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## Third Committee

### Summary record of the 24th meeting

Held at Headquarters, New York, on Thursday, 20 October 2016, at 3 p.m.

*Chair:* Ms. Mejía Vélez (Chair) ..... (Colombia)

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*The meeting was called to order at 3 p.m.*

**Agenda item 68: Promotion and protection of human rights** (*continued*) (A/71/40 and A/C.3/71/4)

**(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms** (*continued*) (A/71/56, A/71/254,

A/71/255, A/71/269, A/71/271, A/71/273, A/71/278, A/71/279, A/71/280, A/71/281, A/71/282, A/71/284, A/71/285, A/71/286, A/71/287, A/71/291, A/71/299, A/71/302, A/71/303, A/71/304, A/71/305, A/71/310, A/71/314, A/71/317, A/71/319, A/71/332, A/71/344, A/71/344/Corr.1, A/71/348, A/71/358, A/71/367, A/71/368, A/71/369, A/71/372, A/71/373, A/71/384, A/71/385 and A/71/405)

**(c) Human rights situations and reports of special rapporteurs and representatives** (*continued*)

(A/71/379-S/2016/788, A/71/540-S/2016/839, A/71/308, A/71/361, A/71/374, A/71/394, A/71/402, A/71/418, A/71/439 and A/71/554)

1. **Mr. Akram** (Chair-Rapporteur of the Working Group on the Right to Development) said that the Working Group's seventeenth session in 2016 had been the first since the adoption of the 2030 Agenda for Sustainable Development. Presentations during the session had underscored the intrinsic link between the 2030 Agenda and the right to development. The ensuing discussions had focused on the importance of engaging with mechanisms entrusted with the follow-up and review of the 2030 Agenda.

2. The Working Group had commenced a second reading of the text on right to development criteria and corresponding operational subcriteria. Although there had been some agreement, positions diverged considerably on most of the text. The Working Group had made a recommendation, which had been endorsed, that the Human Rights Council should mandate the continued consideration of the draft text with a view to finalizing it as soon as possible, preferably before its nineteenth session. The text should be realized within the framework of a comprehensive and coherent set of standards on the implementation of the right to development.

3. The Working Group had considered a report identifying standards for the implementation of the right to development, for the purpose of breaking the deadlock on the language to be used with regard to the right to development. The standards were intended for use as a road map or framework for action and formulated in language that would remain non-controversial and garner the broadest possible endorsement. The Council took note of the standards as a useful basis for further deliberations on the implementation and realization of the right to development.

4. The Human Rights Council had subsequently requested the Working Group to study States' contributions to the right to development at the national, regional and international levels and requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to facilitate the participation of experts at its eighteenth session as a way of enriching the discussions. For the Working Group to remain relevant, it should engage with the global development agenda and its follow-up mechanisms.

5. The Council had also decided to appoint a Special Rapporteur on the right to development for a period of three years. The Special Rapporteur would be mandated to boost promotion, protection and fulfilment of the right to development in the context of the implementation of the 2030 Agenda and other internationally agreed outcomes of 2015; support efforts to mainstream the right to development among United Nations bodies, development agencies, international development, financial and trade institutions; submit proposals for strengthening the global partnership for sustainable development from the perspective of the right to development; help the Working Group achieve its overall mandate; and submit any studies requested by the Human Rights Council. The modalities for the collaboration between the Working Group and the Special Rapporteur had not been developed yet but would be addressed at the next session of the Working Group.

6. **Ms. Rodriguez** (Bolivarian Republic of Venezuela), speaking on behalf of the Non-Aligned Movement, said that three decades ago, with the adoption of the Declaration on the Right to Development, the Member States of the United Nations had agreed that the right to development was an

inalienable human right and had recognized that it implied the full realization of the right to self-determination and sovereignty over natural wealth and resources. States had the right to formulate appropriate national development policies aimed at improvement of the well-being of their populations and of all individuals, on the basis of their active, free and meaningful participation in development and in the fair distribution of the benefits arising from development. At the seventeenth Summit of the Non-Aligned Movement held in September 2016 in Venezuela, heads of State and Government of the Non-Aligned Movement had highlighted the historical significance of the adoption of the Declaration of the Right to Development, which the Movement had promoted.

