

**UN Convention on the Human Rights of People with Disabilities
Ad Hoc Committee Daily Summary**

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MORNING SESSION

PRELIMINARY MATTERS

The Chair, Ambassador Luis Gallegos opened the Fourth Session of the Ad Hoc Committee (AHC4) by submitting the proposed Agenda and Organisation of Work for comment. **Mexico** requested that Draft Article 24bis (International Cooperation) be reflected, given the importance of this issue. It agreed with the **Chair's** suggestion that the Committee first agree on the proposed agenda (Item 2), but on the understanding that Article 24bis would be reviewed during the discussion of the organization of work (item 3). **The Chair** referred to ongoing consultations between regional groupings and suggested postponing discussion of Item 3.

The Chair urged participating States, IGOs and NGOs to proceed in an active and transparent matter so that the work of the Committee would be accomplished and the expectations of the 600 million persons be fulfilled.

The Committee began consideration of the draft texts before them – the Working Group Report (A/AC265/2004/WG.1) and its Annex, and those elements that were deferred from discussion in AHC3 - Title, Structure, part of the Preamble, Definitions, Monitoring. The **Chair** invited further comments on the Preamble.

PREAMBLE (unless otherwise noted, references to previous proposals are recorded in the June 4 Summaries for AHC3)

New Zealand noted the Preamble was lengthy and reserved the right to return to this section if the opportunity arose to streamline it. Review of (n) bis and (s) should be deferred until the question of separate articles on women and children in the convention is resolved. Review of EU proposal (n) ter should be deferred until the chapeau of Article 12 has been reworked. Kenya's proposal referring to other sub-populations of PWD reflects problems inherent in listing – they cannot be exhaustive, and risk leaving some sub-groups out. Armed conflict is more appropriately addressed in the preamble, in the context of affirming the strengthening of international peace and security to enable PWD to exercise their rights, rather than in the draft article on Right to Life.

Korea was disappointed that the program of work did not include its proposed important new article on Women with Disabilities, as was reflected in the Compilation text. While it would continue to support the organization of work as proposed, it expected progress in this session so that the Committee could consider this Draft Article 15bis at AHC5.

The Chair indicated that the point raised by Korea was "very well taken."

Japan drew attention to preambular paragraph (q) bis made by Costa Rica regarding the important role that PWD can play in society, noting the importance of this point and

indicating that it would submit a written proposal regarding the same to build on the Costa Rica proposal. Recognition of the expertise of PWD should be in the preamble.

Mexico supported the proposal made by Pakistan regarding (b) and the reference to the International Covenants (see <http://www.un.org/esa/socdev/enable/rights/ahc3sumpr.htm>). References to universality, indivisibility and interdependence in (c), which constitute standard preambular language, and to international law and the Migrants Workers Convention in (d), should be retained. There should be references to the World Programme of Action in (e). Mexico proposes (e) bis referencing ILO Convention 159. Mexico proposes (e) ter which references the Durban Conference against Racism, Xenophobia and other Related Forms of Discrimination as proposed by Chile. In (f) Mexico supports Costa Rica's reference to discrimination and violence and the EU proposal replacing "violation of" with "affront to". (g) should clarify that "diversity" refers to various types of disabilities. It does not support Thailand's inclusion of additional language on the "needs and requirements of PWD" as this might change the meaning of the paragraph and make it sound paternalistic. The EU's proposal on (i) was appropriate except for its last phrase: "in particular developing countries," which reflects the traditional view of international cooperation as a transfer of resources to developing countries, when it is instead important to use this Convention to promote new forms of cooperation. In addition there should be a separate article on international cooperation. In (j) the reference to diversity is unnecessary. Mexico also supports the Korean proposal in (l) adding references to PWD "taking leading roles", and the Nambian and South African proposals deleting the potentially limiting last phrase of that paragraph. In (m) references to multiple or serious disabilities should be removed as they introduce a hierarchy of disability and attach more importance to those who have more serious disabilities. As outlined by Pakistan, it is not necessary to list the bases of discrimination to which PWD may be subjected, or the list should reflect that in the UDHR. In (n) the EU proposal on women with disabilities is supported. In (o) the Chilean suggestions, as well as the EU's language on poverty and disability, are also supported. Amending (r) according to the Pakistani proposal, which provides appropriate focus, will avoid a repetition of a discussion already held. The last phrase referencing developed and developing countries is unnecessary and should be deleted. The EU's reformulation of (s), while to be supported, should better reflect the Convention on the Rights of the Child. Finally, Mexico also supports Israel's recommendation that the Preamble should reflect an "integral" approach to disability.

