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Declaration of Civil Society to UNCTAD XIV

1. We, over 400 organizations that participated in the Civil Society Forum of the fourteenth session of the United Nations Conference on Trade and Development (UNCTAD XIV), held in Nairobi from 15 to 17 July 2016, and its preparatory process, deliberated on the role of UNCTAD in the coming four years in the context of the panorama of international economic institutions, and adopted the following declaration.

2. With its focus on the interdependence of trade, finance, investment, macroeconomics and technology as they affect the growth and development prospects of developing countries, UNCTAD is uniquely positioned to contribute to the global achievement of the ambitious commitments made by all countries in 2015 in the Agenda 2030 for Sustainable Development, as well as the financing for development process (which the Third International Conference on Financing for Development in Addis Ababa continued in 2015), the Paris Agreement under the United Nations Framework Convention on Climate Change and the Tenth Ministerial Meeting of the World Trade Organization. However, to live up to its name and promises, its role must remain development-centred, oriented by South priorities and not subordinated to the liberalization goals of other institutions.


3. We considered the challenging times we witness in the global political economy. The ramifications of the 2008 global financial and economic crisis, the worst in the post-war period, still haunt the world. Economic performance remains sluggish in all regions, further reducing opportunities for addressing the material needs of the vast and growing majorities of the poor and vulnerable. The phenomenal levels of inequality among and within nations, linked to the very types of economic activity that led to the crisis, have grown even sharper in its aftermath and through the inequitable measures adopted by many Governments in response to the crisis.

4. Added to these are the escalating climate-related and humanitarian crises, and natural disasters arising from global systems of production and patterns of consumption, which threaten the very survival of humanity. Here too, it is impoverished and vulnerable peoples and countries – least responsible for climate change, least able to cope, who are owed a huge historical and ecological debt – that are suffering the worst impacts of climate change.

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5. These global challenges evidence the dynamics at the very core of the international economic system, and of the global order and policy regimes built thereupon. They also highlight the fundamental constraints to equitable and sustainable economic development across the world. In Africa, they have exposed the limited nature and shaky foundations of recent economic growth – based largely on rising prices in global demand for primary commodity exports – and the related Africa-rising optimism.

6. In far too many developing countries, neoliberal policies have served to reinforce the structures that their economies inherited from colonialism: dependence on the export of (a narrow basket of hardly processed) primary commodities; little or no domestic manufacturing industrial capacity; stagnation of the rural economy; wanton extraction of natural resources; and reliance on fossil fuel and other harmful energy systems. They remain vulnerable to external shocks while, internally, unremitting rural collapse continues to drive levels of urbanization unrelated to the expansion of economic opportunity and/or investment in social and economic infrastructure.

7. For the majority of people, especially for women and marginalized groups and communities, this has meant joblessness, precarious and degraded livelihoods, diminished opportunities for self-fulfilment, lack of access to essential services such as health and education, unsafe environments and damaged local ecosystems. At the same time, fabulous wealth continues to concentrate in the hands of narrow circles of national elites and global corporate forces that together dominate political processes and exercise control over economic resources. These extremes of inequality reflect and exacerbate pre-existing inequities and inequalities, including along the lines of class, gender, race, age, ethnic formations and other statuses; play havoc with bonds of social solidarity within and across national boundaries; and have driven conflict-laden tensions to the fore of societal interactions.

8. The specific developmental challenges that UNCTAD sought to address are still with us, and in some cases (such as the African region) have become more acute. These are the challenges posed by the structural imbalances of the global order characterized at one pole by a concentration of highly industrialized economies, and at the other pole by a mass of primary commodity export-dependent economies feeding the needs of the industrial economies. This system produces immense prosperity for some, while generating poverty, constraining the well-being of vast majorities in the developing world and intensifying environmental and climate crises.

The crucial role of UNCTAD

9. UNCTAD provides a critical institutional framework and a unique forum for taking up the challenges of equitable development, thanks to its make-up and orientation, its rich history of policy interventions on behalf of developing countries and the abiding relevance of the issues for which it was founded. The organization's foundational vision is as critical today as it was 50 years ago, when it was established as a platform for thought and action on broad issues of trade and development explicitly formulated around the challenges and perspectives of the vulnerable and marginalized majority of nations within the international system, and the people in them. Its foundational principles continue to drive the work of UNCTAD. Its values, understandings, perspectives and accumulated outcomes of 50 years form the critical point of departure upon which to build the work of UNCTAD for the coming period – to enable the organization to support developing countries in meeting the challenges of today.

