup>

1. Strengthen domestic resource mobilization, including through international support to developing countries, to improve domestic capacity for tax and other revenue collection.
2. Developed countries to implement fully their official development assistance commitments, including the commitment by many developed countries to achieve the target of 0.7 percent of ODA/GNI to developing countries and 0.15 to 0.20 percent of ODA/GNI to least developed

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<sup>24</sup> See: Inter-Agency Task Force on Financing for Development, *Trade as an Engine for Development*, Geneva: International Trade Centre, UNCTAD and WTO, 2016), p. 8.

<sup>25</sup> OHCHR, *Development is a Human Right*.

<sup>26</sup> United Nations, *2015 MDG Gap Task Force Report*, (New York: United Nations, 2015).

<sup>27</sup> *Ibidem*.

<sup>28</sup> *Outcome document of the Third International Conference on Financing for Development, Addis Ababa, Ethiopia, 13–16 July 2015*, Endorsed by UNGA Resolution 69/313 of 27 July 2015, paragraph 51.

<sup>29</sup> A/RES/70/1, paragraph 40.

<sup>30</sup> *Ibid*, paragraph 62.

<sup>31</sup> *Ibid*, SDG 17, Targets 17.1 to 17.5.

countries. ODA providers are encouraged to consider setting a target to provide at least 0.20 percent of ODA/GNI to least developed countries.

3. Mobilize additional financial resources for developing countries from multiple sources.
4. Assist developing countries in attaining long-term debt sustainability through coordinated policies aimed at fostering debt financing, debt relief and debt restructuring, as appropriate, and address the external debt of highly indebted poor countries to reduce debt distress.
5. Adopt and implement investment promotion regimes for least developed countries.

It is in the aforesaid background that operationalizing the RtD can play a key role in better realization of the “means of implementation” goals and targets of the 2030 Agenda. As has been pointed out by Kanade in Chapter 3, the DRTD recognizes that developing countries have the right to “formulate their own 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”<sup>32</sup>. Therefore, the RtD acknowledges that recipients of aid under SDG 17 must have the full right to determine their own development priorities for which the aid is being received.

The DRTD also helps establish the normative framework for a successful implementation of all SDGs, including SDG 17, through international cooperation. It does this by stipulating in Article 3(3) that “States have the duty to co-operate with each other in ensuring development and eliminating obstacles to development”.<sup>33</sup> Development aid as the means for implementing all the SDGs, therefore, should be seen as part of the duty on all States, especially developed countries, towards international cooperation for ensuring development. It should also be seen as part of the duty to take steps to eliminate obstacles to development of developing countries.<sup>34</sup> Pertinently, Article 4(2) specifically states that “sustained action is required to promote more rapid development of developing countries” and that “as a complement to the efforts of developing countries, effective international co-operation is essential in providing these countries with appropriate means and facilities to foster their comprehensive development”.<sup>35</sup> As has been pointed out by the first independent expert of the UN on the RtD, Arjun Sengupta, the reference in this provision is clearly to the obligation of international cooperation under Article 1 of the UN Charter read with Articles 55 and 56 which require joint and separate action by States to create conditions of stability and well-being.<sup>36</sup> Thus, the RtD requires that development aid under SDG

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<sup>32</sup> A/RES/41/128, Article 2(3).

<sup>33</sup> Ibid, Article 3(3).

<sup>34</sup> See Mihir Kanade, “Advancing Peace, Rights and Well-being: A Right to Development Approach to SDGs as the Way Forward”, Speech at the event “In Search of Dignity and Sustainable Development for All”, Geneva, United Nations, 29 February 2016; Mihir Kanade, “Technology and the Sustainable Development Goals”, in Mariateresa Garrido (ed.), *Human Rights and Technology: The 2030 Agenda for Sustainable Development*, pp. 7–33.

<sup>35</sup> A/RES/41/128, Article 4(2).

<sup>36</sup> *Study on the Current State of Implementation of the Right to Development Submitted by Mr. Arjun Sengupta, Independent Expert*, E/CN.4/1999/WG.18/2, paragraph 3. Article 1(3) of the UN Charter lists as one of the primary purposes of the UN: “To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language,

17 is conceived as part of international cooperation. As Kanade points out in Chapter 3, development aid cannot operate within the framework of charity, generosity, or privilege, which gives total control of what happens with such aid only to donors.

