**SECOND REVISED TEXT OF THE DRAFT CONVENTION ON THE RIGHT TO DEVELOPMENT (A/HRC/WG.2/24/2/Add.1.)**

**submitted pursuant to Human Rights Council resolution 51/7**

**General Comments:**

* The EU has completed the legal analysis of the second revised text of the draft convention on the right to development (A/HRC/WG.2/24/2/Add.1.).
* The revised draft convention should be compliant with existing human rights law, given that it has been prepared pursuant to Human Rights Council resolution 48/10 and negotiated at the 23rd session of the Human Rights Council Working Group on the Right to Development, which was established by the Commission on Human Rights in its resolution 1998/72 and by the Economic and Social Council in its decision E/DEC/1998/269.
* The EU reiterates that promoting the enjoyment of all human rights, including the right to development, and democratic principles and the rule of law is a pre-condition to achieve inclusive and sustainable development. Such an approach is in line with international human rights law and global commitments, primarily the 2030 Agenda for sustainable development.
* The EU recalls that human rights are rights inherent to all human beings. The international human rights treaties and the Universal Declaration of Human Rights, stipulate that human rights are the birth right of all human beings. In this spirit, the formulation “every individual and all peoples”, which continues to be recurrent throughout the second revised text of the draft Convention on the right to development, creates legal uncertainty, in particular as the relationship between the rights of the individual and the collective remains unclear.
* The EU recognises that the realisation of development contributes to the enjoyment of all human rights when implemented in a way that is consistent with international human rights norms and principles. As underlined in the Vienna Declaration and Program of Action, lack of development cannot be invoked as justification for undermining international human rights norms and standards. Any ambiguity to this effect should be removed throughout the text.
* The EU also raises concern over the fact that some elements suggest shifting away from the primary responsibility of States to respect, protect and fulfil human rights to a responsibility of an inter-state nature, while others fall short of States’ obligations under existing human rights treaties, such as the Convention on Economic, Social and Cultural Rights and the ICCPR.
* The EU believes that the process must be as inclusive and consensual as possible. In this spirit, the EU is ready to engage constructively in the intergovernmental discussions at the twenty-fourth session of the Working Group on the Right to Development, without prejudging its final position thereof.
* The EU is of the view that the decision to submit the final draft text of the convention to the Human Rights Council must be collegial, respectful of UN members’ different stances. The validity of a legally binding instrument depends on the State Parties that express their consent to be bound by it.

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| **2nd Recital (Preamble***)*  *Recalling the obligation of States under articles 1 (3), 55 and 56 of the Charter of the United Nations to take joint and separate action in cooperation with the Organization for the promotion of higher standards of living, full employment and conditions of economic and social progress and development; solutions of international economic, social, health and related problems; international cultural and educational cooperation; and universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction of any kind,* | *Recalling the pledge**of States under articles 1 (3), 55 and 56 of the Charter of the United Nations to take joint and separate action in cooperation with the Organization for the promotion of higher standards of living, full employment and conditions of economic and social progress and sustainable development; solutions of international economic, social, health and related problems; international cultural and educational cooperation; and promoting respect, protection and fulfilment of, human rights and fundamental freedoms for all, without discrimination of any kind,* | Please note that that Art 56 reads:  Article 56 – *All Members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55*.In case a verbatim quote is not pursued, it would be welcome that the language reflect the jurisprudence on human rights, which has developed since the adoption of the Charter. |
| **3rd Recital (Preamble***)*  *Reaffirming the Universal Declaration of Human Rights, and recalling that, under its provisions, everyone is entitled to a social and international order in which the rights and freedoms set forth in the Declaration can be fully realized, and that everyone, as a member of society, is entitled to the realization, through national effort and international cooperation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for her or his dignity and the free development of her or his personality,* | *Reaffirming the Universal Declaration of Human Rights, and recalling that, under its provisions, everyone is entitled to a social and international order in which the rights and freedoms set forth in the Declaration can be fully realized,*  *Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights, (art.3 of ICCPR and CESCR).*  *Recalling that each State has a duty to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of economic, social and cultural rights, which are indispensable for the dignity and the free development of every human person,* | The current formulation alters States’ obligations under the Convention on Economic, Social and Cultural Rights. Art2 of the CESCR, clearly underlines the primary duty of the state to take measures to the maximum of its available resources, including those available through international cooperation, to fulfil ESC Rights. The track changes reflect the language in art2 of the CESCR.  Also suggest to add agreed language on the interrelatedness of civil and political rights with ESCR, to strike balance between the two, before merging into substance on ESCR. |
