

CUTS International's Submission on Civil Society Declaration to UNCTAD XIII

1. *From 21st to 26th April 2012, the 13th quadrennial conference of the United Nations Conference on Trade and Development will be held in Doha, Qatar. Its theme is "development-centred globalisation".*
2. *A Civil Society Declaration will be presented to the UNCTAD Member States at UNCTAD XIII and it will be adopted as an integral part of the Conference Outcome. A Draft Civil Society Declaration has been prepared and it will be finalised at the UNCTAD XIII Civil Society Forum which will be held on 17th to 19th April 2012 and from 22nd to 25th April 2012.*
3. *CUTS International has a permanent NGO Observer Status at the UNCTAD. We understand that the Draft Civil Society Declaration has been prepared by a Steering Committee of Civil Society Organisations for UNCTAD XIII.*
4. *We regret to note the exclusive process followed in regard to the formation of this Steering Committee of CSOs to UNCTAD XIII and that the proceedings of the meetings of this Steering Committee which has not been communicated to all NGOs having a permanent Observer Status with the UNCTAD, CUTS International being one such organisation.*
5. *We have some serious reservations on some parts of the substance of the Draft CSO Declaration. This Draft Civil Society Declaration to UNCTAD XIII is neither balanced nor reflects the collective views of the civil society on the issues covered in the Draft Civil Society Declaration to UNCTAD XIII.*
6. *We convey our reservations on the process for and the content of the Draft CSO Declaration and that the current Zero Draft cannot and should not be treated as a consensus-based document.*
7. *Taking into account our observations about the opaque process toward preparing the Draft Civil society Declaration to UNCTAD XIII, conveying our reservations on some parts of the substance of the Draft Civil Society Declaration to UNCTAD XIII, and giving a call that this Draft Civil Society Declaration to UNCTAD XIII should not be treated as a consensus-based document, CUTS International places the following submission to civil society organisations participating in UNCTAD XIII and otherwise to prepare a new Civil Society Declaration for its presentation to the UNCTAD Member States at UNCTAD XIII.*
8. *CUTS International urges the UNCTAD XIII Civil Society Forum to thoroughly discuss a new Civil Society Declaration to UNCTAD XIII and, based on explicit consensus among the civil society organisations participating in UNCTAD XIII, adopt the Civil Society Declaration to UNCTAD XIII including with square brackets where explicit consensus may not be reached at the concluding session of the UNCTAD XIII Civil Society Forum on 25th April 2012.*
9. *CUTS International requests UNCTAD to allow the presentation of the Civil Society Declaration to UNCTAD XIII at the Closing Ceremony on 26th April 2012.*
10. *Except 'Introduction' and 'The role of UNCTAD', this Submission is made as per sub-sections of this Zero Draft of the Civil Society Declaration to UNCTAD XIII.*

1. Introduction: the current global economic and development context: challenges, threats and opportunities

1.1 The Draft Civil Society Declaration has highlighted the growing disconnect between the financial economy and the real economy. CUTS International calls upon UNCTAD to conduct a comprehensive study on the linkages between the financial economy and the real economy, and how effective regulation of the financial economy as well as the real economy can help the poor not just to insulate them from future financial crisis but to put in place a rapid response mechanism to deal with new challenges that could emanate from future financial crisis.

1.2 The Draft Civil Society Declaration has identified several causes of the global food crisis. While they are important and must be addressed, a major factor behind the price volatility in agricultural commodity markets is anti-competitive practices. CUTS International calls upon UNCTAD to conduct studies on the interaction between trade and competition policy in the primary goods sectors to better understand the importance of a multilaterally agreed competition in addressing the global food crisis, and arrive at pragmatic recommendations to ameliorate the adverse impacts.

1.3 CUTS International supports the call for a new global social contract, taking into account the paradigm shift in global economic governance. Representing various interests from among its Member States UNCTAD should set up a Working Group on Global Economic Governance.

2. The way forward

CUTS International disagrees with the use of the article 'The' in the title of this Section, because it means as if the recommendations are the only ones.

2.1 Enhancing the enabling economic environment at all levels in support of inclusive and sustainable development

2.1.1 The role of democratically-accountable developmental states

- Adopting inclusive policy making processes at national, regional and international level with grassroots linkages is an imperative for democratic accountability of states. This also requires investment in capacity building and resourcing of all stakeholders to enable their informed and meaningful participation.

2.1.2 Rethinking macroeconomic policies

- Social, economic and environmental issues facing this globalised world are inter-linked and so should be the policies to effectively address them. Understanding these linkages and taking them into account is essential to face the current global economic crisis, and to address them in the future.
- The bedrock for the cohesion and inter-play of all macroeconomic policies should be inclusive and sustained growth. At the national level, there should be periodic social, economic and environmental sustainability impact assessment of all major macroeconomic policies.

