Revised Draft Article 22 is titled “International peace and security”, which remains the same as the zero draft.

Paragraph 1 of this revised draft also remains the same and it stipulates that “States Parties reaffirm their existing obligations under international law to promote the establishment, maintenance and strengthening of international peace and security in consonance with the principles and obligations contained in the Charter of the United Nations, including the peaceful settlement of disputes”.

The drafting group also recommends retention of paragraph 2 as it was in the zero draft, with one minor but important addition. It stipulates that “To that end, in accordance with international law, States Parties undertake to pursue collective measures with the objective of achieving general and complete disarmament under strict 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”. The addition here is of the word “technological” in the list of resources based on a suggestion received.

Now, there was one opposition to this provision, especially the reference to “complete disarmament”. The specific concern is noted in the commentaries to the revised draft. The drafting group discussed the concern in detail but eventually recommends retaining the text as it is. We may recall that this draft article is necessitated in view of article 7 of the DRTD which stipulates that “All States should promote the establishment, maintenance and strengthening of international peace and security and, to that end, should do their utmost to achieve general and complete disarmament under effective international control, as well as to ensure that the resources released by effective disarmament measures are used for comprehensive development, in particular that of the developing countries”. The commentaries to the zero draft noted that the specific undertaking incorporated in this draft article is “to pursue collective measures with the objective of achieving general and complete disarmament under strict and effective international control”. This may be contrasted with article VI of the Nuclear Non-Proliferation Treaty which stipulates that “Each of the Parties to the Treaty undertakes to pursue negotiations in good faith […] on a Treaty on general and complete disarmament under strict and effective international control”. Although the language of “strict and effective international control” is included in paragraph 2, the main focus of the provision is not on pursuing negotiation on a potential treaty but rather on “pursuing collective measures”. This formulation does not limit options of States to only pursuing a global treaty. The words “collective measures” indicate the reality that although the objective of general and complete disarmament undoubtedly ought to be pursued, any success therein will be dependent on collective action being taken by all armed States. A failure to comply with this provision would therefore generally be collective, and not of any individual State. In addition, the Expert Drafting Group considers that “complete and general disarmament” is a “universal principle”[[1]](#footnote-1) as elaborated in the Final Document of the Tenth Special Session of the General Assembly. The text as presented does not create any new obligations for States and is entirely in sync with existing rights and obligations, including with relation to nuclear arms.

Paragraph 3 is new and is based on recommendations received from the National Human Rights institutions of El Salvador and Nigeria that the draft article should include promotion of peace and inclusive societies within territories of States for the realization of the right to development. The drafting group agreed with this and recommends addition of the following text as paragraph 3. “States Parties undertake to promote peace and inclusive societies within their territories for the full realization of the right to development for all”. The language itself is drawn from SDG 16 of the 2030 Agenda.

Revised Draft Article 23 is titled “Sustainable development” and remains the same as the zero draft. With respect to the text, there were several suggestions received and appropriate modifications are recommended by the drafting group.

Sub-paragraph (a) of the revised draft stipulates that “Laws, policies and practices relating to development at the national and international levels are aimed at and contribute to the realization of sustainable development, consistent with the Parties’ obligations under international environmental law, climate change law, and human rights law”. The words “consistent with the Parties’ obligations under international environmental law, climate change law, and human rights law” have been added based on suggestions received.

Sub-paragraph (b) also remains more or less the same, with one addition. There was a suggestion to not refer only to future generations but also present generations, which was accepted. The paragraph now reads as follows: “Their decisions and actions do not compromise the ability of present and future generations to realize their right to development”.

Sub-paragraph (c) of the revised draft has addition of the words “and other obligations for realizing sustainable development in international law” at the end. The revised paragraph therefore now reads: “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”.

Revised Draft article 24 is titled “harmonious interpretation” which is identical to the zero draft. Paragraph 1 does not have modifications either. It reads as follows: 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.

The commentaries explain the rationale behind this provision. The first part of paragraph 1 of draft article 23 does not introduce any new language and is a verbatim reproduction of articles 46 and 24 of the ICCPR and the ICESCR respectively. The second part acknowledging the mandate of the United Nations and the specialized agencies to promote the right to development flows from the mandate in the UN Charter on these institutions to promote human rights under articles 1(3) and 55.

The second paragraph remains the same with the only change of the words “existing international agreements” to “existing international law”. Therefore, the revised text now reads: “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”.

1. <https://www.un.org/disarmament/wp-content/uploads/2017/07/A-268-2017-2_Report-OEWG-SSODIV.pdf> [↑](#footnote-ref-1)