| **10th Recital (Preamble***)*  *Taking note of the regional human rights instruments and the subsequent practices relating thereto that specifically recognize and reaffirm the right to development, including the African Charter on Human and Peoples’ Rights, the Inter-American Democratic Charter, the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, the Arab Charter on Human Rights, the Human Rights Declaration of the Association of Southeast Asian Nations, the American Declaration on the Rights of Indigenous Peoples, and the Abu Dhabi Declaration on the Right to Development,* | Taking note of the regional human rights instruments that recognize and reaffirm the right to development, including the African Charter on Human and Peoples’ Rights, the Inter-American Democratic Charter, the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, the Arab Charter on Human Rights, the Human Rights Declaration of the Association of Southeast Asian Nations, the American Declaration on the Rights of Indigenous Peoples, and the Abu Dhabi Declaration on the Right to Development, | The treaty cannot take a stance on practices that are undefined. |
| **13th recital (Preamble)**  *Acknowledging that the realization of the right to development is a common concern of humankind* | Acknowledging that the realization of the right to development is of common interest , | The other HR instruments do not have a similar reference. As per jurisprudence under international environmental law, the inclusion of “common concern of humankind” in the treaty would suggest a shift away the primary responsibility of states to respect, protect and fulfil human rights to a responsibility of an inter-state nature.  We suggest using the concept of “common interest” as per the jurisprudence of the ICJ (see e.g. Barcelona Traction case). |
| **14th recital (Preamble)**  *Concerned at the existence of serious obstacles to the realization of the right to development comprising, inter alia, poverty in all its forms and dimensions, including extreme poverty, hunger, inequality in all forms and manifestations within and among countries, climate change, health emergencies and health crises, colonization, neo-colonization, forced displacement, racism, discrimination, conflicts, foreign domination and occupation, aggression, threats against 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*, | *Concerned at the existence of serious obstacles to the realization of the right to development, comprising, inter alia poverty in all its forms and dimensions, including extreme poverty, hunger, inequality in all forms and manifestations within and among countries, climate change, health emergencies and health crises, denial of the right to self-determination, colonization, neocolonization, forced displacement, racism, discrimination, armed conflicts, foreign domination and occupation, aggression, threats against the territorial integrity or political independence of any state , terrorism, organised crime, corruption and poor governance, all forms of deprivation affecting subsistence, particularly of those persons in the most vulnerable situations and that, in order to promote development, equal attention and urgent consideration should be given to the respect, protection and fulfilment of all civil, political, economic, social and cultural rights,* | Not all elements listed in this article are human rights as suggested by the current wording so the article needs to be adapted accordingly.  The current formulation does also not reflect the spirit **of pp 10 of** the Declaration on the right to development, which is the equivalent paragraph in the Declaration. It underscores that denial of human rights is a fundamental obstacle to development and that human rights need to be promoted to achieve development. |
| **15th recital (Preamble)**  *Emphasizing that the right to development, which derives from the inherent dignity of all members of the human rights family, is an inalienable human right of all individuals and peoples, and that equality of opportunity for development is a prerogative both of nations and of individuals who make up nations*, | *,*  *Recognizing and affirming that all human rights derive from the dignity and worth inherent in the human person, and that the human person is the central subject of human rights, and consequently should be the principal beneficiary and should participate actively in the realization of these rights and freedoms, including the right to development,* | We propose using agreed language that clarifies our concerns with this preambular paragraph. The alternative language is **pp2 of the Vienna Declaration**. |
| **16th recital (Preamble)**  *Recognizing that development is a comprehensive civil, cultural, economic, environmental, political and social process that is aimed at the constant improvement of the well-being of the entire population and of all peoples and individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom,* | *Recognizing that sustainable development is understood not simply in terms of economic growth, but as a comprehensive civil, cultural, economic, environmental, political and social process that is aimed at the constant improvement of the well-being of the entire population and of all human beings on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom,* *and without compromising the ability of future generations to realise their aspirations and meet their own needs,* | The individual is the central subject of and rights holder to the right to development (including pp 2 of the Declaration to the right to development).  The first sentence from recital 17 can be included here.  The aspect of sustainability with respect to *future generations* is not explicitly mentioned within the preamble and it would be well placed here. |