In addition to the above, according to this author, in sync with the RtD, development aid should meet the following principles:

1. The unification of quantity and quality: The funds, projects and resources of aid should reach a certain amount in quantity committed by donors. However, this does not mean that a higher quantum of aid can assuredly lead to a better result in all circumstances. It is also necessary to improve the quality of aid. Quality here means that the effectiveness and efficiency of aid must be improved, and the funds must be used to meet the most essential needs of the recipients. Meanwhile, unfair conditions of aid must be prohibited. It is also necessary to respect the laws, regulations, customs and cultural traditions of beneficiary countries, in order to better implement aid with the help of local knowledge. Beneficiary countries also need to reinforce the management of aid and provide necessary support.

2. The balance between voluntary and compulsory aid: In some traditional understandings, aid is voluntary. Once an aid commitment is made, it must be enforced effectively. Regarding personal donation, if such donation is to simply give away a donor's possessions, then it is not mandatorily required to be done. If such donation is a charitable one for public benefit, then it must be enforced strictly when the commitment is made. Some states have stipulated by law, the enforceability of charitable donations for public benefit. However, it is still necessary to enhance the executive force and responsibility mechanisms of aid. As stated above, the RtD helps situate development aid under SDG 17 within the context of the duty of international cooperation, and not merely charity.

3. The integration of targets and results: In order to get a good result, it is necessary to combine ambitious aid targets with feasible methods of implementation. To this end, all kinds of resources including policies, action plans, and laws should be mobilized in order to guarantee the positive effects of aid. Aid should be oriented by the values of human rights, which means in particular, that the goal of aid is to realize the RtD, thus improving the well-being of individuals and peoples. It is helpful to note that Article 6(1) of the DRTD stipulates that "All States should co-operate with a view to promoting, encouraging and strengthening universal respect for and observance of all human rights and fundamental freedoms for all without any distinction as to race, sex, language or religion".<sup>37</sup> This should, therefore, be the foundational standard of measuring the effectiveness of aid.

4. The combination of bilateral cooperation with multilateral cooperation: The key for a successful aid program is to activate all the possible global resources to participate in it. To this end, the partnership or cooperation could be bilateral or multilateral. The former envisages aid directly from one state, organization or individual to another. The latter involves the donor

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or religion". Similarly, Article 55 of the UN Charter stipulates that "With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote: b. solutions of international economic, social, health, and related problems; and international cultural and educational cooperation". Article 56 then recognizes the pledge by Member States to "to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55".

<sup>37</sup> A/RES/41/128, Article 6(1).

making a donation to an international organization, such as the World Bank and United Nations Agencies (UNDP, UNICEF, UNAIDS, etc.), which then passes on the aid to those who need them. This method could take full advantage of all the related parties and thus improve the efficiency of aid.

5. The cooperation of civil society and official organisations: ODA plays an essential role in aid; it is far more powerful than that of humanitarian, emergency relief, or civil aid. Yet, private capital and social organizations could also find their ways of contributing to aid. On this point, aid could be implemented effectively by mobilizing all positive resources and forces of non-governmental and non-profit organizations, foundations and enterprises (especially transnational corporations), and private capital.

## **II. Technology Transfer**

Technology transfer is the process of transferring technologies (including knowledge, skills, methods of manufacturing and facilities, etc.) among governments, enterprises, universities and other institutions at international, regional and domestic level to improve capacity and advance development. In the context of development cooperation, it primarily means that governments, organisations or individuals from advanced (developed) countries transfer advanced technologies to underdeveloped or developing countries to improve their level of economic development and innovation capacity.

### **1. Major fields**

According to the 2030 Agenda, cooperation in relation to technology transfer in key areas is mainly reflected in the following three aspects:<sup>38</sup>

1. Enhance North-South, South-South and triangular regional and international cooperation on and access to science, technology and innovation and enhance knowledge sharing on mutually agreed terms, including through improved coordination among existing mechanisms, in particular at the United Nations level, and through a global technology facilitation mechanism.
2. Promote the development, transfer, dissemination and diffusion of environmentally sound technologies to developing countries on favourable terms, including on concessional and preferential terms, as mutually agreed.
3. Fully operationalize the technology bank and science, technology and innovation capacity-building mechanism for least developed countries by 2017 and enhance the use of enabling technology, in particular information and communications technology.