10. Yet the high-quality contributions that UNCTAD has made have gone beyond the developing world. Arguably, all countries can benefit from expanded support to

the organization that was able to spot the last global financial crisis – which took its toll on the poor and vulnerable everywhere – before it happened, and that pushed issues such as inequality and sovereign debt restructuring onto the international development agenda. Indeed, who would not benefit from developing countries being on a better footing to face their development challenges and make their contribution to the global pledge of achieving the Sustainable Development Goals by 2030? Policy analysis, consensus-building and technical cooperation activities of UNCTAD are crucial to fulfilling this task. Moreover, UNCTAD has a unique role to play in analysing the compatibility of a range of investment, trade, debt, macroeconomic and financial policies that, without proper checking, risk undermining efforts to achieve the Sustainable Development Goals.

11. Paradoxically, however, the advanced industrial countries seek the exact opposite agenda for the future of UNCTAD. As is clear from the positions they have taken in the negotiations towards UNCTAD XIV, these countries continue with their project to curtail the ability of UNCTAD to provide independent and critical policy perspectives. If they succeed, UNCTAD will be undermined in its role of providing the much-needed corrective and balance to the chorus of positions that usually emanate from dominant players such as the International Monetary Fund, Organization for Economic Cooperation and Development, World Bank, World Trade Organization, and the like.

12. Instead, UNCTAD might end up as a pale reflection of these dominant frameworks and policies, with its task reduced essentially to supporting poorer countries in Africa and other parts of the world to implement and live within this dominant paradigm as best as they can. The foundational mission and role of UNCTAD could be silenced at the very time when it is most needed in global affairs.

General recommendations

13. It is absolutely critical to continue and strengthen the integrated approach of UNCTAD to the evolution and management of globalization and to the interdependence of trade, finance, investment and technology as they affect the growth and development prospects of developing countries. The same applies to the linkages between international trade and financial and macroeconomic issues, with particular emphasis on issues related to crisis management. Quite pertinent to this focus will be to strengthen its research on the financialization of commodity markets, and the consequences of financialization for commodity prices, commodity export revenues, taxes on commodity extraction and processing, and the use of such revenues and taxes for economic diversification for developing country members of UNCTAD. The United Nations would be failing its responsibility to the many countries that need this service if it does not take a more robust role in this regard.

14. Common but differentiated responsibilities and special and differential treatment are long-standing multilaterally-negotiated principles that recognize that developed and developing countries cannot be treated in the same manner because of their differing development and economic circumstances. Thus they have different levels of responsibility with respect to environmental degradation, climate change and sustainable development. Failing to take this into account would undermine the aspiration to promote universal advances in development and trade.

15. The UNCTAD XIV outcome document must give full support to the UNCTAD mandate on curbing tax evasion and avoidance, including in commodities markets and through investment policies. More broadly, the issue of changing international tax rules and closing loopholes that facilitate and enable international tax evasion and avoidance cannot just be dealt with by the Organization for Economic Cooperation and Development, which

excludes the vast majority of developing countries. It must be at the centre of a multilateral intergovernmental process under the auspices of the United Nations. As part of its contribution to curbing tax dodging internationally, UNCTAD must play a vital role in the development of a normative definition of illicit financial flows, in developing guidelines and building global consensus towards public country-by-country reporting and in providing policy support and capacity-building to enhance the involvement and cooperation of developing countries in addressing base erosion and profit shifting to safeguard their taxing rights. This would go a long way towards countries being able to sustain their own development needs, as would the establishment of an intergovernmental group of experts on global tax issues.

