**GENEVA, JUNE 19, 2023**

**COLOMBIA'S NATIONAL POSITION ON THE SECOND REVISED DRAFT OF A BINDING INTERNATIONAL INSTRUMENT ON THE RIGHT TO DEVELOPMENT.**

* This Government seeks to generate conditions for sustainable, fair and egalitarian development. Through diplomacy, the Colombian State seeks to put the ecosystem, people and the needs of both at the center, so its foreign policy is based on the promotion and protection of human rights and democracy, respect for the sovereignty and autonomy of peoples, peaceful coexistence, good neighborliness and multilateralism.
* The State continues to promote international trade and foreign investment in Colombia with the necessary adjustments to be able to respond, among others, to the prevailing need to comply with Colombia's international commitments on climate change and human rights. In that regard, Colombia promotes fair trade and investment, under the basic principle of respect for people and the environment.
* State policies are based on the recognition that human rights are universal, indivisible, interrelated and interdependent, which implies promoting respect for and guarantee, without discrimination, of civil and political rights as well as economic, social, cultural and environmental rights.
* Colombia is a multi-ethnic, multicultural country, and to this extent the State and society must recognize and protect the ethnic and cultural diversity of the Nation, making efforts to eliminate all forms of discrimination.
* As part of the objective of dignifying ethnic peoples and communities, the Government seeks that peasants, indigenous, Afro-descendants, blacks, raizales, palenqueros and rrom from interculturality, govern from their territories and contribute by guiding and defining the future of the nation and the planet, as the foundation of the productive economy and food sovereignty and as guardians of life. territory and peace.
* Colombia wants to be an international benchmark for peace and life and therefore, transformations must be carried out hand in hand with women; Together with them we will undertake the transformations to settle the debt in terms of political representation, equality and economic autonomy vis-à-vis man, the right to a life free of violence, to decide on their bodies and to realize a prosperous and autonomous life project.
* It is worth noting that the latest position of the Colombian State on the binding instrument, which is that development should be considered as an obligation of a progressive nature without implying the possibility of an individual or collective claim, remains the position of the majority of the entities that responded.

**Key messages regarding the instrument:**

* Colombia advocates that efforts should be made to ensure that the instrument adopts the notion that the right to development generates obligations for States of a progressive nature. By passages, the instrument uses terms that do not properly imply the management of the State, but results. While there was a need for States to take decisive accelerated action for development, it was legally unfeasible to require outcome measures.
* We bear in mind that the effective protection of human rights, as well as the prevention of unlawful damage arising from non-compliance with international obligations, requires as a presupposition that the State acquires international commitments whose fulfillment is possible, in their entirety.
* Although there is a commitment to guarantee the right to development, committing itself at the international level to the obligation to seek an environment conducive to equitable development, guaranteeing the well-being of the entire population and eliminating obstacles to the effective enjoyment of this right implies international commitments that the Colombian State will only be able to fulfill gradually and as a long-term goal. Although this is not an excuse for not guaranteeing the effective enjoyment of a right, and it is to that extent that the Colombian State is directing its efforts to the fulfillment of this and all human rights in general, committing itself to recognize the human right to development and guarantee, therefore, the mechanisms for its individual and collective enforceability, exceeds the capacity of the Colombian State in the short term.
* In addition, we believe that the definition of the right todevelopment lacks concrete elements that allow us to know the implications of the effective enjoyment of this right. For greater precision, we see that Article 4 of the Draft Convention includes the right to participate in civil, cultural, economic, environmental, political and social development. However, in contrast to other primary rules of international law, it is not possible to identify the specific elements that correspond to this right.
* In line with the priorities of the National Government in terms of circular economy, with a focus on people and not simply on financial movements, and in search of mitigating the effects of climate change, we have analyzed the draft convention under the principles that have been outlined in the draft National Development Plan. This is because, under initial consideration, the draft convention does not include certain principles that give scope and limitation to the aforementioned right, such as: (i) Land use planning around water; (ii) Human security and social justice; (iii) Human right to food; iv) Productive transformation, internationalization and climate action; and (v) Regional convergence.
* The duty to cooperate (article 13) was problematic in that it would be materializing an obligation to provide technical and financial cooperation by States to others, which contravened the voluntary nature of cooperation.
* Se warns in the text that a focus on indigenous peoples, which does not include other ethnic groups, peoples and cultures, could be contrary to the Political Constitution of Colombia, since Colombia is a multiethnic and multicultural country.

**On the content of the articles in particular, Colombia proposes the following points of view:**

**Article 1. Object and purpose.**

**Paragraph:**

*The object and purpose of the present Convention is to promote and ensure the full, equitable and meaningful enjoyment of the right to development by all individuals and peoples of the world, and to ensure its effective realization and full implementation at the national and international levels.*

**Comment:**

It is suggested to change the word "ensure" to alternative words that imply actions of means and not of results. Ex. Incentivize.