| **17th recital (Preamble)**  *Acknowledging that development is understood not simply in terms of economic growth, but also as a means of widening people’s choices to achieve a more satisfactory intellectual, emotional, moral and spiritual existence rooted in the cultural identity and the cultural diversity of peoples*, | Delete the 17th recital and incorporate the first sentence of the 17th recital in the 16th recital | The current formulation overlooks the fact that human rights are enjoyed by individuals and that marginalization and exclusion has intersecting and multiple reasons depending on factors such as ethnicity, minority status, disability/ ability, age etc. It also presupposes that all individuals in a given State want to pursue a collective form of “cultural identity” thus going against the very basic notion of individual freedom and that everyone has a right to determine their own path in life. It justifies violating rights of individuals in the name of the collective. |
| **20th recital (Preamble)**  *Considering that peace and security at all levels is an essential element for the realization of the right to development and that such realization can, in turn, contribute to the establishment, maintenance and strengthening of peace and security at all levels,* | *Considering that development, peace and security and human rights are interlinked and mutually reinforcing and that the realization of the right to development can, in turn, contribute to the realisation of other human rights and to maintenance and strengthening of peace and security at all levels,* | All three UN pillars should be referred to in the recital. The EU proposal builds on agreed language from the HRC, see for example see HRC45/31 pp5. |
| **21st recital (Preamble)**  *Recognizing that the effective rule of law, good governance and accountability**at all levels, including the national and international levels, and the realization of the right to development are mutually reinforcing,* | Recognizing that the rule of law, good governance, transparency and accountabilityat all levels, including the national and international levels, and the realization of the right to development are mutually reinforcing, |  |
| **22nd recital (Preamble)**  *Recognizing also that the individual and peoples are the central subjects of the development process, and that development policy should therefore make them the main participants and beneficiaries of development,* | *,*  *Recognizing also that the human person is the central subject of development and should be the active participant and beneficiary of the right to development.* | Suggest replacing by -> Art 2.1 of the Declaration on the right to development. |
| **23rd recital (Preamble)**  *Recognizing further that all individuals and peoples are entitled to a national and international environment conducive to just, equitable and participatory development, centred them and respectful of all human rights,* | ,  *Recognizing further that every human person is entitled to participate in, contribute to, and enjoy civil, economic, social, cultural and political development, in which all human rights can be fully realized* | The elements in article 1.1 and 1.2 of the Declaration on the R2D are now merged in a non-helpful way. The elements of art 1.2 are already enshrined in article 3.(f) of this draft -> suggest replacing this recital by article 1.1 of the Declaration on the right to development. |
| **24th recital (Preamble)**  *Acknowledging that States have the primary responsibility, through cooperation, including engagement with civil society, for the creation of national and international conditions favourable to the realization of the right to development,* | *Acknowledging that States have the primary responsibility, including through cooperation, and through meaningful engagement with civil society, for the creation of national and international conditions favourable to the realization of the right to development,* | The primary responsibility of each state for the respect, protection and fulfilment of human rights cannot be shifted to the international community. Cooperation and primary responsibility are two different things. Art 3.3 of the Declaration on the right to development and the Vienna declaration (Op10.4) outline that:  *States should cooperate with each other in ensuring development and eliminating obstacles to development. The international community should promote an effective international cooperation for the realization of the right to development and the elimination of obstacles to development.*  The declaration on the R2D underscores that the creation of conditions favourable to development for the benefit of the population“ is the primary responsibility of *their* States”.  Furthermore, to be consistent with the rest of the DLBI add a reference to meaningful engagement. |
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| **Article 1: Object and purpose**  *The object and purpose of the present Convention is to promote and ensure the full, equal and meaningful enjoyment of the right to development by every individual and all peoples everywhere, and to guarantee its effective operationalization and full implementation at the national and international levels.* | *The object and purpose of the present Convention is to promote and ensure the full, equal and meaningful enjoyment of the right to development by every human being everywhere, and to guarantee its effective operationalization and full implementation at the national and international levels.* |  |
