A consultancy study on the contribution of development to the enjoyment of human rights (A/HRC/RES/41/19, para. 13)

# Please share your views on the contribution of development in promoting and protecting human rights, including its context, concept, specific aspects and means of implementation. Contribution of Development to:

## Civil and political rights.

More than two-thirds of WTO members are classified as developing countries, thus putting development at the center of WTO’s work. In fact, included in WTO agreements are provisions that in one way or the other facilitates the continuous economic development of members. In the WTO, members have continued to discuss ways improve the development outcomes for developing countries’ integration into the multilateral trading system. While members have obligations under the various agreements of the WTO towards trade liberalization, there exist provisions that helps developing countries to cushion the effects of liberalization known as the special and differential treatment (SDT).

On the civil and political rights aspects of the right to development, flexibility of commitments, of action, and use of policy instruments to allow for members to meet their respective legitimate policy objectives embodies part of the WTO’s effort in realizing the right to development. The exercise of these inherent flexibilities in the WTO agreements recognizes the civil and political rights of members. There are 44 S&D provisions across all the WTO agreements that deals with flexibility of commitments, of action, and use of policy instruments in the implementation of those agreements. The Agreement on Agriculture alongside the Agreement on Subsidies and Countervailing Measures both having the most provisions (9 and 10 respectively) concerning the flexibility of commitments. The allowance of these flexibilities recognizes the peculiarities of members domestic policy realities in furtherance of their respective political interests.

## Economic, Social and Cultural rights.

As mentioned earlier, WTO members through the agreements recognize the link between trade and development and considers it integral. From the Doha Development Agenda, the Hong Kong Ministerial Declaration of 2005, to the Bali Ministerial Conference in 2013, members have placed development at the heart of WTO’s work.

Again, the S&D provision of the WTO agreements is the primary means the WTO uses to ensure a level playing field between developed and developing countries. Access to new and larger markets for producers especially in developing countries allows for increased income and improved standard of living for citizens. Increasing the share of trade of developing countries, especially LDCs is key to helping to realizes the right to development – even as the right to development encompasses the enjoyment of human rights. SDG 17.11 in fact, calls for the significant increase in the exports of developing countries. Meeting SDG 17 requires reducing the global trade imbalances that SDG 10 in reducing inequality hopes to address.

Also contained in WTO agreements are other types of S&D provisions such as those aimed at increasing trade opportunities of developing country members, provisions under which WTO members are asked to protect the interest of developing country members, Technical assistance alongside specific provisions on issues relating to Least Developed Countries (LDC) members. Across these agreements, there are 15 provisions that are expected to help increase trading opportunities for developing countries members, 47 provisions that call on members to be cognizant and safeguard the interests of developing countries members.).

The WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) supports the realization of social and cultural rights especially the tradable aspects. The TRIPS agreement plays a critical role in facilitating trade in knowledge and creativity, as well as resolving disputes that might arise from those trades. The agreement also contains S&D provisions that afford developing country members necessary flexibilities to meet their legitimate innovation policy objectives.

Undoubtedly, further integration into the Multilateral Trading System by developing country members of the WTO will help to ensure faster economic development that would allow for the fulfillment of the development and human right aspirations of their respective citizenry.

## The right to peace, the right to development, environmental and digital rights.

It is not far-fetched to assume that with peace comes the atmosphere for sustained economic growth. Consequently, peace engenders economic development to some degree. The achievement of the most fundamental economic development such as access to education, shelter, healthcare, and food frees up the fiscal and policy space to promote environmental and digital rights even as governments should seek to entrench these rights simultaneously.

The WTO’s work indirectly contributes to the right to peace, as the predictability the WTO principles bring to global trade ensures minimal trade frictions among members. And where there are disagreements, the WTO’s Dispute Settlement mechanism is reputed to be one of the jewels of international arbitration notwithstanding its current challenges. More so, the interdependence among nations that globalization has thus far facilitated has made full-blown conflict among trading partners less common. More than half of the countries currently in the process of acceding to the WTO are Fragile and Conflict Affected (FCA). They have chosen to join WTO as they are cognizant that it offers a pathway to economic growth and development, which is essential to the sustenance of their peace and security.