**In addition , with regard to Article 1 :**

**Article 1.**  **Object and purpose**

**Paragraph:**

*The object and purpose of the present Convention is to promote and ensure the full, equitable and meaningful enjoyment of the right to development by all individuals and peoples of the world, and to ensure its effective realization and full implementation at the national and international levels.*

**Comment:**

It is suggested to review the term "insure". This term could be replaced by a term more focused on the duty of management and not the result. It could be replaced by *"... to promote, encourage and elevate the full enjoyment ...".*

**Article 3.**  **General principles**

**Paragraph:**

*(i) National and international solidarity: the realization of the right to development requires an enabling national and international environment created through a spirit of cooperation and unity among individuals, peoples, States and international organizations that encompasses the union of interests, purposes and actions and the recognition of different needs and rights to achieve common goals throughout the world. This principle includes the duty to cooperate, with full respect for the principles of international law;*

**Comment:**

From a political point of view, there would be no observations as long as the final sentence that highlights the importance of cooperating within respect for International Law is maintained, consequently, national and international solidarity must be understood within respect for the sovereignty and territorial integrity of States, as well as the right to self-determination of peoples.

**Article 5.**  **Relationship with the right of peoples to self-determination**

**Paragraph:**

*5. States Parties shall take vigorous measures to prevent and eliminate massive and flagrant violations of the human rights of individuals and peoples affected by situations such as those resulting from apartheid, all forms of racism and discrimination, colonialism, domination and occupation, aggression, foreign interference and threats to national sovereignty, national unity and territorial integrity, threats of war and refusal to recognize the fundamental right of peoples to self-determination.*

**Comment:**

The following wording is suggested:

*5. States Parties shall take vigorous measures, with respect for international law*, *to prevent and eliminate massive and flagrant violations of the human rights of individuals and peoples affected by situations such as those resulting from apartheid, all forms of racism and discrimination, colonialism, domination and occupation, aggression, foreign interference and threats to national sovereignty, national unity and territorial integrity, threats of war and refusal to recognize the fundamental right of peoples to self-determination.*

**Article 6. Relationship with other human rights.**

**Paragraph:**

*1. States parties reaffirm that all human rights, including the right to development, are interrelated and universal, inalienable, interdependent, indivisible and equally important.*

*2. States Parties agree that the right to development is an integral part of human rights and must be realized in conformity with all civil, cultural, economic, environmental, political and social rights.*

**Comment:**

We consider that this article can be included as a general principle (perhaps reinforcing the principle contained in 3b and 3k). However, it has the appearance of more of a preambular paragraph than an operative one.

**Article 7.**  **Relationship to the duty of everyone to respect human rights under international law.**

**Paragraph:**

*Nothing in this Convention may be interpreted as conferring on any natural or legal person, people, group or State any right to engage in any activity or perform acts which would detach, nullify or impair any of the rights and freedoms recognized in this Convention or to limit them to a greater extent than is provided for in this Convention. To this end, States parties agree that all natural and juridical persons, peoples, groups and States have a general duty under international law to refrain from participating in the violation of the right to development.*

**Comment:**

We suggest subsuming this article in the general principle 3k.

* **Articulate**

**Article 8.**  **General obligations of States parties**

**Paragraph:**

*2. States Parties shall cooperate with each other*  to *achieve* development and  *eliminate obstacles to development by promoting the full observance and realization of all human rights.*

**Comment:**

It is suggested that the verb "achieve" be changed to "promote", bearing in mind that achieving a certain level of development is a progressive (not static) process involving the actions and policies of States to promote the enjoyment of human rights by their citizens, with the support of international cooperation.

On the other hand, it is not clear what the term "shall cooperate" refers to, is it used here as a synonym for the principle of solidarity or is it committing States to contribute through cooperation in kind or financial to achieve what has been proposed?

Proposal:

*2. States Parties shall cooperate with each other in promoting development and eliminating obstacles to development by promoting the full observance and realization of all human rights.*

**Article 11. Obligation to protect.**

**Paragraph:**

*States Parties shall adopt and implement all necessary, appropriate and reasonable measures, including administrative, legislative, investigative, judicial, diplomatic or other measures, to ensure that natural or legal persons, peoples, groups or any other State or agents whose activities the State is in a position to regulate do not nullify or impair the enjoyment and exercise of the right to development within or outside their territories when;*

*(a) Such conduct occurs, in whole or in part, in the territory of the State party;*

*(b) The natural or legal person has the nationality of the State party;*

*(c) The State party has the necessary legal obligation under domestic or international law to monitor, regulate or otherwise control the conduct of a legal person engaged in commercial activities, including those of a transnational nature.*

**Comment:**

It is important to emphasize that the definition of the specific components of the rights protected by international instruments facilitates their implementation, this being especially relevant for States to issue domestic regulations and develop public policies and programs to adjust the behavior of their organs towards the fulfillment of the obligations contracted. This is the case with the rights contained in the American Convention on Human Rights of 1969 (ACHR). By way of example, the article protecting the right to humane treatment contains the following components: (i) the prohibition of being subjected to torture or cruel, inhuman or degrading treatment or punishment, and (ii) respect for mental and moral integrity. The definition of the components of the right to humane treatment allows States to implement actions aimed at its respect and guarantee.[[1]](#footnote-1)

On this article we will not pronounce later because Colombia is consolidating the national position on the binding instrument of companies and human rights and this article is closely linked to the subject.

**Article 12. Obligation to give effectiveness.**

**Paragraph:**

*2. To this end, each State Party shall take all necessary measures at the national level and ensure, inter alia, equal opportunities, including through digital inclusion, where appropriate, for all individuals and all peoples in terms of access to basic resources, education, health services, food, housing, employment and social security and protection, as well as the fair distribution of income, and carry out appropriate economic and social reforms aimed at eradicating all social injustices.*

**Comment:**

We suggest that the wording follow the parameters of the International Covenant on Economic, Social and Cultural Rights.