2.1.3 Transforming the global financial architecture

- The international monetary system should be reformed to reduce exchange rate volatility, allow for regional/South-South exchange rate stability arrangements, and discourage manipulation of exchange rates.
- National and global efforts to regulate financial markets should be coordinated and strengthened. These should also be taken into account and made compatible with bilateral and regional trade and investment agreements. The provisions of the General Agreement on Trade in Services of the World Trade Organisation are quite clear regarding the right of governments to regulate and liberalise their financial markets based on a request-offer method and positive list approach. Taking into account the principles of reciprocity, these provisions should guide the negotiations on financial services liberalisation in all fora.
- Keeping in view the dependence of a large number of developing countries on primary commodities, and to shield them against large fluctuations in commodity prices, commodity derivatives markets should be strictly regulated.

2.1.4 Reviewing inappropriate investment and trade rules

CUTS International disagrees with Paragraphs 37 and 38 of the Draft Civil Society Declaration to UNCTAD XIII. This sub-section should be redrafted by taking into account the following points.

- A development-friendly trade and investment policy regime can address many development challenges that poor countries are facing, particularly those in social sectors. International investment agreements should be negotiated by taking into account their social, economic and environmental impacts in host countries. There should be better balance between investor rights and responsibilities, particularly relating to the national policy space.
- UNCTAD has an impressive track record of capacity building of developing countries to negotiate trade and investment agreements and it should be strongly supported with adequate resources in continuing this effort.
- Civil society organisations with track record of objective work on trade and investment policies and agreements should also be involved in building capacities of developing country negotiators and stakeholders on trade and investment negotiations.

2.2 Strengthening all forms of cooperation and partnerships for trade and development, including North-South, South-South and triangular cooperation

“Triangular cooperation” has not been given due attention in the Draft Civil Society Declaration to UNCTAD XIII. There should be a separate sub-section on “triangular cooperation” in the Civil Society Declaration to UNCTAD XIII.

2.2.1 South-South cooperation

- There is a need to recognise the ability and constraints of poor countries to be able to translate their long-term development planning into operational initiatives based on national priorities.
- South-South cooperation should be based on the principles of reciprocity and policy coherence.
- The emerging Southern economies, who enjoy a relatively higher level of development and possess the potential to support development initiatives of other poor countries, should increase their participation in development cooperation efforts in which poor countries are engaged.

2.2.2 New regional financial and monetary architectures

- The Paris Declaration on Aid Effectiveness, Accra Agenda for Action and Busan Partnership for Effective Development Cooperation should be followed in letter and spirit so as to rationalise the process of funding and resource mobilisation as per the principles of ownership alignment and harmonisation.
- There should be empowerment of regional economic and development organisations in the delivery of financial and monetary assistance to poor countries and coherence between the agenda of regional bodies and the international financial and monetary architectures.

2.2.3 Rethinking Aid-for-Trade

- There should be mutually agreed measures and standards of performance evaluation in determining the imperative and effectiveness of aid for trade.
- There should be encouragement to foster South-South cooperation on aid for trade, particularly in developing the necessary infrastructure including soft skills to address supply-side constraints to trade.

2.2.4 Triangular cooperation *(a new sub-section)*

- “Triangular cooperation” should be defined as development cooperation between a Northern or Southern donor country, a Southern implementing country and a Southern recipient country. There should be a broad definition to include non-governmental organisations in all three pillars of “triangular cooperation”.
- UNCTAD should conduct studies on challenges and effectiveness of “triangular cooperation” including lessons that traditional development cooperation initiatives can draw from triangular cooperation and vice-versa.

2.3 Addressing persistent and emerging development challenges as related to their implications for trade and development and interrelated issues in the areas of finance, technology, investment and sustainable development

2.3.1 Sustainable Development and safeguards around the ‘Green Economy’ concept

- The “green economy” concept should not be used as a means to undermine the right to opportunity to development. The green economy framework should not create conditionalities for determining aid and trade flows. Rich countries should commit themselves by keeping away from unfair trade restrictions in their national policies to promote greening of other economies.
- There should be a multilaterally agreed consensus on the “green economy” concept and this concept should be based on balancing social, economic and environmental principles of sustainable development.
- There should be active civil society participation at the national and international level in regard to the development of the concept of “green economy” so as to make the process more inclusive and balanced.

2.3.2 Review trade and investment agreements that undermine sustainable development at multilateral, regional and bilateral levels

CUTS International disagrees with Paragraphs 57, 58 and 59 of the Draft Civil Society Declaration to UNCTAD XIII. This sub-section should be redrafted by taking into account the following points.