7. **Mr. Yao** Shaojun (China) said that the right to development was ultimately about improving quality of life, safeguarding human dignity and enabling the pursuit of human value, thereby protecting human rights. The right to development was an inalienable and universal human right reaffirmed in the 2030 Agenda for Sustainable Development. However, that right had not been fully implemented, and intensified efforts on the part of the international community were urgently needed. Comprehensive and coordinated development must be promoted to implement the 2030 Agenda and efforts should be made to ensure that all individuals would benefit. The voices of developing countries should be raised in global governance.

8. China actively participated in the work of the Working Group. It welcomed the designation of a special rapporteur on development by the Human Rights Council and expected that all countries would support the Working Group and the Special Rapporteur. China also called on the Office of the High Commissioner for Human Rights to prioritize the right to development and mainstream that right across the United Nations system.

9. **Mr. Ceballos** (Cuba) said that the bilateral and regional cooperation and integration successfully implemented by the Bolivarian Alliance for the Peoples of Our America (ALBA) should be emulated in efforts to fulfil the right to development. The developed countries should live up to their official development assistance commitments by providing additional, predictable and sufficient financial resources. They should step up their capacity-building and technology

transfers. The most advanced economies should not impose restrictions on exports from poor countries. A solution must be found to the problems and suffering of the billions of people living in poverty and underdevelopment. Those problems existed even within the most advanced industrialized countries. With the political will of all, in particular the developed countries, and with relatively limited resources, much could be done to advance the right to development of billions of persons worldwide.

10. **Ms. Karimdoost** (Islamic Republic of Iran) said that all countries should cooperate to create the political, economic and social environment necessary to enable implementation of the right to development. The Working Group should continue to consider the draft criteria and optional subcriteria on the right to development with a view to finalizing those texts as expeditiously as possible. Iran believed that the initial discussion that had taken place during the seventeenth session of the Working Group in 2016 on standards and proposals by Member States would provide a basis for the creation of international standards and would set the groundwork for a convention on the right to development.

11. **Mr. Forax** (Observer for the European Union) said that his delegation was fully committed to a rights-based approach to development, and that it was not in favour of the elaboration of an international legal standard of a binding nature, as that was not the appropriate mechanism for realizing the right to development. The 2030 Agenda for Sustainable Development had marked a paradigm shift towards a balanced model for sustainable development that recognized the need to build peaceful, just and inclusive societies based on good governance and transparent institutions. He asked to hear more about the ways in which the Working Group could contribute to the implementation of the 2030 Agenda and what conclusions had been drawn from the discussions that had taken place at the high-level segment of the General Assembly to commemorate the thirtieth anniversary of the Declaration on the Right to Development.

12. **Ms. Arshad** (Pakistan) said that the adoption of the Declaration by the General Assembly thirty years earlier had been a landmark achievement, helping to transform the development narrative that had for too

long been focused on trends and statistics as opposed to the well-being of people. However, despite universal acceptance of the right to development in 1993 in Vienna, it was still contested. She therefore asked for more information on efforts the Working Group had made to formulate a set of standards for the implementation of that right.

13. **Ms. Moutchou** (Morocco) said that during the recent session of the Working Group, in Geneva, it had discussed implementation of the right to development as well as related indicators and criteria. Although Morocco regretted the continuing impasse within the Working Group, it was encouraged by the efforts of its Chair to find middle ground and foster compromise.

14. She asked how the international community could improve and renew certain aspects of the right to development in order to enable all States to pursue their interests and reinvigorate the universal implementation of that right. Furthermore, she wondered how human rights mechanisms could be improved so as to contribute to the realization of the right to development. Finally, she asked how challenges surrounding awareness of the right to development as an independent right could be overcome.

15. **Ms. Benghu** (South Africa) said that the mandate of the Working Group, which was to review progress made in the promotion and implementation of the right to development as elaborated in the Declaration, required commitment from the international community. However, South Africa was deeply concerned at the interpretation of the mandate of the Working Group and in the intention of the Declaration. The insistence on pursuit of a human rights-based approach to development had presented obstacles to the realization of the right to development and had deepened divisions that manifested along regional lines in the United Nations human rights system. That perspective, espoused by developed countries in the global North, was placed as a condition for development cooperation, in contradiction with the spirit of the Declaration and the Charter of the United Nations. South Africa therefore called for the formulation of a convention on the right to development as a step toward ensuring the equal treatment of human rights including the right to development.