Proposal:

*2. To this end, each State Party shall take all necessary measures at the national level and ~~ensure~~*, to the  *maximum of its available*  resources, to achieve progressively *the equalization of opportunities, including through means such as digital inclusion, where appropriate, for all individuals and peoples in access to basic resources, education, health services, food, housing, employment and social security and protection, as well as fair distribution of income, and carry out appropriate economic and social reforms aimed at eradicating all social injustices.*

* Preamble

**Paragraph:**

*The States Parties to the present Convention, guided by the purposes and principles of the Charter of the United Nations, in particular those relating to the achievement of international cooperation in solving international problems of an economic, social, cultural, environmental* or humanitarian character and in promoting and  *encouraging respect for human rights and fundamental freedoms for all, without distinction of any kind,*

**Comment:**

In reviewing the text of the Charter of the United Nations, to which Colombia is a State Party, the Directorate for International Cooperation noted that environmental problems were not listed in the preamble to the Charter.

However, we do not see any problem with the mention of environmental problems, since these issues have had very relevant developments within the United Nations since the adoption of the charter of that organization, and in line with the vision of the current Government regarding environmental issues, which consists of changing our relationship with the environment and a productive transformation based on knowledge and in harmony with the environment. nature.

The wording of this first part of the preamble should be more aligned with the provisions of Resolution 74/152 adopted on 18 December 2019 on the right to development.

Alternatively:

*The States Parties to the present Convention, guided by the Charter of the United Nations, express their determination to promote social progress and better standards of life in larger freedom and, to that end, to employ international mechanisms to promote the economic and social advancement of peoples.*

*Emphasizing in this regard, that international cooperation is therefore based on the Declaration on the Right to Development, and is instrumentalized with the approval of the 2030 Agenda for Sustainable Development and its objectives in addition to other instruments.*

**Paragraph:**

*Recognizing that States have the primary responsibility for creating, through cooperation*, *including collaboration with civil society, national and international conditions favourable to the realization of the right to development,*

**Comment:**

Cooperation is an adjuvant and support for the actions of the State, therefore, it is not cooperation that is responsible for creating favorable national and international conditions.

International cooperation was a vehicle for the achievement of development goals, but it was a competence that fell primarily on States.

It is proposed:

*Recognizing that States have the primary responsibility for creating, ~~through~~ [CO: with the support of] cooperation, including collaboration with civil society, national and international conditions favourable to the realization of the right to development,*

**Paragraph:**

*(i) National and international solidarity: the realization of the right to development requires an enabling national and international environment created through a spirit of cooperation and unity among individuals, peoples, States and international organizations that encompasses the union of interests, purposes and actions and the recognition of different needs and rights to achieve common goals throughout the world. This principle includes the duty to cooperate, with full respect for the principles of international law;*

**Comment:**

Cooperation is not a duty, it is a power of States, who determine whether or not to grant it based on their own capacities and specific demands of other States. Solidarity is a fundamental principle, but this does not oblige cooperation.

**Article 12.**  **Obligation to give effect**

**Paragraph:**

*1. States Parties shall take measures, individually and through international assistance and cooperation, with a view to progressively promoting the right to development, without prejudice to their obligations to respect and protect the right to development as set forth in articles 10 and 11 of this Convention or to the obligations of immediate effect set forth in the present Convention. States Parties may take such measures by any appropriate means, including through the adoption of legislative measures.*

**Comment:**

Although there are no problems from the thematic area of cooperation, it is with some concern that the adoption of these measures is referred to through legislative measures, since the approval or not of such measures and the sovereign will of each State.

In this regard, it is suggested that the term "in particular" be changed to "inter alia" or "*inter-alia*".

Proposal:

1. *States Parties shall take measures, individually and through international assistance and cooperation, with a view to progressively promoting the right to development, without prejudice to their obligations to respect and protect the right to development set forth in articles 10 and 11 of the present Convention or to the obligations of immediate effect set forth in the present Convention. States Parties may take such measures by any appropriate means, ~~including~~*,  *inter alia, through the adoption of legislative measures.*

***Additionally, we suggest this alternative for paragraphs 1 and 2:***

**Article 12.**  **Obligation to give effect**

**Paragraph:**

*1. States Parties shall take measures, individually and through international assistance and cooperation, with a view to progressively promoting the right to development, without prejudice to their obligations to respect and protect the right to development as set forth in articles 10 and 11 of this Convention or to the obligations of immediate effect set forth in the present Convention. States Parties may take such measures by any appropriate means, including through the adoption of legislative measures.*

*2. To this end, each State Party shall take all necessary measures at the national level and ensure, inter alia, equal opportunities, including through digital inclusion, where appropriate, for all individuals and all peoples in terms of access to basic resources, education, health services, food, housing, employment and social security and protection, as well as the fair distribution of income, and carry out appropriate economic and social reforms aimed at eradicating all social injustices.*

**Comment:**

With regard to article 12, it is proposed to add the phrase "within its reach", taking into account the particular context of Colombia, and what has been pointed out by the Constitutional Court, since there are real limitations to guarantee the full effectiveness of the obligations provided for in the draft binding instrument, and therefore, the adoption of measures to achieve this objective must be conditioned to the possibilities of the State.