| **Article 2: Definitions**  (a) *‘Legal person’ means any entity that possesses its own legal personality under domestic or international law and is not a natural person, a people or a State;*  (b)‘International organization’ means an organization established by a treaty or other instrument governed by international law and possessing its own international legal personality; international organizations may include, in addition to States, other entities as members; | **1st option**: delete (a) and (b)  **2nd option** as follows:  *(a) ‘Legal person’ means any entity that possesses its own legal personality under domestic or international law and is not a human being, , an international organization or a State;*  *(b) International organization’ means an organization established by a treaty or other instrument governed by international law and possessing its own international legal personality; international organizations may include, in addition to States, other entities as members*; | There is now a double attribution of international organizations in the draft LBI. This double attribution is not only unconventional, but also obscures the extent of their legal obligations under this suggested instrument. |
| **Article 3:** **General Principles**  *To achieve the object and purpose of the present Convention and to implement its provisions, the States Parties shall be guided by, inter alia, the principles set out below:*   1. *Development centred on the individual and peoples: the individual and peoples are the central subjects of development and must be the active participants and beneficiaries of the right to development;* 2. *Principles common to all human rights: the right to development should be realized in a manner that integrates the principles of the universality, inalienability, indivisibility, interdependence and interrelatedness of all human rights, as well as of equality, non-discrimination, empowerment, participation, transparency, accountability, equity, inclusion, accessibility and subsidiarity;*   *(c) Human rights-based development: as development is a human right that is indivisible from and interrelated and interdependent with all other human rights, the laws, policies and practices of development, including development cooperation, must be normatively anchored in a system of rights and corresponding obligations established by international law;*  *(d) Contribution of development to the enjoyment of all human rights: development, as described in the present Convention, is essential for the improvement of living standards and the welfare of individuals and peoples and contributes to the enjoyment of all other human rights;*  *(f) Self-determined development: the priorities of development are determined by individuals and peoples as rights holders in a manner consistent with the provisions of the present Convention. The right to development and the right to self-determination of peoples are integral to each other and mutually reinforcing;*  (*g) Sustainable development: development must be achieved in all its dimensions, including, economic, social and environmental, in a balanced and integrated manner and in harmony with nature. The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations; and the right to development cannot be realized if development is unsustainable;*  *(h) Right to regulate: the realization of the right to development entails the right for States Parties, on behalf of the rights holders, to take regulatory or other related measures to achieve sustainable development on their territory in accordance with international law, and consistent with the provisions of the present Convention;*  *(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, encompassing the union of interests, purposes and actions and the recognition of different needs and rights to achieve common goals everywhere. This principle includes the duty to cooperate with complete respect for the principles of international law;*  *(l) Right and responsibility of individuals, peoples, groups and organs of society to promote and protect human rights: in accordance with international law, everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of the right to development at the national and international levels. Individuals, peoples, groups, institutions and non-governmental organizations also have an important role and a responsibility in contributing, as appropriate, to the promotion of the right of everyone to a social and international order in which the right to development can be fully realized*." | *To achieve the object and purpose of the present Convention and to implement its provisions, the States Parties shall be guided by, inter alia, the principles set out below:*   1. *Sustainable development centred on human beings as the central subjects, the active participants and holders of the right to development*; 2. *Principles common to all human rights: the right to development should be realized in a manner that reflects s the universality, inalienability, indivisibility, interdependence and interrelatedness of all human rights, and integrates the principles of equality, non-discrimination, empowerment, participation, transparency, accountability, equity, inclusion, accessibility and subsidiarity;*   (c) *Human rights-based development: as development is a human right that is indivisible from and interrelated and interdependent with all other human rights, the laws, policies and practices of development, including development cooperation, must be normatively anchored in international human rights law. The promotion of one right cannot justify the violation of other human rights*;  (d) *Contribution of development to the enjoyment of all human rights: sustainable development, as described in the present Convention, is essential for the improvement of living standards and the welfare of human beings and contributes to the enjoyment of all human rights. Likewise, the respect, protection and fulfilment of all human rights is essential to achieve inclusive and sustainable development*;  (f) *Self-determined development: development is determined by human beings as rights holders in a manner consistent with the provisions of the present Convention. The right to development and the right to self-determination of peoples, together with all other human rights, are integral to each other and mutually reinforcing*;  *g) Sustainable development: development must be achieved in all its dimensions, including, economic, social and environmental, in