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Partnerships between the United Nations and non-State actors, in particular the private sector: recent developments across the United Nations and possible implications for the Commission's work

Note by the Secretariat

1. The purpose of this note is to draw the Commission's attention to the Secretary-General's report to the fifty-eighth session (2003) of the General Assembly entitled "Enhanced cooperation between the United Nations and all relevant partners, in particular the private sector" (A/58/227)¹ and the General Assembly action on that report.

2. In his report (A/58/227), the Secretary-General reviewed recent developments with respect to partnerships between the United Nations and non-State actors;² concluded that partnerships, in innovative and diverse forms, became an integral part of many United Nations organizations, and that they had the potential to complement the Organization's efforts to achieve its objectives, while at the same time contributing to its renewal by introducing new methods of work;³ formulated proposals on how best to utilize the potential benefit of partnerships; and stressed the need for Governments and United Nations organizations to continue encouraging and supporting promising approaches and initiatives.⁴ The Secretary-General envisages establishing a new Partnership Office that would ensure a more coherent and systematic approach across the United Nations system to building partnerships between the United Nations and non-State actors.

* The delay in submission of this document was caused by the need to hold consultations within the Secretariat regarding its content.



3. In its resolution 58/129, adopted after consideration of the Secretary-General's report (A/58/227), the General Assembly encourages the relevant United Nations bodies and agencies, and invites the Bretton Woods institutions, as well as the World Trade Organization, to continue exploring the possible uses of partnerships to better implement their goals and programmes. It also gives policy guidance on the formulation of principles and approaches to govern those partnerships.⁵ In particular, they should be based on the United Nations purposes and principles, as set out in the Charter of the United Nations, and a common and systematic approach to partnerships should include the following principles: (i) common purpose; (ii) transparency; (iii) give no unfair advantages to any partner of the United Nations; (iv) mutual benefit and mutual respect; (v) accountability; (vi) respect for the modalities of the United Nations; (vii) balanced representation of relevant partners from developed and developing countries and countries with economies in transition; (viii) sectoral and geographic balance; and (ix) maintenance of the independence and neutrality of the United Nations system in general and the agencies in particular. The General Assembly also stresses that partnerships should be consistent with national laws, development strategies and plans, as well as the priorities of the countries in which the partnerships are implemented, and should be designed and implemented in a transparent and accountable manner. It calls upon all bodies within the United Nations system that engage in partnerships to ensure the integrity and independence of the Organization and to include information on partnerships in their regular reporting, as appropriate, on web sites and through other means.

4. The Commission has a long history of relationships with non-State actors. Relationships have generally been established for the purpose of engaging non-State actors in the formulation of its texts, in particular by inviting international non-governmental organizations to sessions of the Commission and its intergovernmental working groups, as well as promoting texts adopted by the Commission and offering technical assistance related to UNCITRAL texts. It has often been pointed out during that process that the participation of international non-governmental organizations in the deliberations of the Commission and its working groups was crucial for the quality and acceptance of the texts worked on by the Commission.

5. The need for more active engagement of non-State actors in the implementation of different aspects of the Commission's mandate was stressed by the Office of Internal Oversight Services (OIOS) in its report on the in-depth evaluation of legal affairs.⁶ OIOS recommended that to increase coordination with trade law organizations and ensure a concerted approach to common issues, the Commission's secretariat should meet annually with key organizations working on trade law issues to share information and workplans.⁷ It also recommended that the Commission's secretariat formulate a strategy to work jointly with funding agencies supporting trade-related programmes to increase the range and breadth of its technical assistance in the field of trade law reform to promote appreciation and use of UNCITRAL texts, as well as devise a strategy to enhance contributions to UNCITRAL trust funds and explore new funding from the private sector.⁸

6. As mentioned in the note by the Secretariat on training and technical assistance to the thirty-seventh session of the Commission (A/CN.9/560), the resources of UNCITRAL have recently been strengthened to enable the Secretariat