The United States of America pointed out not all countries are parties to all conventions and that it would submit alternative language to the Secretariat regarding (b). In (d) it supported Pakistan's proposal on listing of international treaties.

India proposed adding "and discrimination" in (c) highlighting the fact that PWD continue to face barriers. In (i) and (j) "emphasizing" should be replaced with "recognizing." In (k), at end of the sentence, India proposed adding "to the extent possible." In (l), in the middle of the first sentence, India proposed adding "and their families where appropriate." (o) should reflect India's proposed language recognizing that conditions of poverty can exacerbate the situation of PWD. (p) should include additional language on "and natural disasters" and "enjoyment" of human rights. In (r), "facilitate" should replace "promote." In (d) references to the Migrants Workers Convention should be deleted. The term "violation" should be replaced with "affront" in (f).

Chile will submit minor proposals to the Secretariat relating (f), (g), (i), (j), (o), (q), (r). It suggested adding a reference to the Convention on the Rights of the Child.

Australia proposed 2 new paragraphs: (e) bis: "Recognizing the importance of a profound shift as indicated in the UN Standard Rules on Equalization of Opportunities for Persons with Disabilities away from an understanding of disability solely as an individual pathology and

towards one that recognizes the disabling impact of inaccessible social structures and processes on persons with impairment” and (f) bis: “Recalling with profound concern the history and experience of eugenics, abuse, neglect, isolation, segregation and violence against persons with disabilities in all parts of the world.”

China supported Pakistan’s proposal in (b). It stressed the importance of mentioning international cooperation in (i), and in a separate paragraph. It supports Cuba’s suggested inclusion of the term “all” in (n). The proposals put forward by India, Cuba and Chile in (o) speak to the importance to PWD of the need to eliminate poverty. In (r) it supported the proposals of Cuba, Pakistan and Canada.

Malaysia supported Pakistan’s position in relation to (b) and (d), as not all States are Parties to conventions on human rights.

Canada highlighted repetition in the Preamble, and called for more concise text. On the issue of sub-groups, it may propose a paragraph on the unique barriers faced by PWD who are indigenous.

Lebanon reaffirmed its support for international cooperation. It also proposed a new para after (n): “Recognizing development of the concept of disability during prior decades which clearly reflects the fact that disability is an interactive process between the personal and functional position of the individual in its socio-economic and cultural situation.”

The Philippines supported retention of the reference to the Migrant Workers Convention given their sheer numbers around the world. Recognising that poverty is not the only situation that aggravates the situation of PWD, it proposed adding after “poverty” in (b) the terms “environmental degradation and inefficient governance.”

Cuba supported inclusion of the reference to the World Conference on Racism, Discrimination, Xenophobia and other Forms of Intolerance and the Indian proposal to include natural disasters in (b). Cuba shared the view that international cooperation is crucial for implementation and that there should be a separate paragraph on the subject as proposed by China.

Thailand noted its uncertainty regarding the inclusion of sub-groups in (g). It does not think the terms “needs and requirements” are paternalistic. It supports India’s suggestion to include reference to natural disasters. It also supports the concept of international cooperation, especially if disability-inclusive international cooperation can be emphasized.

Japan suggested combining (b) and (d) noting that some States are not party to some of the conventions listed here and calling instead for a generic reference without listing. It also called for a generic reference to international cooperation (i). Japan still has “some difficulties” with referencing families in (l), even when qualified with “as appropriate” and called for its deletion. Although Japan supports family values, it pointed out that families often suppress the free decision-making of persons with disabilities. It is also opposed to classifying PWD as is done in references in (m) to people with severe or multiple disabilities.

Venezuela stressed that in preambular paragraph n bis there should be a reference to women and girls with disabilities. It supports South Africa, Yemen and Costa Rica regarding (q), which should include additional references to “cultural” and “economic” areas. It supports Canada’s proposal on (r), but with the inclusion of “their participation and integration,” and additional references to culture, sport and recreation at the end. Because many PWD suffer from multiple forms of discrimination, (s) should include obese people and pregnant women.