### **2. Mechanisms Construction**

The AAAA and the 2030 Agenda can be applied to technology transfer in the context of realizing the RtD. The Technology Facilitation Mechanism, which was established by the AAAA and “launched” by the 2030 Agenda, is required to be based on multi-stakeholder collaboration

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<sup>38</sup> A/RES/70/1, SDG 17, Targets 17.6 to 17.8. For a more detailed analysis of how RtD can be operationalized to implement the technology-related targets in the SDGs, see Mihir Kanade, “Technology and the Sustainable Development Goals”.



between Member States, civil society, the private sector, the scientific community, United Nations entities and other stakeholders, and is composed of the following three parts:<sup>39</sup>

1. United Nations inter-agency task team: The task team on science, technology and innovation for the Sustainable Development Goals will draw on existing resources and will work with 10 representatives from civil society, the private sector and the scientific community to prepare the meetings of the multi-stakeholder forum on science, technology and innovation for the Sustainable Development Goals, as well as in the development and operationalization of the online platform. The task team will initially be composed of the entities that currently integrate the informal working group on technology facilitation, namely, the Department of Economic and Social Affairs of the Secretariat, the United Nations Environment Programme, the United Nations Industrial Development Organization, the United Nations Educational, Scientific and Cultural Organization, the United Nations Conference on Trade and Development, the International Telecommunication Union, the World Intellectual Property Organization and the World Bank.<sup>40</sup>

2. Collaborative multi-stakeholder forum: The forum on science, technology and innovation for the Sustainable Development Goals will be convened once a year, for a period of two days, to provide a venue for facilitating interaction, matchmaking and the establishment of networks between relevant stakeholders and multi-stakeholder partnerships in order to identify and examine technology needs and gaps, including on scientific cooperation, innovation and capacity-building, and also in order to help to facilitate development, transfer and dissemination of relevant technologies for the Sustainable Development Goals.<sup>41</sup>

3. Online platform: This includes the following:

a. *Collecting information*: This will serve as a gateway for information on existing science, technology and innovation initiatives, mechanisms and programmes, within and beyond the United Nations.

b. *Sharing information*: This online platform will facilitate access to information, knowledge and experience, as well as best practices and lessons learned, on science, technology and innovation facilitation initiatives and policies.

c. *Disseminating information*: This will facilitate the dissemination of relevant open access scientific publications generated worldwide.

d. *Supplementing information*: This will complement, facilitate access to and provide adequate information on existing science, technology and innovation platforms, avoiding duplications and enhancing synergies.<sup>42</sup>

### 3. Transfer Methods

Technology transfer can be achieved through the following major methods:

1. High-tech products trade: This includes the trade on a whole high-tech product and some parts of a high-tech product.

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<sup>39</sup> A/RES/70/1, paragraph 70.

<sup>40</sup> see Mihir Kanade, “Technology and the Sustainable Development Goals”.

<sup>41</sup> Ibidem.

<sup>42</sup> Ibidem.

2. Technology trade. This includes technology transfer, technical advisory service, import and export of equipment, technology services and aid, project contracting and turnkey technology transfer, technical advisory services, franchise, equipment leasing, compensation trade (where exchange of goods and services can be repaid partly with money and partly with technology transfer), etc.
3. Research and Development Investment. This includes technology investment in developing countries, joint-research with government, enterprises, scientific institutions and researchers from developing countries.
4. Scientific and technological exchanges. This includes interaction and exchange of visits among academics, experts, and technical personnel, such as lectures, seminars, workshops and meetings.
5. Technical aid. This includes the aid of providing complete sets of advanced equipment to recipients, and the aid of providing parts of the equipment required components, raw materials, and even to send technical experts responsible for organizing and directing the construction, installation and trial production to help recipients learn to manage the production and technique.
6. Talent development. This includes the method to further broaden the channels of academic communication by sending students and scholars to world-class universities and research institutions, and the method to promote international communication among technical personnel of enterprises, given the key for technology transfer is a human rather than technical documentation.

#### **4. The Principles of Transfer Based on the RtD**

1. Equality and Reciprocity: Parties, especially the least developed, landlocked and small island countries, must trade in technology with the countries who have advanced skills, in accordance with the principle of equivalence transaction based on equality and mutual benefits.
2. Special and Differential Treatment. This is a non-reciprocity based preferential market access principle which grants special and differential treatment to developing countries whereby developed countries may relax tariffs on import of goods and services from the former, as well as accept longer transition times for developing countries in new trade agreements.<sup>43</sup> This approach is in harmony with the RtD.
3. Compulsory licensing: In order to protect public health, in some special situations as outlined by Obijiofor Aginam in Chapter 9, it is necessary for States to issue compulsory licenses for patents relating to pharmaceutical drugs when States have a national emergency or other circumstances of extreme urgency. As Aginam has argued, the amended provisions of TRIPS agreement which permit States that do not have the capacity to produce generic drugs on their own, to issue a compulsory license for procuring the same, is an illustration of how the RtD can be promoted through technology cooperation and also how the RtD can be operationalized to better implement the SDGs.