to carry out functions with respect to technical legislative assistance, dissemination of information on legal developments in the field of international trade law and to coordinate the work of international organizations active in the field of international trade effectively and in a timely fashion.⁹ Partnerships with non-State actors, including the private sector, may be relevant to the implementation of these functions, in particular for the development of jointly sponsored activities and as a source of funding and technical expertise. Furthermore, with its convening power, neutrality, integrity, expertise and ability to motivate State and non-State actors, the Commission may play an active role as a framework-provider and facilitator to promote existing partnerships, facilitate the building of new partnerships, especially between non-State actors of developed and developing countries, and serve as a focal point for discussions on partnerships that promote unification and modernization of international trade law. Other partnerships across the United Nations system, in particular those with networks and presence in different parts of the world, may also be relevant to the Commission's work. Among them, the Global Compact is emerging as an overall value framework for developing partnerships between the United Nations and the business community. Launched in July 2000 and encompassing five core United Nations agencies (ILO, UNEP, the Office of the United Nations High Commissioner for Human Rights, UNDP and UNIDO, with the association of other United Nations agencies), private companies worldwide, international trade unions, non-governmental organizations, and academic institutions, the Global Compact seeks to advance good corporate citizenship by integrating nine universally agreed principles in the areas of human rights, labour and environment into business activities through a range of activities and engagement mechanisms. The principles were selected on the basis of, firstly, having been developed through international intergovernmental agreements and, secondly, having operational and strategic relevance to the private sector. Under the selected principles in the area of human rights, business should: (i) support and respect the protection of internationally proclaimed human rights (*Principle 1*); and (ii) make sure not to be complicit in human rights abuses (*Principle 2*). Under the selected principles in the area of labour standards, business should uphold: (i) the freedom of association and the effective recognition of the right to collective bargaining (*Principle 3*); (ii) the elimination of all forms of forced and compulsory labour (*Principle 4*); (iii) the effective abolition of child labour (*Principle 5*); and (iv) the elimination of discrimination in respect of employment and occupation (*Principle 6*). The last three selected principles embrace the area of environment and provide that business should: (i) support a precautionary approach to environmental challenges (*Principle 7*); (ii) undertake initiatives to promote greater environmental responsibility (*Principle 8*); and (iii) encourage the development and diffusion of environmentally friendly technologies (*Principle 9*).¹⁰

7. The Commission may wish to discuss its working methods and those of its Secretariat in the context of the participation of non-State actors as observers in the sessions of the Commission and its working groups; in that connection the Commission may wish to recognize that such participation has been widely regarded as useful and that it has contributed to the quality and acceptance of the texts worked on by the Commission. In addition, the Commission may wish to consider the formation of partnerships with non-State actors in pursuing the expansion of the technical legislative assistance activities of the Commission. The Commission may also wish to draw the attention of State members and observers to the initiatives

across the United Nations that seek to assist private companies in pursuing socially responsible corporate governance. The Commission may recommend that State members and observers make these initiatives known to private enterprises in their own countries, and encourage the debate on global corporate responsibility at national and international levels.

Notes

- ¹ The report was submitted under agenda item entitled “Towards global partnerships” which was on the General Assembly agenda since its fifty-fifth session, in 2000. For the resolutions adopted under this agenda item, see A/RES/55/215, A/RES/56/76 and A/RES/58/129.
- ² The impetus for developing partnerships between the United Nations and non-State actors was the United Nations Millennium Declaration (General Assembly resolution 55/2), in which heads of State and Government, with the prospect of a more effective United Nations, resolved to give greater opportunities to the private sector, non-governmental organizations and civil society, in general, to contribute to the realization of the Organization’s goals and programmes (*ibid.*, para. 30).
- ³ For the earlier reports of the Secretary-General that discuss partnerships in the context of the Organization’s reform and renewal, see report of the Secretary-General “Renewing the United Nations: A Programme for Reform” (A/51/950), Action 17; report of the Secretary-General “We the peoples: the role of the United Nations in the twenty-first century” (A/54/2000), section VI.B; report of the Secretary-General “Cooperation between the United Nations and all relevant partners, in particular the private sector” (A/56/323); report of the Secretary-General “Strengthening of the United Nations: an agenda for further change” (A/57/387), section IV.C; and annual reports of the Secretary-General to the General Assembly on the work of the Organization (A/56/1(Supp), A/57/1(Supp) and A/58/1(Supp)).
- ⁴ A/58/227, summary.
- ⁵ Developing generic partnership tools and guidelines has been identified by the Secretary-General as one of the challenges ahead. Up to now, partnerships in general have been regulated by internal guidelines of United Nations entities based upon the special guidelines for cooperation between the United Nations and business community adopted by the Secretary-General in July 2000 (document A/56/323, annex III). A process of review of practical experience gained since the launch of the guidelines is under way to update the guidelines and ultimately improve the dynamics of partnerships, while securing the Organization’s security and independence. The review process is being conducted by a panel of a group of eminent persons assembled by the Secretary-General in February 2003. The panel has been entrusted with the review of past and current practices and preparation of a set of practical recommendations on how to make the interaction between the civil society and the United Nations more meaningful.
- ⁶ E/AC.51/2002/5.
- ⁷ *Ibid.*, recommendation 13.
- ⁸ *Ibid.*, recommendation 14.
- ⁹ A/CN.9/560, para. 4.
- ¹⁰ A/56/323, Appendix I.