Yemen proposed an addition to the paragraph on armed conflict and supported a separate paragraph addressing international cooperation.

Republic of Korea opposed reference to the Migrants Workers Convention, questioning its universality. It supported Japan's proposal to combine (b) and (d). It supported retaining reference to international cooperation, more concise than in (i), and reflecting a similar reference in the Convention on the Rights of the Child. It proposed the following new language in (l): "...and that the views and concerns of families and caregivers of PWD should be duly considered in such decision-making processes."

Bahrain supported inclusion of international cooperation in a separate paragraph, as proposed by China. It supported Japan's proposal to combine (b) and (d).

Non-Governmental Organizations

WNUSP emphasized that as a positive statement committed to the full enjoyment of human rights for PWD, the Preamble should avoid any medical model language, differentiating among PWD or referencing differences in functional capacities. Limiting references to autonomy, independence and choice in (k), with language like "to the extent possible" was entirely out of place in this convention. Proposals to reference PWD and their families reflected a similar paternalism, and WNUSP supports Japan's position in that regard. As proposed by Mexico the paragraph on the UN Standard Rules should also include reference to the World Programme of Action, but no other instrument.

People with Disability Australia, Australian National Association of Community Legal Centers, Australian Federation of Disability Organizations (PWDA) supported Australia on violations of human rights of PWD and the social model of disability. In (l), "recognizing" should replace "considering" making it clear that States Parties positively accept the principle of participation of PWD, rather than merely acknowledge it. Participation is essential and a precondition of the enjoyment of human rights of PWD and this should be recognized in the new paragraph: "Recognizing that the participation of PWD and their representative organizations in the formulation, promotion implementation and evaluation of policies, plans, programmes and actions at the national, regional, and international levels is essential and a condition precedent to the realization of the human rights of PWD." Para (n) fails to refer to the specific violations faced by women and girls with disabilities and may not encompass the special measures necessary to address the human rights concerns that arise at the intersection of gender and disability. References to multiply disadvantaged groups, and the recognition of the disadvantage of severely disabled persons must be retained in (m). In addition, the paragraph must recognize the disadvantage faced by PWD in rural and remote areas, islands and geographically disadvantaged areas. **PWDA** supported the recognition of minority sexual status as one of the characteristics leading to aggravated disadvantage.

Save the Children Alliance proposed the following addition to (k): "Recognizing the importance for PWD of their individual autonomy and independence including the freedom to make their own choices, taking into account Article 5 of the CRC relating to the evolving capacities of the child." It endorsed the EU proposals on (s), of critical importance given that children with disabilities are rendered invisible in many societies.

TITLE

Intervening States were almost unanimous in calling for a shorter title for the Convention.

New Zealand stated that the title was "too wordy and excessively formal" and was a barrier to easily understanding what the convention is all about. It supported the approach adopted

in the Convention on the Rights of the Child and proposed a new title: "Convention on the Rights of Persons with Disabilities."

Yemen stressed that the title was too long and suggested a shorter new title: "The International Convention for the Rights of Persons with Disabilities."

China supported a simple and clear title. The proposed title, "Convention on the Rights of Persons with Disabilities," reflecting the approach adopted for the Convention on the Rights of the Child, is a "very good" one.

Bahrain noted the title was "quite long" and endorsed the proposal by Yemen.

The Netherlands (on behalf of the EU) proposed "International Convention on the Full and Equal Enjoyment of all Human Rights and Fundamental Freedoms by PWD," which parallels the EU proposal on Article 1 (Purpose). The EU opposed a title referring to the protection and promotion of disability rights as it may imply that not all rights apply to PWD or that some rights exclusively apply to PWD and not to others.

Morocco supported Yemen's proposal for a shorter title.

Thailand supported New Zealand's proposal, and did not think it would create confusion in relation to new rights.

Lebanon supported New Zealand's proposal, but opposed adding other references, such as "freedoms". If a shorter title is not adopted, the existing one should be retained.

South Africa proposed "An International Convention on the Rights of Persons with Disabilities (ICRPD)."

