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DEVELOPMENT ASSISTANCE COMMITTEE**

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Working Party on Statistics

ANNEX 2 PROPOSAL: INTERNATIONAL COMMISSION OF JURISTS (ICJ)

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This note is submitted by Sweden for CONSIDERATION under agenda item 3.

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ANNEX 2 PROPOSAL: INTERNATIONAL COMMISSION OF JURISTS (ICJ)

Comments from Sweden

1. The Swedish Ministry for Foreign Affairs and Sida would like to share their comments on the Secretariat's recommendation to not include ICJ in the DAC List of ODA-eligible international organisations (Annex 2) [Ref. DCD/DAC/STAT(2010)5].

2. The issue of core contributions to ICJ not qualifying as ODA-eligible, based on the argument that the organisation is working with moral and legal issues rather than development, raises a much broader concern relating to the current view on the relationship between development and human rights. It is alarming if rule of law and good governance is to be interpreted as a question of moral and legal issues to be separated from the development agenda. In situations when it is difficult to develop democracy and to reduce poverty, the rule of law and increased demand for accountability is crucial. Human rights have no value unless there are mechanisms for legal remedies available. International Human rights organisations working to support civil society's capacity and voice in asking for accountability must be seen as important actors for development.

3. This view is also confirmed by the DAC Action-Oriented Policy Paper on human rights and development from 2007. This document has identified 10 principles for harmonised donor action to promote and integrate human rights in development. The whole document is relevant here, but we would like to draw the attention in particular to principle 3, which stipulates that: "safeguarding human rights of those under its jurisdiction is one of the most essential functions of the state" ...and continues: State building includes not only the building of state capacity to deliver its core functions, but also the strengthening of state-society relations based on rule of law and a framework of rights and responsibilities. Supporting these processes will require donors to work on a range of accountability mechanisms such as national human rights institutions, ombudsmen, courts, parliament, civil society, media and other bodies, including more informal political platforms and arenas such as local public hearings. This is followed by principle 4: Support to the demand side of human rights: "Experience show that support to governments needs to be complemented with support to civil society and other actors to ensure accountability and respect for human rights.

4. This must mean that international organisations working to strengthen the demand side of human rights by building capacity in support of civil society to demand accountability of their state are to be regarded as important actors in the path of development.

Some clarifications in relation to the application from the International Secretariat of the International Commission of Jurists:

1. International Commission of Jurists is a human rights organisation promoting international law and the development of rule of law and independence of judges and lawyers in order to seek accountability by national governments. ICJ uses their legal expertise to support local actors in their seeking for justice and accountability. Problems in relation to rule of law and human rights appear in all parts of the world, but the problems are far more dominating in poor and

underdeveloped countries – which also explains why ICJ is focusing their interventions in the developing world.

2. It is the International Secretariat of ICJ that is applying for ODA eligibility. The Secretariat is based in Geneva and has three regional offices: in Guatemala, In South Africa and in Asia Pacific. The secretariat also runs one national office in Nepal. The regional offices are funded by a combination of core or project funds from the secretariat and with local funding.
3. The International Secretariat of ICJ runs thematic and regional programmes. The secretariat does not provide assistance to individuals and seeks remedies and reparation for victims, unless it is part of a strategic intervention to get a precedent which is believed to have an important impact on human rights in general or the demand for accountability in relation to a government with an impact far beyond the individual case.
4. National Sections of ICJ (e.g. ICJ Sweden) are affiliated with ICJ International but operates completely independently from the International Secretariat and has its own funding.
5. With these words, Sweden would like the OECD/DAC Secretariat to reconsider its recommendation to not designate ICJ as an ODA-eligible organisation, based on the argument that activities in this field have a moral and legal, rather than a developmental motivation.