Proposal:

*1. States Parties shall take such measures within their power*, *individually and through international assistance and cooperation, with a view to progressively promoting the right to development, without prejudice to their obligations to respect and protect the right to development set forth in articles 10 and 11 of this Convention or to the obligations of immediate effect set forth in the present Convention. States Parties may take such measures by any appropriate means, including through the adoption of legislative measures.*

*2. To this end, each State Party shall take all necessary measures within its power at the national level and ensure, inter alia, equalization of opportunities, including through digital inclusion, where appropriate, for all individuals and peoples with regard to access to basic resources, education, health services, food, housing, employment and social security and protection, as well as fair distribution of income, and carry out appropriate economic and social reforms aimed at eradicating all social injustices.*

**Article 13.**  **Duty to cooperate**

**Paragraph:**

*2. To this end, States Parties have the primary duty, in accordance with the general principle of international solidarity as described in the present Convention, to create international conditions favourable to the realization of the right to development for all and shall take deliberate, concrete and specific measures, individually and jointly, inter alia, through cooperation within international organizations and in collaboration with civil society, for:*

*(e) To mobilize the technical, technological, financial, infrastructural and other resources necessary to enable States Parties, in particular developing or least developed countries, to fulfil their obligations under this Convention.*

**Comment:**

The paragraph was problematic, since it would be materializing an obligation to grant technical and financial cooperation by States to others, which contravened the voluntary nature of cooperation.

According to the outcome document of the Second High-Level United Nations Conference on South-South Cooperation "BAPA+40", cooperation, especially South-South cooperation, is "(...) an expression of solidarity between the peoples and countries of the South that contributes to their well-being (...)" (A/CONF.235/3 - 2019).

At no time is cooperation, in the case of the South-South cooperation modality, understood as a duty. Likewise, the consensual language in no case incorporates that it is a duty of the States.

Proposed adjustment at the beginning of the paragraph:

*2. To this end, States Parties ~~have the primary duty~~*, *in accordance with the general principle of international solidarity as described in the present Convention*, to  *strive to create international conditions favourable to the realization of the right to development for all and to take deliberate, concrete and specific measures, individually and jointly, inter alia, through cooperation within organizations. international and in collaboration with civil society, to:*

**Paragraph:**

*3. States Parties shall ensure that financing for development and all other forms of aid and assistance provided or received, whether bilaterally or within any international institutional or other framework, respect the internationally recognized principles of development cooperation and are consistent with the provisions of this Convention.*

**Comment:**

It is necessary to narrow down the paragraph and the mechanism to which it refers:

*3. States Parties shall ensure that financing for development*  and *~~all other forms of aid and assistance provided or received, whether bilaterally or within any international institutional or other framework,~~ respect the internationally recognized principles of development cooperation and are consistent with the provisions of this Convention.*

**Paragraph:**

*4. States Parties recognize their duty to cooperate in creating a social and international order conducive to the realization of the right to development by, inter alia, the following actions:*

*(f) Promote official development assistance, financial flows and foreign investment, including through the implementation of any existing commitments, to States with the greatest needs, in particular the least developed countries, African countries, small island developing States and landlocked developing countries, consistent with their national plans and programmes;*

**Comment:**

It is necessary to include a paragraph in support of middle-income countries, as follows:

*(f) Promote ~~official development assistance~~ [Official Development Assistance], financial flows, flows and foreign investment, among other innovative and flexible mechanisms for financing sustainable development, through the implementation of any existing commitments, to States with the greatest needs, in particular the least developed countries (LDCs), ~~African countries~~ , small island developing States (SIDS) and landlocked developing countries, in line with their national plans and programmes;*

*[CO: Alt f) Ensure that Official Development Assistance is directed based on the context adapted to each country's own challenges and vulnerabilities. The challenges must be assumed from a multidimensional approach that expands the closed vision of income as a measure of development.]*

**Paragraph:**

*(g) Enhance North-South, South-South, triangular and other forms of regional and international cooperation in all areas, in particular in the areas of access to science, technology and innovation, and enhance knowledge-sharing on mutually agreed terms, including by improving coordination among existing mechanisms, in particular at the United Nations level, and through existing and new mechanisms for global technology facilitation;*

**Comment:**

The paragraph should be drafted along the following lines:

*(g) Strengthen North-South, South-South, triangular and other innovative forms of regional and international cooperation in all areas, particularly with regard to access to science, technology and innovation; as well as to dynamize the exchange of knowledge, good practices and experiences following the principles of horizontality, solidarity, and mutual benefit; through close coordination between existing cooperation mechanisms, in particular at the United Nations level, for the democratization of science, technology and innovation at the global level under sustainable conditions;*

**Article 13.**  **Duty to cooperate**

**Paragraph:**

*4. (j) Eliminate illicit financial flows by combating tax evasion and corruption, reducing opportunities for tax avoidance, improving disclosure and transparency of financial and asset transactions in both source and destination countries, and strengthening the recovery and return of stolen assets;*

**Comment:**

This paragraph is in accordance with the provisions of the United Nations Convention against Corruption, the Inter-American Convention against Corruption and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, since it refers to preventive measures against corruption, implementation of actions to detect and deter international transfers of funds of illicit origin, as well as asset recovery. The foregoing under the principles of transparency, accountability, cooperation and mutual assistance.