a balanced and integrated manner and in harmony with nature. Development should be inclusive. The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations; and the right to development cannot be realized if development is unsustainable;*  (h) *Duty to regulate: the realization of the right to development entails the duty for States Parties to take reasonable and proportional regulatory or other related measures in the public interest to achieve sustainable development on their territory in accordance with international human rights law, and consistent with the provisions of the present Convention*;  (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, encompassing the union of interests, purposes and actions and the recognition of different needs to achieve common goals everywhere. This entails to cooperate with complete respect for the principles of international law*;  (l)  *Human beings, institutions and non-governmental organizations also have an important role and a responsibility in contributing, as appropriate, to the promotion of a social and international order in which the right to development can be fully realized.* | 3 (a): see art 2 (1) of the Declaration on the right to development.  3 (c) the new element proposed at the end of this article reflects pp 9 of the Declaration on the right to development; it should be clearly spelled out in the context of HRBA.  3 (d) it is crucial to make a clear link between HRBA and the contribution of development.  3(h) Under international human rights law states have a *duty* to undertake measures, including legal, to ensure that individuals are protected against actions that can undermine their rights.  3 (i) requires further consideration as the current formulation is unclear  3 (l) : This article blurs the line between States’ primary duty to respect, protect and fulfil human rights and recognizing the possible positive contribution that other actors can have in furthering their enjoyment. |
| **Article 4: Right to development**  1. *Every individual and all peoples have the inalienable right to development, by virtue of which they are entitled to participate in, contribute to and enjoy civil, cultural, economic, environmental, political and social development that is indivisible from and interdependent and interrelated with all other human rights and fundamental freedoms.*  2. *Every individual and all peoples have the right to active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom*. | 1.  *All human beings, without discrimination of any kind, have the inalienable right to development, by virtue of which they are entitled to participate in, contribute to and enjoy civil, cultural, economic, environmental, political and social development that is indivisible from and interdependent and interrelated with all other human rights and fundamental freedoms.*  2. *All human beings have the right to active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom*. |  |
| **Article 5: Relationship with the right of peoples to self-determination**  5. *States Parties shall take resolute action to prevent and eliminate massive and flagrant violations of the human rights of persons 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 against national sovereignty, national unity and territorial integrity, threats of war and the refusal to otherwise recognize the fundamental right of peoples to self-determination.* | 5. *States Parties shall take resolute action to prevent and eliminate massive and flagrant violations of t human rights in situations such as those resulting from apartheid, all forms of racism and discrimination, colonialism, foreign domination and occupation, aggression, foreign interference and threats against the territorial integrity or political independence of any state , threats of war and the refusal to otherwise recognize the right of peoples to self-determination.* | . |
| **Article 6: Relationship with other human rights**  1*. States Parties reaffirm that all human rights, including the right to development, are universal, inalienable, interrelated, 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 the full range of civil, cultural, economic, environmental, political and social rights.* | 2*. States Parties agree that the right to development must be realized in conformity with all human rights, be they civil, cultural, economic, political and social rights.* | The first part of article 6.2 is redundant given 6.1 and thus generates confusion. The latter edit: As per comments to article 3 (c) |
| **Article 7: Relationship with the responsibility of everyone to respect human rights under international law**  *Nothing in the present Convention may be interpreted as implying for any natural or legal person, people, group or State any right to engage in any activity or perform any act aimed at the destruction, nullification or impairment of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention. To that end, States Parties agree that all natural and legal persons, peoples, groups and States have the general duty under international law to refrain from participating in the violation of the right to development.* | *Nothing in the present Convention may be interpreted as implying for any human or legal person or State any right to engage in any activity or perform any act aimed at the destruction, nullification or impairment of any of the rights and freedoms set forth in international law, including international human rights law* | Suggest editing in order for the heading and the substance to match. Please also note that human rights obligations of States. Under *the pacta tertiis* rule, a treaty cannot create obligations or rights for a third party without its consent, provided it has the capacity to consent under international law. |