Sustainable development and the protection and preservation of the environment are fundamental goals of the WTO as they are enshrined in the Marrakesh Agreement establishing the WTO. Even though there is no specific agreement within the WTO framework that deals with the environment; members are allowed to institute measures that allow them to further their environmental objectives so long as those measures do not constitute an arbitrary and unjustified barrier to international trade. Currently, some WTO members are negotiating an Environmental Goods Agreement which aims to eliminate tariffs on several environment-related products. The WTO secretariat is also mandated to cooperate with a number of implementing bodies for various Multilateral Environmental Agreements (MEAs). In 2020, the WTO organized a Trade and Environment Week, which explored issues paramount to the trade and environment agenda; showcased successful experiences on how to make global trade more sustainable, resilient, and inclusive; and facilitated the exchange of views on the role of trade and the WTO in building back a greener and better global economy post COVID-19 crisis.

The issue of e-Commerce and narrowing the digital divide is currently being discussed under both the Work Programme on Electronic Commerce and the Joint Statement Initiative (JSI) on e-Commerce. Discussions under the JSI also cover some topics that are more relevant to the issue of digital rights including among others, market access for electronic goods and services, privacy, consumer protection, access to the internet, electronic authentication and electronic signatures, flow of information, transparency, and cyber security.

# How to ensure that development contributes to promoting and protecting human rights? (The principles, strategies, policies and laws, action plans and programmes of development, what contents are important and what responsibilities should be taken into account)

## At the international level

If we agree unequivocally that trade is integral to economic development, and that development enhances the enjoyment of human rights – then it follows, although indirectly, that trade has a role to play in the advancement and enjoyment of human rights of citizens.

Just as the WTO is not an environmental agency, but its work can contribute to the conservation of the environment through effective and supportive trade policies; the same can be said of the WTO when it comes to the advancement of human rights among its members. Increasingly, WTO members especially developed countries are integrating respect for human rights into their various trade agreements. Thus, as liberalization engenders economic development through trading arrangements, citizens of members, are increasingly able to meet their basic needs, and are better empowered to enjoy their fundamental human rights.

The rules-based multilateral trading system is based on principles of non-discrimination, transparency and respect for due process, that are very similar to those on which human rights are based. This is meant to promote predictability for trading relations among governments to allow individuals to trade and dedicate themselves to the pursuit of economic activity. WTO members, in instituting any measure affecting trade must ensure that such measure is not arbitrary, and mechanisms should be in place for judicial review. Even as there are exceptions to obligations for members states to enable them to fulfil their respective legitimate policy objectives.

Also noteworthy is acknowledging how the existing development-oriented frameworks within the WTO contribute to the enjoyment of the right to development and in extension the enjoyment of human rights by the citizenry. The S&D provisions of the WTO agreements act as mechanisms that accelerate LDCs and developing country members integration into the multilateral trading system which helps their respective economic development, as well as balance their obligations in the WTO. Ultimately, helping Developing countries grow economically increases their citizens’ ability to enjoy all human rights.

## At the national level

Often, Human rights advocates are typically focused on issues of governance, and justice sector reform. However, since the right to development is key to the enjoyment of all human rights, more emphasis should be placed on economic development advocacy. Human rights advocates alongside the civil society should play a more robust role by participating in the development and formulation of trade policy at the domestic level. By ensuring that the welfare of people (citizens) is at the center of trade policy formulation at the national level. This engagement will allow for human right advocates to gain a better understanding of trade policy issues while trade policymakers will gain an enhanced understanding of human rights from a development perspective.

## Through global and regional partnerships, civic space and engagement

Just as economic development cannot be achieved in isolation, achieving the enjoyment of human rights can equally not be realized in isolation. International cooperation and of course, civic engagement are therefore critical. The existence of the WTO itself is a testament to the importance of international cooperation. The WTO takes its role in implementing parts of the Sustainable Development Goals (SDGs) seriously. Its engagement is demonstrated in its collaboration with the various United Nations (UN) bodies charged with implementing the goals. The WTO participates in the UN High-Level Political Forum (HLPF), where it reports on its efforts to achieve trade-specific targets of the SDGs. WTO together with UNCTAD and ITC recently launched to the SDG Trade Monitor (SDGtrade.org) to provide an extensive repository of trade indicators that can allow policy makers and researches to explore the manifold synergies between trade and the SDGs.

The WTO’s annual public forum could also serve as an avenue where civic engagement around the intersections between trade and human right can be discussed and championed. The increased awareness from such interactions will allow for possible concrete actions that will further contribute to measures geared towards the enjoyment of human rights by members’ citizenry.

# Please share any concrete examples of best practices of contribution of development to the enjoyment of human rights. Challenges, obstacles, lessons learned and experience with regard to principles, strategies, law and policies, actions plans and programmes, the role of communities, organizations, and individuals and/or other stakeholders.