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<sup>43</sup> See: World Trade Organization, *Special and Differential Treatment Provisions*, available at [https://www.wto.org/english/tratop\\_e/devel\\_e/dev\\_special\\_differential\\_provisions\\_e.htm](https://www.wto.org/english/tratop_e/devel_e/dev_special_differential_provisions_e.htm), accessed on 30 July 2017.

### III. Capacity Building

Capacity building is a broad concept. It has been described as the provision of support aimed at enhancing countries' "ability to define and realize goals effectively".<sup>44</sup> Capacity building envisages that the subjects of the right will transfer external aid from the international community or other countries to their sustainable development, by cultivating and activating their own inner potential based on receiving information, resources, knowledge, and skills from the duty-bearers of RtD rather than money or materials from them. In this way, they could realize autonomous, independent and long-term development, instead of simply relying on external support. This model conversion from a "blood transfusion type" based on material aid, to a "hematopoietic type" based on a comprehensive energy supply is an essential means to realize the RtD. The UN system and the international community increasingly focus on the role of capacity-building in realisation of the RtD. For example, SDG 17 specifically envisages targets and indicators for capacity-building. It notes that States must "enhance international support for implementing effective and targeted capacity-building in developing countries to support national plans to implement all the sustainable development goals, including through North-South, South-South and triangular cooperation".<sup>45</sup> In the process of addressing climate change, the following is the initial scope of needs and areas for capacity building in developing countries as broadly identified in the annex to decision 10/CP.5, in the compilation and synthesis document prepared by the secretariat,<sup>46</sup> and in submissions by Parties<sup>47</sup>:

- (a) Institutional capacity building;
- (b) Enhancement and/or creation of an enabling environment;
- (c) National communications;
- (d) National climate change programmes;
- (e) Greenhouse gas data;
- (f) Vulnerability and adaptation assessment;
- (g) Capacity building for implementation of adaptation measures;
- (h) Assessment for implementation of mitigation options;
- (i) Research and systematic observation;
- (j) Development and transfer of technology;
- (k) Improved decision-making;
- (l) Clean development mechanism;
- (m) Needs arising out of the implementation of Article 4, paragraphs 8 and 9, of the Convention, which is about capacity-building activities in LDCs;
- (n) Education, training and public awareness;
- (o) Information and networking<sup>48</sup>

The above illustration reveals the importance of ensuring empowerment of developing countries from the perspective of climate change and environmental protection. This then provides a model for realizing the RtD based on empowerment. Sustainable development is inseparable from the

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<sup>44</sup> See: United Nations, *Capacity Development: An Analysis and Synthesis of its Current Conceptualization and Implications for Practice*, Background document for a joint United Nations Development Programme (UNDP)-United Nations Children's Fund (UNICEF) workshop on planning and monitoring of capacity development, Harare, 1-5 November 1999.

<sup>45</sup> A/RES/70/1, SDG 17, Target 17.9.

<sup>46</sup> FCCC/SB/2000/INF.1.

<sup>47</sup> FCCC/SB/2000/INF.5

<sup>48</sup> FCCC/CP/2001/13/Add.1, 21 January 2002.

development of human beings and nature, and has evolved as a concept to include economic, social as well as environmental dimensions. The idea of sustainable development is essentially integrated into the first provision of the DRTD.<sup>49</sup> In its broad sense, the RtD means that all human beings and all individuals realize their right to sustainable development in the economic, political, social, cultural and, we may add, ecological dimensions.<sup>50</sup> Sustainable development, therefore, cannot be achieved without empowerment of developing countries in all these necessary dimensions through operationalizing the RtD.