16. The mandate of UNCTAD to work on debt workout mechanisms and responsible lending and borrowing has been uniquely useful and its members should strengthen it, including by supporting further work on these issues at the level of the General Assembly of the United Nations. UNCTAD should follow up on and further enrich its conceptual work and support the implementation of responsible lending and borrowing practices in member States and monitor progress. UNCTAD should develop an alternative and development-oriented methodology on debt sustainability analysis and support national vulture funds legislation in line with the Addis Ababa Action Agenda. Moreover, it should take the lead in advancing recognition and understanding of the issue of illegitimate debts and decisive policies and actions to address it. It is important to restate the shared responsibility of creditors and debtors in achieving debt sustainability and addressing illegitimate debt. UNCTAD should support calls for government and independent citizen debt audits in both lender and borrower countries as important mechanisms for addressing debt sustainability and illegitimacy. The UNCTAD *Road Map and Guide to Sovereign Debt Workouts* should be made known to member States, in particular those in debt distress, and UNCTAD technical assistance should enable member States to conduct debt workout in line with the application of the principles and steps explained in the Road Map.

17. While a multilateral system of trade rules is preferable to a fragmented system, the rules must be fair and balanced, taking into account the various levels of development across the United Nations membership, rather than focused on trade liberalization or simply increasing trade flows. As an institution with a long history of helping developing countries to use trade for their development, UNCTAD must play an active role in assisting developing countries to advocate for a fair multilateral trading system, and special and differential treatment for all developing countries, addressing the imbalances in the current trade regime, particularly in agriculture and cotton. It is not new approaches that are needed but the fulfilment of the development mandate of the Doha Development Agenda. Yet we are concerned that UNCTAD may be transformed into solely an implementation mechanism for trade agreements concluded elsewhere. The further UNCTAD moves towards seeing developing countries mainly as engines to increase trade – thus deviating from its mission to support the use of trade for development – the more it risks redundancy and irrelevance.

18. Trade and investment agreements do not support development without the right policy environment, which necessitates policy space, an effective and developmental state able to sustain its own resource base responsible for safeguarding people's human rights, gender equality and a more coherent, inclusive and representative global architecture for sustainable development. Also required is more responsive, inclusive, participatory and representative international decision-making through effective, accountable and inclusive international institutions, with broader and stronger participation by developing countries.

19. Likewise, UNCTAD must receive a strengthened mandate to ensure that the trading system enhances the integration of developing countries, especially the least developed countries, first on a regional level; the structural transformation of African economies and

gender equality and women's rights in relation to the structural and global issues in trade and finance; the promotion of sustainable development, centred on the promotion of a higher self-sufficiency in basic food staples; and the assurance of decent work, and peasant, indigenous and workers' rights. These goals necessitate that UNCTAD undertake a review of proposed and existing trade agreements with a view to promoting sustainable industrialization and equitable transitions to a low-carbon economy, reversing the reductions of labour's share of income, supporting the implementation of agreements regarding the least developed countries and strengthening the negotiating capacity of developing countries in trade negotiations.

20. In addition to work on the multilateral trading system, the trade-related work of UNCTAD must continue and strengthen its mandate to support developing countries in their processes towards forms of regional integration that primarily work for the people most affected by development challenges, as well as help them assess the increasingly complex (positive or negative) implications of plurilateral and megaregional trade agreements for their own development, as well as advancing their interests within such negotiations.

21. Given the long history of UNCTAD in encouraging developing countries to sign international investment agreements, and the negative impacts that developing countries have experienced, particularly due to investor-State dispute settlement mechanisms, the mandate of UNCTAD should be intensely invested in helping developing countries craft investment policies that will contribute to development, rather than just "balance the interests" of investors and development; as well as to unwind and reform these agreements with a view to ensuring a positive impact on national or regional development strategies. UNCTAD members should strengthen its mandate to support not the attraction of investment as a goal in itself but rather its contribution to development. The establishment of an intergovernmental group of experts on trade and investment rules and policy reform would be helpful in this regard. This group of experts should develop a mechanism to engage civil society organizations to develop a framework for international investment agreements that would establish investors' legal responsibility and adequate procedures for accountability, including mandatory due diligence assessments across supply chains, as well as developing policy options to increase tax transparency in the operations of multinational enterprises.

22. The above work necessitates research and policy analysis, including positive and negative impacts of trade rules on national or regional development strategies, and on the achievement of the Sustainable Development Goals, independently of the World Trade Organization, which does not share the developmental mission of UNCTAD. The *Trade and Development Report* is one of the outlets that UNCTAD should use for such analyses.