16. **Mr. Said** (Eritrea) said that three decades after the adoption of the Declaration, there was still much to be desired with respect to the right to development. Efforts to eliminate obstacles to the full realization of that right should include reform of the global financial and trade architecture and removal of all unjustified and politically motivated sanctions; international peace efforts based on respect for international law and the United Nations Charter; achievement of the internationally agreed development goals and respect for the right of peoples to chart their own political and economic paths.

17. **Mr. Jha** (India) said that new energy and purpose needed to be infused into the Working Group's deliberations, and India supported proposals on new ways to take Working Group deliberations to the next level. The establishment of a new special procedure mandate holder on the right to development would be a good way to acknowledge the importance of that right, and the fresh perspective that a Special Rapporteur could bring would complement the Working Group. He encouraged the Chair-Rapporteur to share his ideas on how the relationship between the Working Group and the Special Rapporteur could contribute to the realization of that important right.

18. **Mr. Akram** (Chair-Rapporteur of the Working Group on the Right to Development) said that the preceding discussion had showed that there were divergent views on the essence of the Declaration and the work of the Working Group. Promotion of the right to development required political will and cooperation on the part of Member States. Everyone was aware of the major obstacles to implementation, some of which were ideological, revolving around questions about whether the right to development was an individual or collective right, or whether it was a national or international responsibility. There were other obstacles as well, such as racism, sexism, inequality and violent conflict.

19. As Chair of the Working Group, he looked for common ground but was pragmatic enough to realize that there were no immediate solutions to fundamental issues. In the meantime there was a responsibility to address the most important human rights issues, such as those related to extreme poverty and hunger, housing and environmental issues. Urgent attention should be given to those problems while resisting the

temptation to become caught up in the ideological gap that had regrettably been a feature of the Working Group.

20. Turning to the question posed by the European Union, he said that the 2030 Agenda and the Declaration were convergent. As for how the Working Group could help promote the right to development, the Working Group needed to interact with the mechanisms of the 2030 Agenda implementation effort; greater coordination and interaction would have a salutary effect. Regarding the conclusions to be drawn from the high-level segment, there had been recognition that the 2030 Agenda had provided an historic opportunity for the international community to exercise the right to development.

21. Improvement and renewal of the exercise of the right to development depended on the political will of all stakeholders to help the Human Rights Council overcome any obstacles to its enjoyment. With respect to the improvement of mechanisms, a special rapporteur would have an important role to play as an individual who could provide independent and transparent support to the process.

22. The question on how to build awareness was a particularly important one. The previous afternoon, there had been a side event on the right to development; he noted that there had been very low participation on the part of Member States, demonstrating the tremendous need to build awareness, which was the responsibility of Member States and the Secretariat.

23. Regarding how the Chair of the Working Group and the Special Rapporteur could work together, while the Chair was responsible for coordinating the work of the Working Group and facilitating consensus among its members, a Special Rapporteur could bring an independent perspective which could promote the right to development within the Third Committee by putting forward fresh ideas.

24. **Mr. Sulyandziga** (Chair of the United Nations Working Group on the issue of human rights and transnational corporations and other business enterprises) said that his report (A/71/291) proposed a practical framework, based on existing State practice, to enable Governments to manage ownership in compliance with their human rights obligations. It also examined

application of the Guiding Principles on Business and Human Rights (A/HRC/17/31) to agri-business operations with special reference to the high-risk palm oil and sugarcane sectors and to the impacts of such business operations on indigenous peoples and other local communities not categorized as indigenous but similarly impacted, such as tribal and forest-based peoples, traditional hunter-gatherers and small landholders. The consequences of such operations ranged from loss of land and property, irrespective of the ownership and tenure rights of the communities in question, to destruction of crops and housing, economic and physical displacement and the threat of food insecurity. He noted a failure to hold meaningful consultations with affected communities and lack of access to remedy.

25. A large body of international law was available, along with relevant guidelines, which recognized and clarified the rights of indigenous peoples and their right to tenure and to access to land and food. The issue was thus one of implementation of those well-recognized rights. The human rights risks associated with international investment agreements between home and host States, which protected investors against adverse State conduct, were increasingly recognized. A recent report by the Special Rapporteur on the rights of indigenous peoples (A/HRC/33/42) discussed the impacts of such agreements.