**Paragraph:**

*4. (k) To eliminate illicit arms flows by all necessary means, in accordance with international commitments;*

**Comment:**

It is in line with the objectives that have been agreed upon in various international instruments on the subject. In addition, it coincides with the targets that have been proposed in the SDGs.

This background adds to the idea that the illicit flow of arms negatively affects development. For this reason, it is considered pertinent and no changes are recommended.

**Paragraph:**

*(l) Assist developing and least developed countries in achieving long-term debt sustainability through coordinated policies aimed at promoting debt financing, relief and restructuring, as appropriate, and addressing the external debt of heavily indebted poor countries in order to reduce excessive indebtedness;*

**Comment:**

The following paragraph is suggested for inclusion:

*(Lbis) Promote a comprehensive approach to the World Drug Problem from a holistic, multilateral perspective that respects human rights, public health and the environment within the framework of the principle of common and shared responsibility, recognizing the impact of this phenomenon on the development and security of States.*

**Paragraph:**

***Paragraph e:*** *"Enhance capacity-building support to developing countries, including least developed countries and small island developing States, to significantly increase the availability of relevant, timely, reliable and high-quality disaggregated data;*

**Comment:**

The proposal presented in paragraph e, is aligned with the content of Sustainable Development Goals 17.18 and 17.19, as well as with monitoring indicators 17.18.1; 17.18.2; 17.18.3; 17.19.1, and 17.19.2, presented below:

|  |  |
| --- | --- |
| Sustainable Development Goal | Indicators |
| 17.18. By 2020, enhance capacity-building support to developing countries, including least developed countries and small island developing Statesin development, to significantly increase the availability of timely, reliable and high-quality data disaggregated by income, sex, age, race, ethnicity, migration status, disability, geographic location and other characteristics relevant to national contexts | 17.18.1. Proportion of indicators of sustainable development produced at the national level, with full disaggregation where relevant to the target, in accordance with the Fundamental Principles of Official Statistics |
| 17.18.2. Number of countries whose national statistical legislation complies with the Fundamental Principles of Official Statistics |
| 17.18.3. Number of countries with a fully funded national statistical plan and in the process of implementation, by source of funding |
| 17.19. By 2030, build on existing efforts to develop indicators to measure progress in sustainable development and complement gross domestic product, and support statistical capacity-building in developing countries | 17.19.1. Dollar value of all resourcesProvided to strengthen statistical capacity in developing countries |
| 17.19.2. Proportion of countries that (a) have conducted at least one population and housing census in the last ten years; and (b) have registered 100 per cent of births and 80 per cent of deaths |

In this way, it is important to recognize that the proposal is built based on agreements that have already been positioned at the international level (SDGs), however, it lacks key elements to include the regulatory framework associated with the management of official statistics at the global level, where the main input is the Fundamental Principles of Official Statistics, adopted by the United Nations General Assembly (A/RES/68/261 of January 29, 2014), which include specific aspects, such as transparency in the conduct of Statistical Offices, confidentiality, the use of different sources, among others.

From Colombia's perspective , it is essential that the existence of these principles, as well as the Cape Town Action Agenda, be included as a normative element as frameworks on which the data and statistical elements in this project are developed.

The inclusion of this paragraph ignores the contribution that South-South cooperation countries can make to this element, leaving all responsibility to donor countries. While that is the priority and the importance is recognized, the supports that are built among developing countries must also be positioned.

Drafting comments:

* It is considered that the inclusion of two groups of developing countries (LDC's and SIDS), should be accompanied by the inclusion of Middle Income Countries (MICs), a group of countries of which Colombia is part.
* The term "high quality" is considered too generic, as it does not establish benchmarks for assessing compliance. In the framework of official statistics, there are several instruments that must be implemented (such as the United Nations Framework for Quality Assurance of Official Statistics) to comply with this attribute.

**On Paragraph 4 (g):**

* *4. (g) Enhance North-South, South-South, triangular and other forms of regional and international cooperation in all areas, in particular in the areas of access to science, technology and innovation, and enhance knowledge-sharing on mutually agreed terms, including by improving coordination among existing mechanisms, in particular at the United Nations level, and through existing and new mechanisms for global technology facilitation;*
* **Comment:**
* Take into account the strengthening of human capital as a factor that can contribute to development and that can be potentiated in the framework of regional and international cooperation.

**The following wording is proposed:**

* *Enhance North-South, South-South, triangular and other forms of regional and international cooperation in all areas, in particular in the areas of access to science, technology and innovation, and increase the transfer and exchange of knowledge, on mutually agreed terms, including by improving coordination between existing and new*  mechanisms *to facilitate access, use and creation of technologies worldwide; in particular at the level of the Science, Technology and Innovation ecosystem, national and the United Nations.*

**On Paragraph 4(h):**

*4. (h) Improve mitigation measures and adaptive capacity, strengthen resilience and reduce vulnerability to climate change and extreme weather events, addressing the economic, social and environmental impacts of climate change, taking into account the imperatives of fair conversion, equity and the principles of common but differentiated responsibilities and respective capabilities, in light of national circumstances, and improving access to international climate finance, technology transfer and capacity-building to support mitigation and adaptation actions in developing and least developed countries, especially those that are particularly vulnerable to the adverse effects of climate change*

**Comment:**

From the institutional work, lead strategies that contemplate the social appropriation of knowledge that allow strengthening the exchange of knowledge, practices, analysis, reflection of Science, Technology and Innovation and that align in the object of the article.