23. UNCTAD should be involved in monitoring the role of the private sector, particularly foreign investors and their impacts (both positive and negative) on mobilization of domestic resources, fiscal and debt sustainability, development, human rights, the Sustainable Development Goals and climate goals. In particular, we strongly caution about support and promotion of public-private partnerships or addressing them as ends in themselves – despite the unfortunate adoption of an indicator under Goal 17 that merely refers to the number of them. There is a lack of proof that public-private partnerships are actually delivering positive economic, social and environmental outcomes. Traditional public procurement that meets administrative efficiency and public accountability criteria and supports local private sectors should remain the preferred route for involving the private sector in infrastructure financing. Where unavoidable, public-private partnership projects should be subjected to rigorous standards and criteria on transparency, feasibility, auditing, social and environmental safeguards, the affordability, accessibility and quality of the services and sustainable infrastructure that they are expected to deliver, the prevention

of unsustainable debt burdens and the consent and participation of people and communities that will be impacted by public–private partnership projects.

24. The current economic model of trade and investment has created a permissive environment for business to make use of governance gaps, for instance the weak rule of law in many countries, in order to exploit cheap labour opportunities. Global and regional supply chains are infested with precarious work, triangular employment relations, child labour and slavery – problems which affect women disproportionately. Supply chains have contributed to the erosion of labour market institutions, including trade unions and collective bargaining, and to increasing inequalities.

25. Recent policy initiatives in the Group of Seven, the Group of 20 and the Organization for Economic Cooperation and Development have created momentum for legal and rights-based solutions to the deficits of decent work through living wages and living incomes in global supply chains. It is timely to examine ways to utilize the United Nations Guiding Principles on Business and Human Rights with a view to establishing accountability and liability of business enterprises. UNCTAD should work to create consensus in multilateral institutions to address the lack of extraterritorial liability for business activities, including with mandatory human rights due diligence.

26. Technology transfer is essential to the enabling of sustainable development in developing countries, and UNCTAD should continue to take a lead role in supporting these efforts by developing countries rather than in enforcing intellectual property rules that benefit protectionist patent- and copyright-holders in developed countries.

27. The contribution of UNCTAD to the challenges faced by small and medium-sized enterprises, including capacity-building, should be continued and add support to activities to empower small and medium-sized enterprises with the right information on policies and benefits at the grassroots level. Access to finance continues to be a challenge, and UNCTAD should support policies and instruments to improve it both directly and indirectly – for example, overcoming barriers such as discriminatory land titling policies or abusive delayed payments practices by large companies to small and medium-sized enterprises they subcontract. There is also a need to promote the role of academia and interactive learning policies to make curriculums relevant and current to the training of the entrepreneurs of tomorrow, and training for women in information and communications technology.

28. There is an essential role of better and disaggregated data in efforts to meet the Sustainable Development Goals and to ensure that no one is left behind. Accordingly, the mandate of UNCTAD should recognize the importance of data for monitoring and the strengthening of national statistical capacity, including:

(a) Support for open data standards and platforms for making development data more accessible and understandable to promote focused and effective intervention

(b) More institutionalized involvement of data communities to enhance data use at subnational levels

(c) Increased funding for the development of micro/subnational-level data systems

29. The important role of UNCTAD in financing for development should be affirmed and expanded, including through the creation of an intergovernmental group of experts on financing development, as well as monitoring the implementation of commitments on official development assistance. Official development assistance is a long-standing but essentially unfulfilled commitment by the developed countries; it is central to North–South cooperation, and it must be differentiated from, and not substituted by, South–South cooperation and other sources of international public finance.

30. UNCTAD should ensure that in all of the above areas, the analyses, policy formulations and implementation processes include the sharp reflection and articulation of gender dimensions and impacts on women and future generations and ways to address these, and the empowerment and effective participation of women.

UNCTAD and structural transformation in Africa

31. In response to growing concerns among their peoples, African Governments have, with a greater sense of urgency, spearheaded collective initiatives aimed at the structural economic transformation of their countries and their continent:

- (a) Towards increased value-addition;
- (b) Improved investment in agriculture and the rural economy;
- (c) More domestic processing of export commodities;
- (d) Rebuilding domestic manufacture;
- (e) Developing their industrial and services sectors;
- (f) Enhancing overall domestic productive capabilities.

32. These engines of structural economic transformation are required to create decent jobs; increase incomes and other means of livelihood; improve living conditions; recognize, reduce and redistribute the burden of unpaid care work disproportionately shouldered by women; and overcome poverty in Africa.