26. The absence of robust recognition and protection of community rights by States made it all the more important for businesses to exercise due diligence and take serious measures to prevent, mitigate and remedy negative impacts on communities. Thorough impact assessments were crucial, given the severity of the human rights risks. Financial institutions could play a role in upholding the rights of communities and contributing to more positive outcomes. When finances flowed freely without accountability, there was little incentive to respect rights and both affected communities and businesses trying to address the harm found themselves with little influence over the situation. Attention should also be paid to the responsibilities of commodity traders, since a change of policy and practice on their side could have major impacts, in particular in the sugar sector where only small numbers of traders were involved.

27. The report contained only a brief overview of the impacts faced by communities and the types of actions that States and business enterprises were expected to take to prevent, mitigate and address negative impacts. Further elaboration on each of the points would be required. The forthcoming United Nations annual Forum on Business and Human Rights would provide the opportunity to examine the duties and responsibilities of Governments and companies, respectively, as well as existing policies and tools, to address human rights abuses relating to agri-business operations. Some 2,000 stakeholders from Government, business, civil society and affected communities would be present.

28. **Ms. Anichina** (Russian Federation) said that her Government was currently developing a plan on public non-financial accounting which covered social responsibility and respect for human rights in all commercial companies, particularly those owned or partially owned by the State.

29. **Ms. Vydmantas** (United States of America), noting the existence of several inaccuracies in how the report reflected the work of the United States national contact point for the Organization for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises, said that, in July 2015, the United States National Contact Point had helped parties to a specific instance reach a successful mediated outcome around issues raised in the agriculture sector in Cameroon. Her Government worked extensively with developing countries on land tenure issues and was helping to implement the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, established by the Food and Agriculture Organization of the United Nations (FAO). The United States was currently deploying over \$700 million in over 25 different countries to implement many of the principles and practices outlined in the Voluntary Guidelines. Given the vibrant role that they could play, she asked for more detail on the implications of the Guidelines.

30. **Ms. Amarillas** (Mexico), referring to a recommendation in the report, asked what good practices had been identified among the measures adopted by companies to guarantee that international human rights standards were respected within their

supply chains. She also wished to know what role could be played by financial institutions to ensure that companies effectively complied with the principle of due diligence.

31. **Ms. Pittella** (Brazil) said that her Government did not agree that the sugar cane sector was a high risk one. As any agricultural sector, it had to follow international standards. Any initiative regarding the protection of human rights must be based on a sustainable development approach, which entailed optimizing the use of water and soil to avoid negative impacts on biodiversity, reducing deforestation, developing new sustainable technology and guaranteeing productivity gains. The International Labour Organization (ILO) Indigenous and Tribal Peoples Convention No. 169 of 1989 stated that where the relocation of indigenous peoples was considered necessary as an exceptional measure, Governments had the obligation to organize consultations, with a view to obtaining their free and informed consent. Where their consent could not be obtained, such relocation should take place only following appropriate procedures established by national laws and regulations, including public inquiries, where appropriate, which provided the opportunity for the effective representation of the peoples concerned. Bearing in mind the traditional sustainable agricultural practices of indigenous peoples and communities, initiatives for strengthening their local production should be developed, including access to credit, secure land tenure, health care, social service, education, training, knowledge and appropriate and affordable technology.

32. **Ms. Ortega Gutierrez** (Spain) said that national action plans served as mechanisms for implementation of the Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework endorsed by Human Rights Council resolution 17/4 and were the most suitable instrument for ensuring that corporations knew what the State expected of them in terms of respect for human rights and for providing them with guidance and assistance. The right to consultation and to free, prior and informed consent was well established with respect to indigenous peoples. As for the broader question of consultations with local communities, she would like to hear more on the considerations in the report on the legal basis for such consultations in international human rights law.

33. **Mr. Heinzer** (Switzerland) asked whether in 2017 the Working Group would seek to apply the Guiding Principles to the prevention of exploitation of migrant workers in supply chains. He would also welcome information on how the Working Group intended to promote and support regional discussions with a view to the preparation of national action plans and an assessment of global progress to date.

34. **Ms. Moutchou** (Morocco) said that corporate social responsibility and human rights were at the centre of public opinion in Morocco. In addition to the national legislative framework, which sought to ensure a balance between social equity, respect for human rights and economic viability, several awareness campaigns were being carried out both in public and in private with a view to providing a better understanding of the normative foundation of human rights in the business sector. The General Confederation of Moroccan Enterprises had adopted a charter which committed its members to act in favour of sustainable development and from the perspective of social responsibility. Her delegation took note of the call of the Working Group for the development of a national action plan to implement the Guiding Principles on Business and Human Rights. She requested further details on the Guiding Principles and on the implementation of the national action plan as envisaged by the Working Group.