- Linkages between trade and investment agreements and sustainable development should not be based on a sanctions-based approach.
- Trade and investment agreements should be based on the principles of reciprocity and gradual liberalisation. Their impact on sustainable development should take into account trade adjustment costs and there should be obligatory provisions directed to rich countries to address trade adjustment costs of the poor. And specific care needs to be taken so that obligatory provisions on the part of rich countries do not become non-tariff barriers and/or other protectionist measures.
- UNCTAD should support national policy efforts such as green procurement in order to address national sustainable development concerns.

2.3.3 Technology assessments in line with precautionary principle

- Technology assessments should be done by taking into account larger development goals of a country and communities’ need to procure and adapt new technologies.
- “Precautionary principle” should not be the only criteria for technology assessments and it should be balanced with communities’ right to opportunity for development and this right should be assessed on the basis of the principles of inter-generational equity.

2.3.4 Scaling up agroecology and the rights of small farmers

- In partnership with other inter-governmental organisations, particularly the United Nations Food and Agriculture Organisation, UNCTAD should empower regional economic and development organisations to gather knowledge on climate change adaptation practices and foster cross-fertilisation of farmers' knowledge and experience on such practices between and among different agro-climatic zones.

2.3.5 Transformative social protection

- “Transformative social protection” initiatives should be based on a multilaterally accepted definition of the process and content of inclusive growth.
- UNCTAD should call upon its Member States to initiate effective legislation and regulations on public service delivery guarantee with an in-built mechanism for the participation of non-state actors in its process of adoption and implementation so as to ensure better governance and more accountability in “transformative social protection” initiatives.

2.4 Promoting investment, trade, entrepreneurship and related development policies to foster sustained economic growth for sustainable and inclusive development

2.4.1 Making the private sector (including TNCs) accountable to human rights

2.4.1.1 *Private sector in development*

- It's time for moving from loose, voluntary guidelines at the international level to stronger normative rules that can be enforced (multilateral discussions, negotiations).

2.4.1.2 *Transnational Corporation (TNCs)*

- Home country governments should ensure that TNCs follow the same regulations in Host countries as are applicable in Home countries – especially, in cases where such a differential approach leads to significant impacts on people, society, environment in Host countries. If this principle is violated there should be adequate provisions in multilateral laws to punish the perpetrators.
- TNCs should, during the process of establishment of their business submit a ‘list of measures’ that they would be taking towards protection of human rights, ensuring community well-being (including environmental resources), contributing to the local economy, etc. – and their performance would be reviewed annually on the basis of this list and publicised, so as to encourage the good enterprises to do better or to shame poor performers.
- Transfer of technology is an extremely critical element – and should form integral part of national/international measures, processes for assessing performance of TNCs. For this purpose, host country governments of technology producers should have suitable incentive schemes to encourage sharing at reasonable costs.

2.4.1.3 *The Role and Responsibilities of Governments*

- National governments need to evolve environments that promote responsible business conduct, starting with ‘critical sectors’. International development partners and other agencies should catalyse the initiation of this process in ‘emerging economies’ and then gradually roll out to the other developing countries.
- National public procurement legislations should be so implemented that they promote responsible business conduct.

3. The role of UNCTAD

CUTS International disagrees with Paragraph 85, including its sub-paragraphs, of the Draft Civil Society Declaration to UNCTAD XIII.

3.1 UNCTAD should espouse the cause for “development-centred globalisation” and analyse its effects through a consensus-based approach and strictly in terms of identified and agreed sources of “development-centred globalisation”. Some of these sources are cross-border trade and investment, financial transactions, and migration.

3.2 UNCTAD should inform the world about the virtues of trade and investment liberalisation appropriate and effective safety nets and regulations.

3.3 UNCTAD should play a proactive role in the G-20 group of countries which is emerging as an important platform for global economic governance.

3.4 Paragraph 85 of the Draft Civil Society Declaration to UNCTAD XIII should be redrafted by highlighting the role that UNCTAD should play in assisting its Member states in providing technical assistance on international investment agreements.

3.5 CUTS International believes that some parts of UNCTAD are functioning relatively more efficiently than some other parts of the organisation. In particular, UNCTAD’s role in providing technical assistance to developing and least developed countries, especially on trade, commodities and investment issues are functioning well. UNCTAD should draw lessons from this success and also and relatively speaking non-success in delivering its role in case of some other parts of the organisation, particularly in delivering its technical assistance responsibilities on competition and consumer protection issues. In order to improve the overall function of UNCTAD, success and non-success in delivering its role should be discussed among UNCTAD’s Member States and with civil society organisations having permanent NGO Observer Status at the UNCTAD.