**Paragraph 4 (h) is proposed as follows:**

*(h) Improve mitigation measures and adaptive capacity, strengthen resilience and reduce vulnerability to climate change and extreme weather events, addressing the economic, social and environmental impacts of climate change, taking into account the imperatives of fair conversion, equity and the principles of common but differentiated responsibilities and respective capabilities, in light of national circumstances, and improving access to international climate finance, technology transfer and social appropriation of knowledge* as  *well as capacity-building to support mitigation and adaptation actions in developing and least developed countries, especially those that are particularly vulnerable to the adverse effects of climate change*

**On paragraph 4(i):**

*4. (i) Promote the development of environmentally sound and human rights-respecting technologies and their transfer, dissemination and dissemination to developing countries on favourable terms, including on concessional and preferential terms, as mutually agreed*

**Comment:**

*Promote the development, transfer, dissemination and diffusion of environmentally sound technologies, which respect human rights, for developing countries, on favourable terms, including concessional and preferential terms, as mutually agreed*

 **Recommendations:**

In line with the priorities of the National Government in terms of circular economy, with a focus on people and not simply on financial movements, and in search of mitigating the effects of climate change, it is recommended to analyze the draft convention under the principles that have been outlined in the draft National Development Plan. This is because, under initial consideration, the draft convention does not include certain principles that give scope and limitation to the aforementioned right, such as: (i) Land use planning around water; (ii) Human security and social justice; (iii) Human right to food; iv) Productive transformation, internationalization and climate action; and (v) Regional convergence.

"It is recommended that the scope of the right to development be clarified in order to ensure that the binding nature of this instrument includes new social, political and economic, national and international dynamics. "

***On the other hand, we believe that some exception can be explored that allows middle-income countries such as Colombia to cooperate through technical cooperation mechanisms (North-South, South-South, triangular and other forms of regional and international cooperation) considering the reality of the particular economy of our State, in which high rates of multidimensional poverty persist. structural violations of the human rights of the population, and still depends on international funding for the implementation of some government programs.***

**Article 14.**  **Coercive measures**

**Paragraph:**

*1. The use or encouragement of the use of economic or political measures, or of any*

*another type of measure, to coerce a State in order to obtain from it the subordination of the exercise of its sovereign rights in violation of the principles of the sovereign equality of States, the freedom of consent of States or applicable international law, constitutes a violation of the right to development.*

*2. States Parties shall refrain from adopting, maintaining or applying the measures referred to in paragraph 1.*

**Comment:**

Colombia considers that unilateral coercive measures are contrary to international law and the principles of the Charter of the United Nations. It is suggested that the article clarify the term "unilateral coercive measures".

The following wording is suggested:

***Article 14 Unilateral*** coercive measures

*1. The use or encouragement of the use of economic or political measures, or any other type of ~~measure~~*, contrary to international law, to *coerce a State in order to obtain from it the subordination of the exercise of its sovereign rights in violation of the principles of the sovereign equality of States, the freedom of consent of States or applicable international law constitutes a violation of the right to development.*

*2. States Parties shall refrain from adopting, maintaining or applying the measures referred to in paragraph 1.*

*For Article 15 we suggest including the following point:*

 Sand suggests including:

*(h) Facilitation of science, technology and innovation.*

**Article 22.**  **International peace and security**

**Paragraph:**

*2. To this end, States parties undertake to take collective measures with the objective of achieving general and complete disarmament under strict and effective international control, so that the human, ecological, economic and technological resources of the world can be used for the full realization of the right to development for all.*

**Comment:**

The following wording is suggested:

*2. To this end, in accordance with international law, States Parties undertake to take collective measures ~~with the objective~~* of  *preventing the proliferation of arms and of achieving general*, *complete, verifiable, irreversible and transparent* disarmament  *under*  strict and effective international *control and effective international control. , so that the world's human, ecological, economic and technological resources can be used for the full realization of the right to development for all.*

**Article 25.**  **Conference of the States Parties**

**Paragraph:**

*2. The Conference of the States Parties shall regularly review the effective implementation of the Convention and any related legal instruments that may be adopted by the Conference of the States Parties and, within its mandate, shall take such decisions as may be necessary to promote the effective implementation of the Convention. To this end, the Conference of the States Parties shall:*

*(a) Periodically consider the reports of States parties concerning the implementation of their obligations under the Convention and obstacles encountered in the realization of the right to development, in the light of the object and purpose of the Convention. In this regard, the Conference of the States Parties may refer such reports to the implementation mechanism provided for in article 27 of this Convention;*

**Comment:**

The Convention includes topics already contained in specific instruments on the subject that have technical implementing bodies and have funding (e.g. fight against corruption). It is important to consider that it is not a duplication of efforts.

**Article 25.**  **Conference of the States Parties**

**Paragraph:**

*2. (d) Seek and use, as appropriate, the services and cooperation of international organizations and relevant intergovernmental and non-governmental bodies, as well as information provided by them;*

**Comment:**

We believe it is necessary to clarify what this would imply or what purpose this would have in practice.