35. **Ms. Bhenghu** (South Africa) said that, as drivers of globalization and holders of a large share of global worth, transnationals and other business enterprises had an enormous potential to improve the socioeconomic situation of the communities in which they operated and to ensure maximum production and the fulfilment of human rights for all. The United Nations Guiding Principles clearly highlighted the role of the State to protect, and of businesses to respect, human rights. It was a matter of great concern that the role of the State to protect was hindered by the limited capacity of the State, especially in developing countries, to enact, implement and enforce policies, regulation and adjudication. In some countries, transnational corporations continued to be so powerful and to wield so much political influence that they were above the law or stronger than the Government. Indeed, in some cases, their turnover far exceeded the national budget of the host country.

36. Of paramount importance in that regard were the continuing gross violations of the rights of indigenous people by transnationals on their lands, territories and resources and the total disregard of the principle of free, prior and informed consent. The ongoing plunder and pillage of their resources could not continue any longer and must be reversed. The notion of voluntary principles of corporate social responsibility had become moribund in contemporary international human rights law. Furthermore, growing, worrisome trends had been observed with companies exploiting the absence or weakness of legislation to maximize their profits. The Guiding Principles had no force of law and could not be used in litigation. Furthermore, they had not been negotiated at the intergovernmental level or adopted by the General Assembly. Non-State actors must be held accountable for their actions especially when those actions resulted in human rights violations.

37. **Mr. Torbergsen** (Norway) said that his country had recently signed the Amsterdam Declaration in Support of a Fully Sustainable Palm Oil Supply Chain by 2020. Support to indigenous peoples and other forest-dependent communities was vital for reducing emissions from forest and land use and his Government recognized that the rights and traditional knowledge of such peoples were important for the effective implementation of the Paris Agreement adopted by the Conference of the Parties to the United Nations Framework Convention on Climate Change. Norway shared the concern of the Working Group regarding insecure collective land tenure and agreed that donors should fund indigenous peoples' own conservation initiatives directly.

38. The National Contact Points of OECD worked to promote the OECD Guidelines for Multinational Enterprises through dialogue and mediation between parties with a view to resolving issues and reaching agreement on possible compensation and remedy. The OECD provided good guidance on stakeholder engagement in the extractive industries. The 2030 Agenda and the Sustainable Development Goals generated a sense of common purpose. The Goals provided exciting opportunities for the private sector to contribute through innovation and commitment. The Guiding Principles on Business and Human Rights lay at the very heart of the partnerships that would help to achieve those Goals.

39. **Mr. Forax** (Observer for the European Union) said that respect for human rights and the performance of proper human rights due diligence by corporations and supply chains were pivotal to the achievement of the Sustainable Development Goals. Socially responsible companies were key contributors to peaceful and inclusive societies and could have a sustained and large-scale impact on people's lives, especially those in need.

40. His delegation wished to know what trends and challenges the Working Group had identified when promoting understanding of the negative impact of business activities on human rights. Also, given the increasing number of attacks against defenders of land and environmental rights, he asked what measures had been taken by leading corporations to protect and facilitate their work.

41. **Mr. Wheeldon** (United Kingdom) said that his Government strongly supported the Guiding Principles as they provided a good framework for protecting workers and promoting human rights in the workplace across all sectors. The United Kingdom had implemented the Guiding Principles through a new action plan, updated that year, and was willing to share its experiences with other Member States. Although the Working Group's report focused exclusively on one sector, agro-industrial operations, he wondered whether it was better to implement the Guiding Principles on a sectoral basis or whether Government, businesses and civil society should take a broader approach.

42. **Ms. Karimdoost** (Islamic Republic of Iran) said that the Guiding Principles did not lay out the respective duties of host and home States clearly enough. Although the negotiation stage between a host State and an investor provided an excellent opportunity for identifying and mitigating the risks of human rights violations, developing countries — which were those most in need of foreign investment — often made unfavourable and unsustainable long-term agreements because they lacked the bargaining power enjoyed by more developed States. In some cases, corporations aggressively lobbied a Government to support regimes which treated them favourably. Some foreign investment treaties and negotiations gave corporations the opportunity to expand their operations in economically weaker countries at the expense of local businesses. Responsibility for human rights abuses

should lie not only with home countries but also with transnational corporations.