Developing countries face unique difficulties in fully integrating into the MTS. Therefore, it is essential to strengthen their capacity to be able to do so. Developing countries who have been able to plug-in into the global economy have generally been those who have made progress in alleviating poverty and raised income standards. The WTO assists in building trade capacity of developing countries through various technical assistance programs. Independently, the WTO offers training to officials from developing countries especially LDCs officials to help officials better understand the complex rule book of the WTO. This enhanced capacity empowers members to fully be cognizant of their rights and obligations under the many WTO agreements, thus consistently enjoying their civil and political rights as they continue to develop.

Of course, there are other forms of trade capacity building, particularly those that help to strengthen the productive capacities of countries. This capacity building is usually delivered in collaboration with international partners. At the heart of WTO’s assistance to developing countries are the Aid for Trade (AfT) initiative, the Enhanced Integrated Framework (EIF), the trade Facilitation Agreement Facility (TFAF) and Standards and Trade Development Facility (STDF).

The AfT initiative was launched in 2005 at the Hong Kong Ministerial Conference. The AfT initiative encourages developing country members and donors to recognize the role that trade can play in development, and it seeks to mobilize resources to address the trade-related constraints identified by developing and least-developing countries. The WTO’s role in the implementation of the AfT initiative is to continue to encourage additional flows of aid from bilateral, regional, and multilateral donors to support request for capacity building from beneficiary countries; support improved ways of monitoring and evaluating the initiative; and encourage mainstreaming of trade into the national development strategies by partner countries.

The EIF is LDC focused – it helps to bridge the gap between demand and supply for Aid for Trade and to mainstream trade into national development plans. As such, the EIF is the primary mechanism through which LDCs can access more AfT resources. The EIF assist LDCs in mapping-out and prioritizing key needs for trade-related capacity building, including trade infrastructure, supply and productive capacity, submitting these demands to the donor community for accessing funding beyond those available in the EIF’s own fund. It is important to note that predictable, sustainable and effective financing is fundamental for fulfilling the AfT mandate and the EIF provided LDCs with the platform for leveraging additional funding from their development partner. Part of the EIF’s fund primarily helps LDCs with project preparation, feasibility studies and funding of smaller projects, including see projects.

The TFAF was created at the request of developing and least-developed country (LDC) Members to help ensure that they receive the assistance they need to reap the full benefits of the Trade Facilitation Agreement, and to support the ultimate goal of full implementation of this new Agreement by all Members. The TFAF supports Developing and LDC Members in assessing their specific needs and to identify possible development partners to help them meet those needs through a diverse number of activities.

The STDF’s objective is to increase the capacity of developing countries to implement international SPS standards, guidelines and recommendations and hence ability to gain and maintain market access. The STDF is a demonstration of international collaboration between the Food and Agriculture Organization of the UN (FAO), the World Organization for Animal Health (OIE), World Bank Group, World Health Organization (WHO) and World Trade Organization (WTO). These agencies partner with several other organization and donors to help achieve its objectives. With enhanced standards (SPS) capacity by developing countries, not only will their respective market access improve but also market entry as more companies from developing countries will be able to meet the SPS requirements needed for entry into advanced markets. This capacity improvement summarily enhances the economic development of members.

# Are there any other aspects relating to the contribution of development to the enjoyment of all human rights for all that you would recommend for the study to focus on?

The WTO recognizes that trade plays an important role in driving women’s economic empowerment. As such, if trade is made more inclusive, more women will participate in trade to reap the economic benefits of the MTS. The understanding that the right to development helps to achieve the enjoyment of all human rights effectively indicates that women must not be left behind in trade inclusivity. Economic evidence shows that giving women the opportunities as men enhances a country’s competitiveness and productivity – this invariably improves economic growth and reduces overall poverty.

In 2017, the WTO launched the Buenos Aires Declaration on Trade and Women’s economic empowerment, which is aimed at increasing the participation of women in trade. Currently, the WTO has nominated a Trade and Gender Focal Point tasked with coordinating work among divisions, taking stock of the WTO’s work on trade and gender. The Focal Point will also focus on raising the awareness on the link between trade and gender, facilitating WTO members’ action on trade and gender, and providing training to government officials and women entrepreneurs in a bid to further include them in the MTS.

The snowball effect of women empowerment on society cannot be over emphasized, especially towards increasing living standards for all. Equally, there cannot be enjoyment of all human rights without the achievement of the right to development of half of the global population. All efforts at economic development must have inclusivity at its center.

#  If you have differing views on the contribution of development to the enjoyment of all human rights for all, please explain and provide examples if possible.