Russian Federation supported New Zealand's proposal.

Costa Rica supported "International Convention on the Rights of PWD" as a shorter title and denied that this would give rise to the erroneous idea that these are new rights.

Japan called for a shorter title.

El Salvador proposed: "International Convention to Protect the Rights and Dignity of Persons with Disabilities."

Kenya proposed: "The International Convention on the Rights of Persons with Disabilities."

Guatemala supported the New Zealand proposal.

Republic of Korea agreed with the EU that the title should capture the essence of the convention. It proposed: "International Convention on the Rights of Persons with Disabilities."

Tanzania proposed: "International Convention on the Rights of Persons with Disabilities."

Mali proposed: "International Convention on the Rights of Persons with Disabilities."

Canada acknowledged the reasoning put forward by the EU but felt that these concerns will be addressed. It therefore supported the New Zealand proposal, which would keep the title short and concise.

India supported the EU proposal.

Egypt noted that preference for a long title would lead to endless negotiations among States before consensus was reached and that a short title was therefore preferred. The New Zealand proposal adequately responded to the EU concerns. As a compromise solution the term “equal” could be added – “International Convention on the Equal Rights of Persons with Disabilities.”

Mexico supported the Sierra Leone proposal in AHC3, which ensured the inclusion of certain important concepts, like “dignity” in the title.

The Philippines did not object to the current title given that it would not impact the operative parts of the convention, but would support any formulation of the three main proposals from the EU, Yemen and New Zealand.

Sierra Leone amended its proposal from AHC3 reflecting its support for the NZ proposal: “International Convention on the Promotion and Protection of the Rights and Dignity of Persons with Disabilities.”

Burkina Faso supported the New Zealand proposal.

Cameroon supported a “concise” title as follows: “The International Convention on the Rights of Disabled Persons.”

Non-Governmental Organizations:

South Africa Human Rights Commission (representing National Human Rights Institutions) supported the New Zealand proposal because it “goes along way in popularizing the convention that we are seeking to develop.”

Disabled Peoples’ International supported the shorter title: “International Convention on the Rights of Persons with Disabilities,” which was important for memory recall and other reasons.

World Blind Union supported the New Zealand proposal.

STRUCTURE

New Zealand summarized 6 guidelines. The draft Convention should: 1. Mirror the level of detail and style of existing human rights treaties; 2. Avoid redundancy and overlap; 3. Reflect the existing doctrine of progressive realization of economic, social and cultural rights; 4. Not extend the doctrine of progressive realization to civil and political rights; 5. Be consistent with other core human rights convention; 6. Focus on issues and rights that have particular relevance to disabled people. Based on these guidelines New Zealand has further suggestions: First, the current structure with divisions by thematic articles should be maintained, and further divisions according to sub-populations of persons with disabilities, such as women or children, should be avoided unless it can be demonstrated that there are issues specific to those groups that cannot be addressed in other articles. Second, the article on Personal Mobility should be deleted and its provisions merged into articles 4 and 15. Third, the EU proposal to merge parts of Draft Articles 4, 5 and 7 into a single Article 3 on non-discrimination has merit, but it is essential to ensure that important ideas are not lost in the process of condensation. The EU proposal to merge Article 6 (Data Collection) to Draft Article 25 (Monitoring) has merit but only if it is decided that Article 25 should contain a

section on national as well as international monitoring mechanisms. Finally, New Zealand proposed the following additional structural changes: Article 11 should focus on the issue of informed consent to interventions. Article 12 should focus on freedom from all forms of violence and abuse, including torture and cruel, inhumane and degrading treatment or punishment.

The Netherlands (EU) noted that human rights conventions generally follow a similar structure of preamble, general provisions, provisions on monitoring and final provisions, and the EU was generally satisfied with the Working Group's draft in terms of following this structure. As far as the substantive part of the convention is concerned, the EU will not stand by its proposal to merge Articles 4, 5 and 7. The EU proposed replacing Article 5 (Promotion of Positive Attitudes) as new Article 24bis. Second, the EU proposed replacing the contents of Article 6 (Data and Statistics) and inserting it into Article 25 (Monitoring). The EU proposed replacing Article 7 (Non-discrimination) to become new Article 3.