43. **Ms. Mballa Eyenga** (Cameroon) said that her delegation had been pleased to see that the report had addressed recommendations to specific actors, including host States, financial institutions and home States, and that concrete solutions had been proposed. Home States had a crucial role to play in upholding the human rights of local and indigenous populations. Her delegation wondered how the report's recommendations could be applied to other agro-industrial sectors and to foreign investment in general. The Special Rapporteur on the rights of indigenous peoples had conducted studies on the impact of foreign investment on indigenous peoples and those studies should be applied to all local populations. Her delegation would like to see closer cooperation between the Special Rapporteur and the Working Group.

44. **Mr. Sulyandziga** (Chair of the Working Group on the issue of human rights and transnational corporations and other business enterprises) said that numerous financial institutions had set up mechanisms to advance indigenous peoples' rights. The European Bank for Reconstruction and Development, in particular, had been the first international organization to include a chapter from the United Nations Declaration on the Rights of Indigenous Peoples in its policies, and other financial institutions had followed suit. As a result, any borrower who applied for a loan from those institutions could only receive investment if they observed indigenous peoples' rights. The commitment by Coca-Cola not to work with producers with unsettled land rights issues with indigenous peoples or local communities was a good example of a positive corporate initiative.

45. Although by no means all businessmen in the sugarcane and palm oil industries violated human rights, some slipped through the cracks. To reduce the number of human rights violations in those sectors, obligations would need to be made on paper and then delivered on in reality, as had occurred in the cocoa and coffee industries.

46. The monitoring of migrant workers had been one of the key themes at the Asia Regional Forum on Business and Human Rights, held in Qatar in April 2016. The Working Group would discuss migrant workers further at subsequent meetings. The Working



Group was mandated to hold a Forum on Business and Human Rights each year in Geneva. All questions which were not covered at the global forum were taken up in regional forums. Regional forums had been held in Latin America, Africa and Asia, while there were plans for a second Asian forum and an Eastern European forum.

47. The main priority of the Working Group was to coordinate the implementation of the Guiding Principles on Business and Human Rights. To that end, it had submitted a status report to the General Assembly. It had also prepared a handbook on the drafting of national plans of action. A third edition of the handbook, reflecting proposals by Governments, companies and civil society, was due to be published.

48. Protection of the victims of agro-industrial businesses was the Working Group's main priority. During its annual forums, it examined respect for human rights and access to justice within the context of various businesses and sectors. The panel at the 2016 Forum on Business and Human Rights would include Berta Cáceres, whose mother had been murdered for defending the rights of his people from business activities. The Special Rapporteur on the rights of indigenous peoples would also attend. The Working Group also worked closely with the Permanent Forum on Indigenous Issues and at meetings to coordinate work in common areas of interest, attended by all United Nations bodies connected with indigenous rights.

49. **Mr. de Zayas** (Independent Expert on the promotion of a democratic and equitable international order), introducing his fifth report to the General Assembly (A/71/286), said that trillions of dollars were needed to implement the 2030 Agenda and the Paris Agreement, and to tackle pandemics and natural and man-made disasters. At the same time, an estimated \$32 trillion was held offshore in secrecy jurisdictions. Governments lost huge sums every year through tax avoidance and evasion, and most perpetrators had hitherto enjoyed impunity.

50. As highlighted by his report, a human-rights-based approach to taxation and stricter measures against tax fraud, tax evasion and tax havens were urgently needed because a shortfall in tax revenue made it difficult for Governments to meet their human rights treaty obligations. Achieving a democratic and

equitable international order would require significant changes in the current economic and financial regime, including just taxation worldwide. Other experts were similarly concerned, including Jean Ziegler, member of the Human Rights Council Advisory Committee; Magdalena Sepulveda Carmona, the former Special Rapporteur on extreme poverty and human rights; and the Independent Expert on foreign debt, Juan Pablo Bohoslavsky.

51. The General Assembly and the next Secretary-General should take concerted action against individuals, speculators, hedge funds and transnational enterprises that skirted taxes and looted Governments. Corruption, bribery, tax fraud and tax evasion had a grave impact on human welfare and must be prosecuted national and internationally. The General Assembly should consider convening a world conference to establish a United Nations tax body and draft a convention that would make it possible to phase out tax havens, reduce tax competition among States and declare so-called "sweetheart deals" to be a form of illegitimate subsidy contrary to international *ordre public*.