* Preamble

**Paragraph:**

*Concerned about the existence of serious obstacles to the realization of the right to development, constituting, inter alia, poverty in all its forms and dimensions, including extreme poverty, hunger, inequality in all its forms and manifestations, both within and among countries, climate change, health emergencies and health crises, colonization, neo-colonization, forced displacement, racism, discrimination, conflict, foreign domination and occupation, aggression, threats to national sovereignty, national unity and territorial integrity, terrorism, crime, corruption, all forms of deprivation affecting the subsistence of peoples and the denial of other human rights,*

**Comment:**

For Colombia, corruption is one of the main threats to development, democratic governance and the security of nations.

**Paragraph:**

*Considering that peace and security at all levels constitute an essential element for the realization of the right to development and that it can, in turn, contribute to the establishment, maintenance and strengthening of peace and security at all levels,*

**Comment:**

Considering the messages of Total Peace of the National Government and the Text of the Peace Agreement of 2016, Colombia could propose the following wording:

*Considering that peace as a synthetic right and security at all levels constitute an essential element for*  the realization of the right to development, and the *realization of which contributes that the* *right*  to development can, *~~in turn, contribute~~ to the establishment, maintenance and strengthening of peace and security at all levels,*

On this proposal, it should be noted that for Colombia, peace constitutes a synthetic right as was enshrined in the 2016 Peace Agreement.

The foregoing, under the understanding that peace integrates the set of human rights from a common variable, human dignity. Therefore, peace understood as a synthetic right is the means to achieve the full realization of its citizens, development. For the National Government, without peace, the other individual prerogatives have no possibility of being realized.

**Article 27 Establishment of an implementation mechanism**

**Paragraph:**

*2. The implementation mechanism shall be composed of independent experts, taking into consideration, inter alia, gender balance and equitable geographical representation, as well as appropriate representation of different legal systems. The experts shall serve in their personal capacity and shall be persons of high moral character and recognized competence and experience in the fields covered by this Convention.*

**Comment:**

It is important to consider how the mechanism will interact with other existing mechanisms on issues addressed by this convention, for example, the mechanisms established by the UNCAC in the area of anti-corruption.

It is important to clearly define the issues on which the mechanism is going to pronounce, this, considering that the convention addresses issues that are already evaluated at the international level and could fall into a duplication of efforts with other Conventions.

**Article 16.**  **Equality between men and women**

**Paragraph:**

*1. States Parties shall, in accordance with their obligations under international law, ensure substantive equality between women and men and take measures, including temporary legislation and special measures, as and when appropriate, to end all forms of discrimination against women and girls; in order to ensure their full and equal enjoyment of the right to development.*

**Comment:**

We agree with the various efforts that can be consolidated to implement the right to development from a gender perspective. Gender stereotypes and patriarchal structures have hindered the development of specific groups, mainly women and girls. In this sense, the construction of an agenda that promotes participation scenarios, in which the voice of women is heard and taken into account in the reconstruction of the social fabric, is essential in order to consolidate the human right to development.

**Specific comments:**

**Article 16 Equality between men and women**

**Paragraph:**

*1. States Parties shall, in accordance with their obligations under international law, ensure substantive equality between women and men and take measures, including temporary legislation and special measures, as and when appropriate, to end all forms of discrimination against women and girls; in order to ensure their full and equal enjoyment of the right to development.*

**Comment:**

It is proposed:

*1. States Parties shall, in accordance with their obligations under international law, ensure substantive equality between women and men and take measures, including temporary legislative measures and special measures, as and when appropriate, to end all forms of discrimination and exclusion against women and girls, in order to ensure their full, equal and equitable*  enjoyment *of the right to development.*

**Paragraph:**

*2. (a) Prevent and eliminate all forms of violence and harmful practices against women and girls in the public and private spheres, both online and offline, including trafficking in persons and all forms of sexual and other forms of exploitation;*

**Comment:**

It is proposed:

*(a) Prevent and eliminate all forms of violence and harmful practices (including cultural practices) against women and girls in all their diversities*  in *the public and private spheres, in both the virtual and physical worlds, including trafficking in persons and all forms of sexual and other forms of exploitation;*

**Paragraph:**

*2. (b) Ensure the full, equitable, effective and meaningful participation of women and equal opportunities for leadership at all levels in the design, decision-making, implementation, monitoring and evaluation of policies and programmes in political, economic, social, cultural and public life, and within legal persons;*

**Comment:**

It is proposed:

*(b) Ensure the full, equitable, effective and meaningful participation of women and equal opportunities for leadership at all levels in the design, decision-making, implementation, monitoring and evaluation of policies and programmes in political, economic, social, cultural, environmental* and  *public life, and within legal persons;*

It is considered important to consider the forms of self-government established within the framework of the special jurisdiction for ethnic peoples and communities (Indigenous, Black, Afro-descendant, Raizales and Palenqueras, and the Roma People).