33. African Governments have set long-term visions to reinforce the imperatives of structural transformation: Agenda 2063 of the African Union, and sectoral and cross-cutting continent-wide frameworks; the Comprehensive Africa Agricultural Development Programme; the Africa Mining Vision; the decision to fast-track the establishment of the Continental Free Trade Area; and the Report of the High-level Panel on Illicit Financial Flows from Africa (adopted by African Heads of State).

34. These initiatives and policy frameworks can be strengthened, their internal coherence and alignment with each other improved. Above all, the external conditions for their realization can be greatly enhanced by ensuring that commitments undertaken by African Governments in international agreements are coherent with the imperatives of these measures and by ensuring that African Governments retain the policy space necessary for their realization, particularly by fully implementing their decisions within the African Union with regard to regional integration.

35. Especially valid for Africa is the agenda that has formed UNCTAD work: to promote industrialization for countries emerging from colonialism, and thus to address the primary commodity export-dependent economic structures; to counterbalance the so-called free play of economic forces and their effects on developing economies; and to ensure different treatment and obligations for structurally different types of economies.

36. African countries, whose peoples and economies have suffered the worst results of this dominant dogma and its policy prescriptions, cannot remain indifferent to such a possible outcome of the contestation over the work programme and position of UNCTAD in global economic governance.

37. At UNCTAD XIV – taking place on African soil – African and other developing countries must ensure, and developed countries must support, the adoption of a work mandate that:

(a) Provides UNCTAD with the necessary space and means to articulate the policy requirements of Africa's structural economic transformation and work in support of their realization;

(b) Reflects the elements of the changing global trade and development agenda as it affects the positions and fortunes of African countries in meeting the challenges of this landscape;

(c) Addresses the specific constraints that African countries face in meeting their development challenges.

38. UNCTAD must support African countries to:

(a) Address the negative effects of the imbalances of the international trade regime, including World Trade Organization agreements, economic partnership agreements and bilateral and international investment agreements, and protecting the space for policy initiatives and South–South economic cooperation against further encroachment;

(b) Push and adopt financial, fiscal and other relevant policies that stop the transfer of capital, illicit financial flows and other leakages of economic resources from Africa and enable African countries to retain the investible resources generated in their economies for domestic investment and economic development;

(c) Decisively address continuing debt burdens and the looming debt crisis and adopt policies that will prevent the re-accumulation of unsustainable and illegitimate debts;

(d) Adopt policies to access technology (through adoption, diffusion and technology transfer) to support the development of productive capacities and domestic enterprise and to meet the needs of sustainable development;

(e) Adopt gender-sensitive and responsive trade and development policies that promote equitable and rights-based development. The ongoing work of UNCTAD in this regard must continue and be enhanced.

39. Above all, it is important that African countries reimagine UNCTAD beyond the expectations of technical assistance and capacity-building, and reclaim the role of UNCTAD to shape global policy frameworks that uphold developmental imperatives in line with their vision as expressed in Agenda 2063 of the African Union.

40. Many of these recommendations are highly relevant to the needed structural transformation in other regions of the world.

41. Civil Society commits to mobilizing its expertise in order to make tangible proposals that can contribute to make effective this support required of UNCTAD.

Conclusion

42. To further allow implementation of the calls made in this declaration, there is a need to scale up the international financial and human resource support of member Governments towards UNCTAD and its overall mandate. As the organization becomes more dependent on project-based funding from developed countries, priorities shift in the direction of donor States rather than the agreed-upon mandate, a tendency that robust, renewed general support funding from member States could curb.

43. As civil society organizations, we remain deeply committed to human rights, gender equality and social justice, the achievement of the Sustainable Development Goals and sustainable development for all. We urge you to adopt the above positions and ensure that UNCTAD continues and strengthens its role in trade, finance, investment, macroeconomics

and technology as they affect the growth and development prospects of all developing countries.

44. We reaffirm our intent to continue working with all countries, groups of countries, and institutions, and subnational authorities, towards aligning the mission of UNCTAD with the model of development we support, rather than the needs of a non-accountable transnational corporate sector. For this purpose, we will work on strengthening the Civil Society Organization community involved in UNCTAD, at the global, regional and country levels.