52. Three serious challenges needed to be addressed. One was the collusion between banks, accounting firms and law firms in establishing phoney entities whose purpose was to hide wealth and avoid taxation. A second was the need to promote transparency and accountability and protect whistle-blowers. A third was the need to adopt a binding treaty on corporate social responsibility. Bearing in mind the enormous impact of taxation on human rights and the international order, he had formulated an action plan that focused on increasing financial transparency and compelling multinational companies to pay their fair share of tax.

53. **Ms. Arshad** (Pakistan) said that the report had cut to the very heart of the problem facing the achievement of a democratic and equitable international order. Illicit cross-border financial flows had been estimated at \$1.6 trillion per year; by contrast, official development assistance flows had amounted to only \$135 billion in 2015. In order to attract foreign investment, developing countries often had to sign lopsided bilateral investment treaties and agree to tax concessions, which resulted in the loss of \$240 billion in annual revenues. She wondered what action could be taken to combat secrecy jurisdictions in the absence of an overarching legal framework.

54. **Mr. Lyazidi** (Morocco) asked for more details regarding an international convention to reduce competition between fiscal jurisdictions. He would also like to hear more about the recommendation that a common United Nations norm should be adopted on the multilateral and automatic exchange of financial information.

55. **Mr. Tumbare** (Zimbabwe) said that addressing tax avoidance, tax evasion and tax havens was critical and could not be left to private actors since they usually benefited from the status quo. It was a global issue that required inclusive and meaningful cooperation. In its *Economic Development in Africa Report 2016*, the United Nations Conference on Trade and Development (UNCTAD) had highlighted that illicit financial flows from Africa could reach up to \$50 billion per year. It was estimated that Africa had lost about \$854 billion in illicit financial flows between 1970 and 2008, which corresponded to an average of \$22 billion per year. That sum was nearly equivalent to all the official development assistance received by Africa over the same time frame, and only a third of that amount would have been enough to cover its entire external debt, which had stood at \$279 billion in 2008.

56. Referring to the recommendation that UNCTAD should develop a strategy to protect the policy space of States in controlling capital flows, he would be glad to hear any thoughts on the shape such a strategy might take. He also asked how the growing inequalities within and between States could be curbed in the short term, given that vested interests had so far hindered any meaningful progress.

57. **Mr. de Zayas** (Independent Expert on the promotion of a democratic and equitable international order) said that countries should continue to support the special procedures. All the rapporteurs and independent experts were very enthusiastic about their mandates, and were disappointed when States did not engage with them or implement their recommendations.

58. Turning to the question from the representative of Pakistan, he said that \$20 billion was lost annually by developing countries owing to the existence of tax havens and the actions of transnational corporations and kleptocrats who took badly needed money out of countries and refused to pay tax on it. It would be impossible to reduce inequality, as was the aim of

Sustainable Development Goal 10, if nothing was done to change the existing structures that permitted money to be siphoned off that could have been used to implement human rights treaty obligations. Corruption also had a huge economic impact, especially on developing countries. Shocking statistics from the International Monetary Fund (IMF) had shown that bribery amounted to between \$1.5 and \$2 trillion annually and was dragging economies down and leaving Governments unable to provide adequate basic services. According to IMF, global debt currently stood at an estimated \$152 trillion, or 22.5 per cent of annual global output. That figure should be of concern to everyone in light of the recent financial crises and given that the 2030 Agenda could not be implemented if the money to do so was lacking.

59. He had proposed the creation of a United Nations intergovernmental body, but Governments could in the meantime adopt legislation, transparency rules and rules prohibiting profit shifting, which would reduce the attractiveness of tax havens. The well-known economist Jeffrey Sachs had said that tax havens did not just happen; they were a deliberate choice of Governments, especially the United Kingdom and the United States, acting in partnership with accounting and legal institutions. Over 300 leading economists had expressed the view that tax havens served no purpose at all and were nothing more than a means of avoiding taxation, which was *contra bonos mores* and should be taken seriously. If delegations wished him to do so, he would be happy to prepare a report on the principles of international order, which he would base on the Charter of the United Nations, General Assembly resolutions, general principles of law, not just on positivism and on a new functional paradigm of human rights based on cooperation, international solidarity and multilateralism.