Canada supported both the New Zealand and EU proposals on structure, which it indicated were quite compatible.

Chile supported the intervention by Canada. It welcomed the New Zealand proposals and highlighted certain points raised in them. Chile opposes a convention addressing only non-discrimination as this is too limiting. An integral convention should specify the various rights and also prescribe anti-discrimination measures. The importance of implementation and follow-up must be stressed in the Convention.

Yemen supported a comprehensive structure.

Australia noted that many existing human rights instruments are broken up into parts and proposed that the convention be broken into five logical parts to aid its accessibility: Part 1 – Interpretive provisions; Part 2 – General obligations and provisions; Part 3 – Provisions relating to civil and political rights; Part 4 – Provisions relating to economic, social and cultural rights; and Part 5 - Remaining provisions on implementations. Such a structure would provide a logical framework, make it easier for people to access the various provisions, and separate out the rights that are immediately realizable from those that are progressively realizable.

Serbia Montenegro supported the Canada and Chile proposals, and commended those of the EU and New Zealand, which seem compatible. It hopes that such proposals will make the convention more precise and capable of being put into practice.

Kenya called for a structure that parallels other human rights conventions, and urged the inclusion of as many issues of relevance to PWD as possible as these have not been well articulated in the monitoring mechanisms of other conventions. It supports the coverage of issues pertaining to specific groups where possible, an attempt to define disability, and the inclusion of national monitoring mechanisms.

China noted the interesting views put forward, including the proposals of New Zealand. It supports some of these proposals, especially the point about avoiding unnecessary repetition, and will further study the others.

Mali agreed with the existing structure, but stressed that it would insist upon an international implementing mechanism. Mali also noted problem throughout the French translation version of the text where the term "handicappe" was used without the term "persons" as in the English version. Mali believes that persons with disabilities are persons, and the inclusion of this term therefore makes a big difference.

Republic of Korea insisted that the idea of mobility must be preserved.

Thailand supported the constructive proposals made by New Zealand and the EU. In particular it supports the idea of disability inclusiveness throughout the convention, especially in the area of international cooperation. It supports strengthening the non-discrimination aspect of the convention as frequently stressed by the EU. While willing to work with delegations to avoid repetition it supports retaining the concept of mobility.

Non-Governmental Organizations

WNUSP stressed that an important principle to be reflected in the structure and content of this convention is the rejection of any limitation, restriction or exclusion of rights of any persons with disabilities. This convention is to promote rights and not to enshrine disqualifications of those rights, as has been proposed in, for example, Article 9. If governments are not in a position to fully address all human rights under certain themes, for instance on legal capacity or torture, WNUSP has suggested a way to address such issues without limitations on the basis of principles. WNUSP rejects New Zealand's proposals on Articles 11 and 12.

South African Human Rights Institutions (on behalf of National Human Rights Institutions) associated itself with the Australian proposal to have five parts to the convention, which is logical and in line with existing human rights conventions. It also supported the New Zealand proposal, particularly with regard to repetition and redundancy.

PWDA finds the current structure to be underdeveloped, and problematic on both the conceptual and applied levels including: 1) the blending of civil and political rights with economic, social and cultural rights, along with so-called third generation rights which undermines traditional distinctions between immediately realizable rights and those subject to progressive realization; 2) the blending of preambular, interpretive and implementation and monitoring measures with substantive rights; and 3) the virtual absence of implementation and monitoring mechanisms. It supports the Australian proposals.

Thailand highlighted the absence of a provision on remedies, and hoped that this important subject would be addressed in the Committee's reviews of each article.

DEFINITIONS

The Netherlands (EU) opposed defining "disability" or "persons with disabilities" as they risk becoming exclusive instead of inclusive. Where definitions are needed they can be included in the relevant provisions. A definition on "reasonable accommodation" is needed in an article on non-discrimination as it is a key concept in the convention and is not yet sufficiently defined in international law. The EU favored a strong definition of the terms "discrimination on the ground of disability," which must include both direct and indirect discrimination, on which specific proposals were made at AHC3.

China supported an article on definitions but covering only the important terms, which at the minimum should be "disability" and "discrimination against persons with disabilities." China has presented its definition of these terms in English to the Secretariat. China noted that more time was needed to consider definitions in the Working Group text of "communication" and "language."

