**Articles 13-15 Koen De Feyter/Wednesday AM**

**Article 13: Duty to cooperate**

The overriding concern of the drafting group in considering all the suggestions made was to ensure that the provision on the duty to cooperate is fully in line with existing international law, and in particular with articles 1(3) and 55 of the UN Charter: as the *first paragraph* of Article 13 indicates: the Convention **reaffirms** the duty to cooperate and seeks to foster its implementation. Some suggestions by various States and non-State actors adding to the Charter language were nevertheless considered helpful to ensure implementation of the duty to cooperate in an international context that has evolved since 1945 and therefore retained; in no way do these suggestions appear to go against the intentions of the drafters of the Charter and they should not prove controversial.

Examples of such additions in the first paragraph of Article 13 include the addition of the word ‘technological’ in subpara a; the new b that emphasizes that ending poverty is a primary goal of international cooperation; similarly, ‘decent work’ was added in c in recognition of the important international agenda on this issue.

The *second paragraph* of Article 13 has remained largely as it was in the previous draft.

In the *third paragraph*, a reference to ‘internationally recognized development cooperation principles’ was added. The text now reads that financing for development efforts should comply not only with the Convention but also with international development cooperation principles.

[such as: **Ownership:** Developing countries set their own strategies for poverty reduction, improve their institutions and tackle corruption; **Alignment:** Donor countries align behind these objectives and use local systems.; **Harmonisation:** Donor countries coordinate, simplify procedures and share information to avoid duplication.; **Results:** Developing countries and donors shift focus to development results and results get measured;**Mutual** **accountability]**

As to the *fourth paragraph*, the commentaries to the initial draft pointed out that the words used in the sub-paragraphs are a *verbatim* reproduction of the consensually agreed text of the 2030 Agenda. None of these sub-paragraphs constitute new obligations on States. Their inclusion in the draft convention merely alludes to the fact that operationalizing the right to development for realizing the 2030 Agenda, as with any development agenda at the international level, inheres the duty to cooperate. As such, the Expert Drafting Group does not recommend modifying the language employed in these sub-paragraphs, unless they help strengthen the provisions substantially.

In subpara the words ‘transparent’ and ‘inclusive’ were added as additional requirements of the multilateral trading system (essentially consisting today of the WTO)

In subparas b, d and e references to least developed countries were added, emphasizing the importance of fully reflecting their needs in the draft Convention.

As compared to the previous draft, a few paragraphs were added:

* Subpara e on support to enhancing capacity on disaggregated data collection;
* Subpara h on the duty to cooperate on tackling climate change
* Subpara j on illicit financial flows
* Subpara k on debt sustainability.

The language used in these provisions was taken from previously agreed international instruments, primarily again the 2030 Agenda.

**Article 14 Coercive Measures**

The text of Article 14 has remained as it was in the initial draft of the Convention, although some suggestions were made to add elements to it.

As explained in the commentaries to the first draft in view of the fact that discussions on the precise elements of “unilateral coercive measures” are a work in progress, and to ensure coverage of all illegal coercive measures whether unilateral or by two or more States collectively, it is best to rely on agreed and long-established language. As such, this paragraph incorporates *verbatim* the most well-known articulation of the principle as enshrined in the UN Declaration on Principles of International Law Concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, adopted by the UNGA in resolution 2625 (XXV) of 1970. This declaration recognizes fundamental principles firmly embedded in international law and are as such indisputable and not subject to controversy. The Expert Drafting Group therefore strongly recommends retaining the language as it is and bypassing all current efforts at defining “unilateral coercive measures”.

**Article 15 Specific and remedial measures**

The heading of Article 15 now reads ‘Specific and remedial measures’ in stead of ‘Special measures’. CRPD uses the term “specific measures”. None of the core human rights treaties uses the terms “remedial measures”. However, the title of draft article 15 introduces this term in addition to the commonly used “special measures” to indicate that while some right-holders and States may need “special measures” due to situations not necessarily resulting from denials of their rights or other injustices (for instance, children that are vulnerable owing to their age, or States that are vulnerable to natural hazards), some do need measures aimed at remedying historical injustices or marginalization (for instance, indigenous peoples, afro-descendants, or least developed countries with a colonial past). The essence of the right to development is that development is not a charity but a right. As such, measures which are aimed at providing assistance to those who have been denied their abilities to enjoy or realize the right to development ought not to be treated only as “special measures”, but as something they are entitled to as a matter of right. This is captured by the term “remedial measures”. As such, the Expert Drafting Group recommends the current title.

A number of respondents recommended more specificity in the text of first paragraph of Article 15. The Expert Drafting Group attempted a revision of the text in response, using the language of draft article 8(1) which enlists a number of grounds for discrimination that must be prohibited. It suggests retaining the broad words “marginalization and vulnerability” but qualifying those with the forms of discrimination in draft article 8(1). It also accepted the recommendation for inclusion of “human rights defenders”.

In the second paragraph, the reference to ‘vulnerable States’ was deleted (due to its legal ambiguity) and a reference to ‘least developed countries’ added.

I have not dealt with all revisions or proposals in this oral statement, but hope to have covered the main changes, and am open to offer further clarification during the Q&A session.

Thank you.