**REVISED DRAFT CONVENTION ON THE RIGHT TO DEVELOPMENT (A/HRC/WG.2/23/2)**

**submitted pursuant to Human Rights Council resolution 48/10**

**General Comments:**

* The EU has completed the legal analysis of the revised draft convention on the right to development (A/HRC/WG.2/23/2).
* The fact that the revised draft convention on the right to development 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 as 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 requires to make the revised draft convention fully compliant with international human rights norms.
* The EU reiterates that full respect for all human rights, including the right to development, democratic principles and the rule of law is a pre-condition to achieve inclusive and sustainable development, in line with international human rights law and global commitments, primarily the 2030 Agenda for sustainable development.
* The EU recognises that the realisation of development contributes to the enjoyment of all human rights, but the lack of development must not be invoked as justification for undermining international human rights norms and standards.
* In this spirit, the EU believes that the process must be as inclusive and consensual as possible. In this spirit, the EU is ready to engage constructively, without prejudging its final position thereof.

| **A/HRC/WG.2/23/2**  | **Rephrase suggestion** |
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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 as to race, sex, language or religion,* | *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 universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, property, birth, disability, age, sexual orientation and gender identity,*  |
| **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, |
| **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 ,  |
| **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 across 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, violations of all human rights, be they civil, cultural, economic, political and social rights, violations of the UN Charter, its purposes and principles, poverty in all its forms and dimensions, including extreme poverty, hunger, inequality in all forms and manifestations within and across countries, climate change, health emergencies and health crises, denials 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 ,* |
| **15th recital (Preamble)** *Emphasizing that the right to development is an inalienable human right of all human persons and peoples, and that equality of opportunity for development is a prerogative both of nations and of individuals who make up nations*, | *Emphasizing that the right to development is an inalienable human right of all human beings , and that equality of opportunity for development is a prerogative both of nations and of individuals who make up nations,* |
| **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,* |
| **17th recital (Preamble)***Acknowledging that development is understood not simply in terms of economic growth, but also as a means to 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 in the 16th recital*,* |
| **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 full respect for human rights, 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 realisation of human rights and maintenance and strengthening of peace and security at all levels,*   |
| **22nd recital (Preamble)***Recognizing also that the human person 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 human beings are the central subjects of the development process, and that development policy should therefore make them the main participants and beneficiaries of sustainable development,*  |
| **23rd recital (Preamble)***Recognizing further that all human persons and peoples are entitled to a national and global environment conducive to just, equitable and participatory development, centred on human persons and peoples, respectful of all human rights,* | *Recognizing further that all human beings are entitled to a national and global environment conducive to just, equitable, participatory and sustainable development,, respectful of all human rights*, |
| **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 human person 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 beings 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 human 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*; |
| **Article 3:** **General Principles** *To achieve the object and purpose of the present Convention and to implement its provisions, the Parties shall be guided by, inter alia, the principles set out below:* *(a) Development centred on the human person and peoples: the human person and peoples are the central subjects of development and must be the active participants and beneficiaries of the right to development;* *(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 human persons and peoples and contributes to the enjoyment of all human rights;* *(f) Self-determined development: development is determined by individuals and peoples as rights holders. The right to development and the right to self-determination of peoples are integral to each other and mutually reinforcing;* *(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 Parties shall be guided by, inter alia, the principles set out below:* *(a) Sustainable development centred on human beings as the central subjects, the active participants and holders of the right to development*; (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 the international human rights law*; (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 promotion and protection 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. 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*; (h) *Duty to regulate: the realization of the right to development entails the duty for States Partiesto 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*; *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.* |
| **Article 4: Right to development**1. *Every human person 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, political and social development that is indivisible from and interdependent and interrelated with all other human rights and fundamental freedoms.* | 1.  *All human beings, with no exception 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, political and social development that is indivisible from and interdependent and interrelated with all other human rights and fundamental freedoms.* |
| **Article 5: Relationship with the right of peoples to self-determination** 5. *States 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, interference and threats against national sovereignty, national unity and territorial integrity, threats of war and the refusal to recognize the fundamental right of peoples to self-determination.*  | 5. *States shall take resolute action to prevent and eliminate massive and flagrant violations of the human rights of human beings affected by situations such as those resulting from apartheid, all forms of racism and discrimination, colonialism, foreign domination and occupation, aggression, interference and threats against the territorial integrity or political independence of any state , threats of war and the refusal to recognize the right of peoples to self-determination.*  |
| **Article 6: Relationship with other human rights**2.*States Parties agree that the right to development is an integral part of human rights and should be realized in conformity with the full range of civil, cultural, economic, political and social rights.* | 2*. States Parties agree that the right to development is should be realized in conformity with all human rights, be they civil, cultural, economic, political and social rights.* |
| ***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 human 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 human 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*  |
| **Article 8: General obligations of States Parties**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*." | 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 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.* |
| **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] |
| **Article 13**: **Duty to cooperate** *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 to 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: (…)**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* | *2. To this end, States Parties have primary responsibility, for the creation of international conditions favourable to 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: (…)**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 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 human persons, groups and peoples, owing to their marginalization or vulnerability because of race, colour, sex, language, religion, political or other opinion, nationality, statelessness, national, ethnic or social origin, property, disability, birth, age or other status, including as human rights defenders, 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 can include, among others, enabling the full, effective, appropriate and dignified participation of such human persons, 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 human persons and peoples. Such measures may, as appropriate, include: (…)* | 1. *States Parties recognize that human persons,, owing to their marginalization or vulnerability because of race, colour, sex, sexual orientation and gender identity, language, religion, political or other opinion, nationality, statelessness, 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 can include, among others, enabling the full, effective, appropriate and dignified participation of such human beings 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, 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: (…)* |
| **Article 16: equality between men and women** *1. States Parties, in accordance with their obligations under international law, shall ensure full equality for all 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 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 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 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.* | *(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, international human rights law and any political commitment for realizing sustainable development .* |
| ***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, 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, 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.* |