Capacity building may take many forms. It could include support for identifying the implications of global agreements in operational terms for national capacity, support to advocacy efforts by agencies or groups within the society to assist in achieving specific development goals, providing a forum in which different components or groups within a society or region may discuss how best to share or implement tasks, providing operational support to national efforts to design appropriate policies or to formulate and implement national or regional programs or projects.<sup>51</sup> Specific initiatives to achieve the RtD through capacity-building can be roughly summarized as follows:

1. **Knowledge:** Empowering subjects of the RtD to get knowledge through education, and then changing their life through knowledge is an essential component of the RtD. Education is of fundamental importance to the fulfilment of our great long-range mission. The prerequisite to achieve the right to sustainable development is to ensure that everyone could acquire knowledge, which is necessary to realize development. As the 2030 Agenda states:

“We commit to providing inclusive and equitable quality education at all levels – early childhood, primary, secondary, tertiary, technical and vocational training. All people, irrespective of sex, age, race or ethnicity, and persons with disabilities, migrants, indigenous peoples, children and youth, especially those in vulnerable situations, should have access to life-long learning opportunities that help them to acquire the knowledge and skills needed to exploit opportunities and to participate fully in society”.<sup>52</sup>

2. **Skills:** Right-holders could be empowered with the capacity of self-directed development by learning necessary skills through the following ways. First, establishing vocational and technical schools, vocational education for the recipients is a systematic long-term mechanism relating to access to skills and improving capacity. Second, providing certain type of specialized skills for some specific constituencies such as migrants and the unemployed. Third, implementing universal education for skills, such as the Internet, and agricultural water-saving irrigation technology. Fourth, holding conferences on exchanging experiences, for instance, to invite specialists to share their successful experiences. Fifth, organizing observation tours and harnessing “demonstration effects”<sup>53</sup>. Sixth, establishing one-to-one technical aid, such as a long-term guidance from technical experts or a fixed technical aid by providing funding.

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<sup>49</sup> A/RES/41/128, Article 1(1), addresses “enjoy economic, social, cultural and political development”.

<sup>50</sup> See: *The Legal Nature of the Right to Development and Enhancement of Its Binding Nature*. E/CN.4/Sub.2/2004/16, paras. 39–40.

<sup>51</sup> United Nations, *United Nations System Support for Capacity-Building*, Report of the Secretary-General, E/2002/58, 14 May 2002, paragraph 25.

<sup>52</sup> A/RES/70/1, paragraph 25.

<sup>53</sup> Demonstration effects refer to the effects on the behaviour of individuals caused by observation of the actions of others and their consequences. See: David Fisher, “The Demonstration Effect Revisited”, *Annals of Tourism Research*, vol.31, no.2 (2004), pp. 428–446.

3. Opportunity: Equality of opportunity for development is the core of the RtD. Giving opportunity is a pre-condition to giving ability. To ensure the opportunity for everyone to enjoy and participate in the development process, opportunity should be provided in relation to several aspects, such as employment, labour, and social security. It is necessary to prevent and eliminate all forms of discrimination in the field of employment, particularly against women, the disabled, and migrant workers. International cooperation in the aforementioned fields plays an irreplaceable role in capacity building.

4. Culture: Capacity building has a close relationship with the construction of culture, and it is thus necessary to develop cultural activities in the context of the RtD. One such activity is cultural education. This serves to make more people aware about the right, the subjects, the duties and approaches to realizing the right, for instance through national education and social education. Development is a human right, and not or a charity. It is necessary to include education on the RtD into national education systems, textbooks and teaching plans. Social education in the sense of raising social awareness, could be realized by distributing brochures, offering workshops, and using social networking platforms. All these aim to enhance self-awareness, self-identity, a sense of presence, and happiness. Another activity relates to cultural development. For instance, cultural empowerment for minorities could be realized by providing funding, skills and recognizing, protecting, refining and utilizing their languages, writing, folklore, lifestyle, art and cultural works.

5. Discourse: Discourse power is an important competence. First, it is necessary to strengthen freedom of expression for all, and representation of developing countries in the international community. To further create possibilities for developing countries to actively participate in international and regional activities and to appropriately increase developing countries' right to vote and their roles in international and regional organizations. Second, it is necessary to improve the negotiation ability, communication skills, and decision-making ability to participate in international developmental affairs. Personnel training must be provided for developing countries or there should be direct hiring of high-level experts as representatives to attend bilateral or multilateral negotiations. Third, it is necessary to enhance the capacity to participate in international rule-making. This involves enhancing the sense of participation and improving the skills of participation. It is essential to ensure that the participants have specialized skills, analytical skills and creative thinking to make formal and high-quality decisions and suggestions.