**Paragraph:**

*2. (c) Adopt and strengthen applicable policies and laws to promote equal opportunities and the empowerment of women and girls at all levels;*

**Comment:**

*(c) Adopt and strengthen applicable policies and laws to promote equal opportunities and empowerment of women and girls at all levels and in urban , peri-urban and rural areas;*

**Paragraph:**

*2. (e) Ensure equal and equal access to and control over the resources necessary for the full realization of the right to development by women and girls;*

**Comment:**

*(e) Ensure equal* and equitable access to and  *control over the necessary resources for the full realization of the right to development by women and girls in all their diversities*, *adopting differential approaches according to ethnicity, gender and intersectionality;*

**Paragraph:**

*2. (f) Ensure equal and equitable access to quality education and services necessary for the full realization of the right to development by women and girls;*

**Comment:**

*(f) Ensure equal* and equitable access to  *quality education and services necessary for the full realization of the right to development by women and girls at the rural, peri-urban and urban levels*, *adopting differentiated approaches according to ethnicity, gender and intersectionality;*

*(h) Reduce the gaps between urban and rural women, through the adoption of measures aimed at guaranteeing their rights and eliminating all forms of historical discrimination and exclusion, in order to advance their full realization of the right to development.*

*I) Include in the approach to the right to development all measures aimed at achieving equality around care work with a gender, territorial and racial approach.*

Note: Egalitarian, which aims at or seeks to achieve social equality, which implies equality or tends towards it, which advocates social equality.

**Article 18.**  **Measures to prevent and combat corruption**

**Paragraph:**

*States parties recognize that corruption poses a major obstacle to the realization of the right to development. To this end, States Parties shall, in accordance with international law, individually and jointly:*

*public affairs and goods.*

*(a) Promoting and strengthening measures to prevent and combat corruption;*

*(b) Promoting, facilitating and supporting international cooperation and technical assistance*

*in preventing and combating corruption, including asset recovery;*

*(c) Promoting integrity, accountability and proper management of public affairs and public property.*

**Comment:**

The article is propitious and laudable, given the effect of corruption on development. However, the literals indicated here are already contemplated in the United Nations Convention against Corruption-UNCAC in its Chapter II (Articles 5 and 37), Chapter IV (Article 43=) and Chapter V (Articles 54 and 55). In fact, this commitment and the respective recommendations given to Colombia, have been inspired by the issuance of laws such as 1474 of 2011, 2195 of 2022, 2016 of 2020, among others. Therefore, it is suggested to mention exhaustively the antecedent of the UNCAC, to point out that they are articulated documents and that there will be no duplication of obligations on the part of the acceding States.

**Article 17.**  **Indigenous peoples**

**Paragraph:**

*2. In accordance with international law, States Parties shall consult and cooperate in good faith with the indigenous peoples concerned through their representative institutions before adopting and implementing legislative or administrative measures affecting them, in order to obtain their free, prior and informed consent.*

*3. States Parties shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent before approving any project affecting their lands or territories and other resources, particularly in relation to the development, utilization or exploitation of mineral resources; water or otherwise.*

**Comment:**

The Ministry suggests that both paragraphs include "*within the framework of ILO Convention 169*".

**Article 21. Data collection and statistics**

**Paragraph:**

***Paragraph 1:*** *1. States Parties shall collect adequate information, including statistical and research data, to enable them to formulate and implement policies, in order to give effect to this Convention. In the process of collecting and maintaining this information, you should:*

* *Respect the established legal guarantees, including data protection legislation, in order to ensure confidentiality and respect for privacy, both in the virtual and physical world;*
* *Comply with internationally accepted standards to protect human rights and fundamental freedoms, as well as ethical principles, in the collection and use of statistics.*

**Comment:**

 We recognize the importance of advancing in the use of statistical information for the process of developing public policies, as well as for decision-making processes, where actors such as the private sector and civil society participate. In the case of Colombia, reference is made to the existence of a legal framework, according to which legislative projects and initiatives must take official statistics as a starting point.

Similarly, the terminology is vague, since "data and statistics" and "statistical and research data" are generic expressions that lack regulation regarding their compilation and production. Likewise, it should be considered that research involves academic and inquiry exercises that respond to logics other than the production of official statistics for decision-making. In view of the above, it is suggested to adjust, so that explicit reference is made to official statistics, recognized in the national and international framework.

Similarly, it is considered pertinent to include issues related to confidentiality, protection of personal data and respect for privacy, as well as protection of human rights and fundamental freedoms, with emphasis on those associated with the collection and use of statistics. However, in addition to these components, central elements such as the quality, relevance and other attributes of official statistics that are an integral part of them are left out. In particular, the existence of frameworks such as the OECD Council Recommendation on Good Statistical Practice, which reflects these elements, is particularly recognized, and which must be complied with by Member States, as well as future candidates, as a condition for membership in that organization.

In this way, recognizing the plurality of stakeholders with the subject of statistics, it is recommended to be able to generate an approach by the Working Group of the Human Rights Council with the United Nations Statistics Division who provides the secretariat services to the United Nations Statistical Commission, as an organ of ECOSOC.

**Paragraph:**

***Paragraph2:*** *The information collected in accordance with this article shall be disaggregated, where appropriate, and used by the State Party to assess the implementation of its obligations under this Convention, as well as to identify and address obstacles to the full realization of the right to development.*

***Paragraph 3:*** *3. "States parties shall assume responsibility for disseminating such statistics in a manner consistent with the goal of the full realization of the right to development for all.*

The inclusion of paragraphs 3.2 and 3.3. It requires greater international regulatory anchoring, in order to enable the elaboration of more specific proposals on the requirements for disaggregation of information and dissemination strategies with decision makers.

1. American Convention on Human Rights of 1969. Article 5. [↑](#footnote-ref-1)