| **Article 8: General obligations of States Parties***2. States Parties shall cooperate with each other in ensuring development and eliminating obstacles to development, encouraging full observance and realization of all human rights.*  4. *States Parties recognize that each State has the right, on behalf of its peoples, and also the duty to formulate, adopt and implement appropriate national development laws, policies and practices in conformity with the right to development and aimed at its full realization. To that end, States Parties undertake to refrain from nullifying or impairing, including in matters relating to cooperation, aid, assistance, trade or investment, the exercise of the right and discharge of the duty of every State Party to determine its own national development priorities and to implement them in a manner consistent with the provisions of the present Convention and international law*." | 2. *States Parties shall cooperate with each other in ensuring sustainable development and eliminating obstacles thereto, while adhering to their obligations under international human rights law.*  4. *States Parties recognize that each State has the duty to formulate, adopt and implement appropriate national development laws, policies and practices in conformity with the right to development and aimed at its full realization. To that end, States Parties undertake to refrain from nullifying or impairing, including in matters relating to cooperation, aid, assistance, trade or investment, the exercise and the discharge of the duty of every State Party to determine its own national sustainable development priorities and to implement them in a manner consistent with the provisions of the present Convention and international law, including international human rights law.* | The latter part of 8.2 runs contrary to other parts of the draft that underscore that human rights *should* be adhered to when eliminating obstacles to sustainable development.  The State is the duty bearer of the right to development, not the right holder. |
| **Article 9**: **General obligations of international organizations**  *Without prejudice to the general duty contained in article 7, States Parties agree that international organizations also have the obligation to refrain from conduct that aids, assists, directs, controls or coerces, with knowledge of the circumstances of the act, a State or another international organization to breach any obligation that the State or the latter organization may have with regard to the right to development.* | [DELETE] | See comments to article 3 and 7. |
| **Article 11: Obligation to protect**  *States Parties shall adopt and enforce all necessary, appropriate and reasonable measures, including administrative, legislative, investigative, judicial, diplomatic and others, to ensure that natural or legal persons, peoples, groups or any other State or agents that 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:*  *(b) The natural or legal person has the nationality of the State Party;* | *States Parties shall adopt and enforce all necessary, appropriate and reasonable measures, including administrative, legislative, investigative, judicial, diplomatic and others, to ensure that human or legal persons do not nullify or impair the enjoyment and exercise of the right to development within or outside their territories when:*  *(b) The human or legal person has the nationality of the State Party;* |  |
| ***Article 12: Obligation to fulfil***  *2. To this end, each State Party shall take all necessary measures at the national level, and shall ensure, inter alia, equality of opportunity, including through digital inclusion where applicable, for all individuals and peoples in their access to basic resources, education, health services, food, housing, employment, and social security and protection, and in the fair distribution of income, and shall carry out appropriate economic and social reforms with a view to eradicating all social injustices.* | *2. To this end, each State Party shall take all necessary measures at the national level, and shall ensure, inter alia,* ***non-discrimination****, including equality of opportunity and through digital inclusion where applicable, in rights holders accessing services, benefits and social and other programs aimed at ensuring the enjoyment of their* ***rights with respect to*** *, education, the highest attainable standard of physical and mental health, food, adequate housing, water and sanitation, employment and work, and social security and protection, and in the fair distribution of income and control over basic resources, and shall carry out appropriate economic and social reforms with a view to eradicating discrimination and all social injustice and recalling the need for targeted special measures and reasonable accommodation in this regard.* | The elements described in draft article 12.2 (education, health, housing etc.) are human rights and States have a duty to ensure non-discrimination with respect to their enjoyment. Equality of opportunity would not align with the obligations under for example the CESCR, CRPD, CEDAW etc. |
| **Article 13**: **Duty to cooperate**  *1. States Parties reaffirm and shall implement through joint and separate action, in order to:*  *(a) Solve international problems of an economic, social, cultural, political, environmental, health-related, educational, technological or humanitarian character;*  *(b) End poverty in all its forms and dimensions, including by eradicating extreme poverty;*  *(c) Promote higher standards of living, full and productive employment, decent work, entrepreneurship, conditions of human dignity, and economic, social, cultural, technological and environmental progress and development;*  *(d) Promote and encourage universal respect for human rights and fundamental freedoms for all, without discrimination of any kind.