60. There had been an attempt to restrict UNCTAD at the meeting in July 2016. Although UNCTAD had succeeded in maintaining its mandate, it had not managed to expand it. It would be desirable to endow it with greater powers so that it could more effectively support States in carrying out the necessary budgetary and fiscal reform. There was a relationship between sovereign debt and the difficulties States experienced in collecting the taxes they were due. Recommendations had already been formulated; the problem was the existence of vested interests. It was a regrettable fact of

life that Governments in a dominant position wished to hold on to it.

61. He would like to see all Governments make a concerted effort to abolish secrecy jurisdictions. Fulfilment of the commitments made by the international community would require trillions of dollars, yet Governments were actually increasing their military expenditure and their sovereign debt was rising. For 2017, the Human Rights Council had asked him to prepare a study on the impact of IMF and the World Bank and other financial institutions on the enjoyment of human rights and on the democratic and equitable international order.

62. Problems could not be solved by rhetoric alone, and enough diagnosis had been performed — it was time to take action. A binding legal instrument on corporate social responsibility that specifically prohibited profit shifting, the creation of shell companies and the use of secrecy jurisdictions would be extremely useful. The adoption of the Guiding Principles on Business and Human Rights had represented a great achievement, but implementation, which was voluntary, could be delayed by enterprises that feared it would lead to lower profits. Article 9 of the Guiding Principles stressed the importance of maintaining adequate domestic policy space in order to meet human rights obligations when pursuing business-related policy objectives. Referring to his 2015 report on investor-State dispute settlement and on the proposed investment court system, he said that no progress had been made and that lobbyists for transnational corporations did not seem to understand how the actions taken by business could have such a negative impact on individuals.

63. **The Chair**, recalling that a number of delegations had requested to exercise their right of reply during the 22nd meeting of the Committee, explained that the long-standing practice of the Committee had been not to entertain rights of reply in connection with interactive sessions. Notwithstanding any objections, she suggested allowing delegations to exercise their rights of reply for that session, with the understanding that the replies related exclusively to statements made by other Members States and were not in response to the presentation during the interactive session.

64. *It was so decided.*

65. **Mr. Kim Yong-ho** (Democratic People's Republic of Korea), speaking in exercise of the right of reply to remarks made by the representative of the Republic of Korea at the 22nd meeting of the Committee, said that it was not the place of the delegation of the Republic of Korea to speak about the human rights situation in any other country. In April 2016, the Associated Press and the *New York Post* had disclosed dreadful human rights violations against vagrants and persons with disabilities in the run-up to the 1988 Olympic Games in Seoul. In June, the Human Rights Council had condemned the Republic of Korea for the National Security Act, its failure to uncover the truth behind the Sewol ferry disaster and cases of child abuse. In April, women had been abducted from the Democratic People's Republic of Korea in a heinous act of terrorism. Authorities of the Republic of Korea had violated the women's human rights and core international human rights instruments by keeping them in isolation for seven months, barring them from speaking to the press and mistreating them, in an attempt to break their desire to return to their families. The Republic of Korea should repeal its notorious National Security Act, improve its human rights situation and return the abducted women to their families without delay.

66. In response to remarks by the representative of the Republic of Korea regarding the development of nuclear weapons in the Democratic People's Republic of Korea, he pointed out that it was the United States and its followers, such as the Republic of Korea, that had forced his country to develop nuclear weapons through its hostile policies and joint military exercises. The United States had openly stated that the aim of the exercises had been to bring about a change of regime. His country had been left with little choice but to defend its sovereignty and its people by developing nuclear weapons.

67. **Mr. Kang Sangwook** (Republic of Korea), speaking in exercise of the right of reply, said that he would not counter each of the groundless accusations made by the representative of the Democratic People's Republic of Korea, since the human rights record of that country spoke for itself. The female workers who had defected from the Democratic People's Republic of Korea had done so of their own free will. They had been admitted into the Republic of Korea on humanitarian grounds and now led a new life, enjoying

the same freedoms as other citizens in his country. He urged the delegation of the Democratic People's Republic of Korea to reflect on the fact that some 30,000 defectors now lived in the Republic of Korea and to heed the international community's request for an improvement of the human rights situation and compliance with relevant human rights instruments.

68. **Mr. Kim Yong-ho** (Democratic People's Republic of Korea) said that his delegation categorically rejected the stereotyped and politicized allegations by the Republic of Korea. If the women had defected of their own free will, why did South Korean authorities deny them the right to speak to the press? He strongly urged the Republic of Korea to discontinue its confrontational policy against his country and to allow the abducted women to return to their families immediately.

*The meeting rose at 5.40 p.m.*