6. Institution: We need to strengthen the institution building capacity of developing countries through international cooperation and international experience. "A human rights-based analysis may reveal capacity gaps in legislation, institutions, policies and voice".<sup>54</sup> Based on the principle of respecting national sovereignty and non-interference in internal affairs, States could share their governance experience by cooperation to help countries to improve their governance structures, institutional norms, and developmental capacity. All these could help countries adopt/amend legislations which accord with the DRTD and other instruments relating to RTD. Institutional reforms can help enhance capacities for budget analysis and for better governance. Drawing on the RtD, such cooperation for institution building can also help ensure that policy reforms are more in accord with the SDGs and that the capacity for people to participate in public decision-making is enhanced.

7. Implementation: Improving the capacities for statistics, monitoring and implementation are irreplaceable components of capacity building. Thus, Target 17.18 of the 2030 Agenda aims for

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<sup>54</sup> United Nations, *Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation*, (New York and Geneva: United Nations, 2006), pp. 27–28.

the following: “By 2020, enhance capacity-building support to developing countries, including for least developed countries and small island developing states, to increase significantly the availability of high-quality, timely and reliable data disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts”.<sup>55</sup> Similarly, Target 17.9 seeks the following: “By 2030, build on existing initiatives to develop measurements of progress on sustainable development that complement gross domestic product, and support statistical capacity building in developing countries”.<sup>56</sup> At the operational level, it is necessary to establish a framework for global indicators, in order to help developing countries strengthen their national statistical capacity, capacity to use statistics for realizing the SDGs (including through public-private cooperation), coordination capacity, execution capacity, and accountability capacity. All these aforementioned capacities are embodied in what could be called as the “implementation capacity”, which ensures that legislation, policies, action plans, and programmes on the RtD could be put into practice effectively and efficiently.

Scientifically reviewing and monitoring the achievements of capacity building is a precondition to cultivating supervision capacity. According to this author, this work could be carried out through five aspects:

1. Adaptability: The implementation of a capacity-building project is influenced by its consistency with the natural, social and economic situations of recipients. This explains why one project which is carried out well in one State may totally fail in another.
2. Implementation: This means to invest human, material and financial resources on capacity building, such as through hiring trainers, training, and renting training facilities and sites.
3. Outcome: This could be measured from the numbers and the percentages of participants and beneficiaries who are actually involved in a project. For example, the numbers of students and schools involved in an education aid project, the percentage of individuals receiving compulsory education, and the rate of dropouts among female children.
4. Impact: This means the immediate and subsequent influences brought by the projects to local economic and social development.
5. Sustainability: Capacity building should be seen from the lens of sustainability as well. Indeed, capacity building has been defined as “the ability of a technical aid programme to enable beneficiary countries to perform and sustain targeted functions on their own as a direct result of that programme”.<sup>57</sup> In this way, even when a project is terminated, the beneficiaries can still further develop themselves through the capacity they receive from the project. Only in this way, can we say that these beneficiary countries' capacity is actually built.

Finally, it is necessary to clarify that all the five dimensions mentioned above must work together to evaluate the achievements of capacity building, as it is impossible to isolate one from the others.

## **Conclusion**

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<sup>55</sup> A/RES/70/1, SDG 17, Target 17.8.

<sup>56</sup> Ibid, Target 17.9.

<sup>57</sup> United Nations Conference on Trade and Development (UNCTAD), *Evaluation of Capacity Building in UNCTAD's Technical Cooperation Activities*, TD/B/WP/155, 12 July 2002.

To conclude, it is evident that the SDGs cannot be implemented or realized successfully by States, especially developing countries, on their own without international cooperation. SDG 17 establishes the policy framework for identifying and operationalizing the “means of implementation” of the entire 2030 Agenda. This includes a focus on aid (including finance), technology transfer, as well as capacity building, all of which have been addressed in this Chapter. However, it is equally true that the SDGs will remain unfulfilled if international cooperation in the aforesaid domains is considered as a charity and not as a duty on all States. It is here that the DRTD builds on the UN Charter and provides the normative framework for international cooperation to be considered as a duty on all States so as to realize the RtD of all individuals and peoples. Furthermore, such international cooperation cannot be engaged in solely to promote the interests of the donors, but to predominantly serve the priorities and needs identified by the recipients. Unless the RtD is thus operationalized in the implementation of SDG 17 and the other “means of implementation” targets in the 2030 Agenda, success in realizing them appears unlikely.