*  *2. To this end, States Parties have primary responsibility, in accordance with the general principle of international solidarity described in the present Convention, for the creation of international conditions favourable for the realization of the right to development for all, and shall take deliberate, concrete and targeted steps, individually and jointly, including through cooperation within international organizations and engagement with civil society:*  *(a) To ensure that natural and legal persons, groups and States do not impair the enjoyment of the right to development;*  *3. States Parties shall ensure that financing for development and all other forms of aid and assistance given or received by them, whether bilateral, or under any institutional or other international framework, are in compliance with internationally recognized development cooperation principles and consistent with the provisions of the present Convention.* | 1 (d) *Promote the enjoyment of human rights and fundamental freedoms for all, without discrimination of any kind.*  *2. To this end, States Parties have primary responsibility, for the creation of international conditions favourable for the realization of the right to development for all, and shall take deliberate, concrete and targeted steps, individually and jointly through cooperation within international organizations and engagement with civil society and human rights defenders:*  *(a) To ensure that human and legal persons, groups and States do not impair the enjoyment of the right to development;*  *3.States Parties shall ensure that financing for development and all other forms of aid and assistance given or received by them, whether bilateral, or under any institutional or other international framework, are in compliance with internationally recognized development cooperation principles, human rights and consistent with the provisions of the present Convention.* | Article 1 (d) : “ *Encourage universal respect for*” does not meet States’ obligations under existing human rights law. |
| **Article 14: Coercive measures**  *1. The use or encouragement of the use of economic or political measures, or any other 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.* | 1. *The use or encouragement of the use of economic or political measures, or any other type of measure, to coerce a State Party 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 is prohibited* |  |
| **Article 15: Specific and remedial measures**  *1. States Parties recognize that certain individuals, groups and peoples, owing to their marginalization or vulnerability because of race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth, age or other status may need specific and remedial measures to accelerate or achieve de facto equality in their enjoyment of the right to development. Specific and remedial measures may include enabling the full, effective, appropriate and dignified participation of such individuals, groups, and peoples in decision-making processes, programmes and policymaking that affect their full and equal enjoyment of the right to development, without subjecting them to structural, environmental or institutional constraints or barriers.*  *2. States Parties recognize that developing and least developed countries, owing to historical injustices, conflicts, environmental hazards, climate change or other disadvantages, including of an economic, technical or infrastructural nature, may require specific and remedial measures through mutually agreed international legal instruments, policies and practices for ensuring equal realization of the right to development by all individuals and peoples. Such measures may, as appropriate, include: (…)* | 1. *States Parties recognize that addressing discrimination, marginalization or vulnerability because of race, colour, sex, sexual orientation and gender identity, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth, age or other status, including as human rights defenders, may need specific and remedial measures, in accordance with international human rights law, towards the realisation of the right to development. Specific and remedial measures may include, among others, reasonable accommodation and measures to ensure the full, effective, appropriate and dignified participation of rights holders in decision-making processes, programmes and policymaking that affect their full and equal enjoyment of the right to development and addressing structural, environmental or institutional constraints or barriers to this end.*  2. *States Parties recognize that developing and least developed countries, mostly affected by armed conflicts, environmental hazards, climate change or other disadvantages, including of an economic, technical or infrastructural nature, may require specific and remedial measures through mutually agreed international legal instruments, policies and practices for ensuring equal realization of the right to development by all human beings. Such measures may, as appropriate, include: (…)* | Suggest strengthening the paragraph - addressing discrimination is an immediate obligation under international human rights law. Any measures striving to address existing inequalities need to adhere to these standards, which with respect to persons with disabilities include reasonable accommodation. Furthermore, as per the existing human rights law States have an obligation to respect, protect and fulfil the rights to participation in public affairs and other rights that are relevant with view of the human person being and active agent in development |
| **Article 16: equality between men and women** *1. States Parties, in accordance with their obligations under international law, shall ensure substantive equality between women and men, (...)* | **Article 16: gender equality and the empowerment of all women and girls**  *1. States Parties, in accordance with their obligations under international law, shall ensure gender equality and the empowerment of all women and girls , (…)* | Article 16 tracks Goal 5 and Goal 17 of the SDGs - the EU suggest making the corresponding changes to the article. |
