

African Heritage Foundation Nigeria (special)

TOWARDS A LEGALLY BINDING INSTRUMENT ON THE RIGHT TO DEVELOPMENT

A. TYPE OF THE INSTRUMENT

(1) **A FRAMEKWORK CONVENTION ON THE RIGHT TO DEVELOPMENT:** - seems to be the best option for accommodating the concerns of the different political groups, as it allows for a step-by-step approach.

It is a treaty under international law open to states, and binding upon ratification on parties to it.

B. CONTENT OF THE INSTRUMENT

(2) Reference in the preamble be made to the following previous instruments and provisions: -

- Article 1(1) and 2(1) of the UN Declaration on the Right to Development (UNDRTD, 1986);
- Article 22 of the 1981 African Charter on Human and Peoples' Rights (ACHPR);
- Articles 8 and 19 of the 2003 Maputo Protocol to the ACHPR on the Rights of Women in Africa;
- Agenda 2030 for Sustainable Development/Declaration Paragraphs 4, 8-9, 11, 22, 33 and 36

(3) Social, economic and environmental/ecological considerations.

(4) Object/Purpose: - Formulation to focus on the following: -

- The realization of the Right to Development and the 17 SDGs;
- Reaffirmation of the contemporary understanding of certain provisions of the Declaration such as : - Article 1 (1); the definition of People; the inclusion of the environmental dimension of the Right to Sustainable development; Article 3(3), updating the reference to the New International Economic Order; Article 8(1); elaboration of the gender/Women's rights dimension of the Right to Development.

- (5) Elements and Structure: - To be structured into 7 broad parts namely:- Part 1-Preamble; Part 2-Objectives; Part 3-Guiding Principles; Part 4-Obligations; Part 5- Institutions; Part 6- Compliance, Monitoring and enforcement; and Part 7- Final Provisions.
- (6) Primarily, States (Parties), Development Partners and the Private Sector (Particularly Businesses or corporate bodies/entities);
- (7) States, National, and International implementing obligations; obligation to corporate/global partnership;
- (8) To be based on the spirit of strengthened global solidarity

INSTITUTIONAL ARRANGEMENTS

- (9) (a) A conference of State Parties with subsidiary bodies;
- (10) Secretariat :- be entrusted to the office of the High Commissioner for Human Rights;
- (11) Yes there should be a funding mechanism

COMPLIANCE, MONITORING etc.

- (12) Enabling clause on Compliance Committee consisting of individual experts with a facilitative branch (domestic responsibility, individual and collective dimension of duty to cooperate) and Enforcement branch including recourse for individuals and people (The Treaty body mechanism).

FINAL PROVISIONS

- (13) (a) States
 - (b) 40 with geo-political zone spread;
 - (c) Yes, reservations be made possible;
 - (d) Yes, a clause on dispute resolution necessary.
 - (e) No, efforts should be made to promote inclusivity and consensus building across ideological divides.