| **Article 19: Prohibition of limitations on the enjoyment of the right to development**  *States Parties recognize that the enjoyment of the right to development may not be subject to any limitations except insofar as they may result directly from the exercise of the limitations on other human rights applied in accordance with international law.* | *States Parties recognize that the realisation of the right to development may not be subject to any limitations except insofar as it infringes on the enjoyment of any other human rights applied in accordance with international law.* |  |
| **Article 21 Statistics and data collection**  *1. States Parties undertake to collect appropriate information, including statistical and research data, to enable them to formulate and implement policies to give effect to the present Convention. The process of collecting and maintaining this information shall:*  *(a) Comply with legally established safeguards, including legislation on data protection, to ensure confidentiality and respect for privacy online and offline;*  *(b) Comply with internationally accepted norms to protect human rights and fundamental freedoms and ethical principles in the collection and use of statistics.*  *2. The information collected in accordance with the present article shall be disaggregated, as appropriate, and used by the State Party to assess the implementation of its obligations under the present Convention and to identify and address the obstacles to the full realization of the right to development.*  *3. States Parties shall assume responsibility for the dissemination of these statistics in a manner consistent with the objective of fully realizing the right to development for all.* | *1(b) Comply with their obligations to respect, protect and fulfil human rights and fundamental freedoms and ethical principles in the collection and use of statistics.* | 1 (b) falls short of states obligations under international human rights law*.* |
| **Article 23: Sustainable development**  (c)*The formulation, adoption and implementation of all such laws, policies and practices aimed at realizing sustainable development are made fully consistent with the provisions of the present Convention and other obligations for realizing sustainable development in international law.* | **Article 23: Sustainable and inclusive development**  *(c) The formulation, adoption and implementation of all such laws, policies and practices aimed at realizing sustainable development are made fully consistent with the provisions of the present Convention and other obligations under, international human rights law.* |  |
| ***Article 24: Harmonious interpretation***  ***1.*** *Nothing in the present Convention shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Convention. To that end, States Parties reaffirm that the United Nations and its specialized agencies are under an obligation to promote the right to development.*  *2. The provisions of the present Convention shall not affect the rights and obligations of any State Party deriving from any existing international law, except where the exercise of those rights and the discharge of those obligations would contravene the object and purpose of the present Convention. The present paragraph is not intended to create a hierarchy between the present Convention and other international law.”* | *Nothing in the present Convention shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Convention. To that end, States Parties reaffirm that the United Nations and its specialized agencies should contribute to promoting the right to development, in accordance with their constituent instruments.*  *2. The provisions of the present Convention shall not affect the rights and obligations of any State Party deriving from any existing international law, , and the present paragraph is not intended to create a hierarchy between the present Convention and other international law.* *Potential conflicts shall be solved in accordance with the Vienna Convention on the Law of Treaties.* |  |
| **Article 33 Amendments**  1*. Any State Party may propose an amendment to the present Convention and submit it to the Secretary-General of the United Nations. The Secretary-General shall communicate any proposed amendments to States Parties, with a request to be notified whether they favour a conference of States Parties for the purpose of considering and deciding upon the proposals. In the event that, within four months of the date of such communication, at least one third of States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of two thirds of States Parties present and voting shall be submitted by the Secretary-General to the General Assembly for approval and thereafter to all States Parties for acceptance.*  *2. An amendment adopted and approved in accordance with paragraph 1 of the present article shall enter into force on the thirtieth day after the number of instruments of acceptance deposited reaches two thirds of the number of States Parties at the date of adoption of the amendment. Thereafter, the amendment shall enter into force for any State Party on the thirtieth day following the deposit of its own instrument of acceptance. An amendment shall be binding only on those States Parties that have accepted it.*  *3. If so decided by the Conference of States Parties by consensus, an amendment adopted and approved in accordance with paragraph 1 of the present article that relates exclusively to articles 25, 26 and 27 shall enter into force for all States Parties on the thirtieth day after the number of instruments of acceptance deposited reaches two thirds of the number of States Parties at the date of adoption of the amendment.* | Art 33.2  *2. An amendment adopted and approved in accordance with paragraph 1 of the present article shall enter into force on the thirtieth day after the number of instruments of acceptance deposited reaches two thirds of the number of States Parties at the date of adoption of the amendment. Thereafter, the amendment shall enter into on the thirtieth day following the deposit of its own instrument of acceptance. An amendment shall be binding only on those States Parties that have accepted it.* | The amendment should enter into force only for those states that have accepted it. |