India did not support the formulation of definitions and stressed that this should be left to States Parties to address at the national level.

Japan stressed that any definition of disability should be flexible to accommodate different national systems. Japan believes that sign language is a form of language, but it is important to consider what type of legal obligation this would entail. A number of questions also arise in relation to defining reasonable accommodation, a concept that has not been defined in international law.

AFTERNOON SESSION

DEFINITIONS (cont)

Yemen noted two definitions that need clarification: reasonable accommodation and universal design.

Republic of Korea called for retaining the article, at least in terms of defining disability and disability discrimination. The definition of disability has evolved and ICF now embraces a broad, social model definition.

South Africa called for the adoption of guidelines on definitions for States Parties to follow in devising national frameworks. It submitted some definitions to the Secretariat.

Guatemala affirmed the social approach to disability and the elimination of the medical approach. With regard to "reasonable accommodation", in Guatemala there is no such concept, and further information is therefore required. Regarding "universal design" and "inclusive design", it prefers "universal design."

Cuba stated that definitions should reflect social dimensions of disability emphasizing diversity and diverse kinds of disability. Definitions could include those by WHO. In addition, "persons with disabilities," "accessibility," "universal design," "inclusion," "autonomy" and "solidarity" should be defined.

Chile recommended a focus on defining those terms of greatest use rather than creating an article of many definitions that are not useful. Definitions should be provided for: "Persons with disabilities," "discrimination on the ground of disability," "universal design," "inclusive design," "accessibility," "reasonable accommodation," "equal opportunity.

Canada stated that when it is necessary to include definitions, it should be done within specific articles. Definitions on disability tend to change and vary depending on what program they are used for and it will be difficult to come up with a definition of disability that stands the test of time. However, if there is a decision to include a definition of disability, Canada will participate in the discussion and to contribute its experience.

Norway pointed out the problem of finding one definition of disability that will fit every context, doubted whether a definition was necessary, and therefore suggested a focus on other aspects of the work.

Venezuela called for retaining a separate article, defining disability from a social standpoint. Many terms lend themselves to different interpretations.

Australia pointed that there are few terms requiring definition outside the relevant substantive provisions. For example, it is not necessary to have a definition of accessibility in the convention and if there is to be one, it should be outcome based and be able to evolve as interpretation of technology develops. Similarly, there is no need for a definition of communication. In defining disability, it should be broad and inclusive and should ensure that

it covers physical, mental, intellectual disabilities as well as future, past and imputed disabilities. The social model of disability is important, but disability seen purely as a function of the environment would render a definition unworkable. The people entitled to protections under the convention need to be clearly identified. Australia has submitted proposed language defining disability as well as “associates” to the Secretariat.

Holy See cautioned against hastily deciding at this stage in the process whether or not various definitions were needed, though the delegation was generally in favor of a definitions section.

Ethiopia did not see the practical importance of defining disability. The attempt to develop a universal definition may complicate things at the national level, where it is most appropriate to pursue a definition of disability. However it may be possible to agree to a definition in this Convention in relation to the social model and on very broad terms.

Lebanon agreed on the difficulty in defining disability but emphasized its importance in enabling each state to implement the convention. There is a danger that some countries may have too restrictive a definition and deny to many PWD their rights under the convention. The article should not define disability, but should include a statement providing guidelines on defining disability at the national level. Lebanon supported definition within specific substantive articles, such as universal design, accessibility and communication.

Thailand reiterated that it is essential to define disability in a separate article, despite the inherent risks. Any definition must be broad and based on the social model. It supports several definitions proposed by South Africa, with slight modifications and additions.

Bahrain called for the deletion of a separate article and the inclusion of definitions within the substantive articles.

Costa Rica suggested leaving definitions up to States, though certain elements may be defined as the negotiations proceed. However this is not the appropriate time.

Kenya submitted a proposed definition of “persons with disabilities” to the Secretariat but noted that many other definitions could be defined within their substantive articles.

New Zealand agreed it was premature to propose a separate article on definitions, but noted that as negotiations proceed if terms are used more than once they can be defined separately. Any definition should be in keeping with the spirit of the convention and should be as broad as possible.

Mali stated that definitions are important and necessary.

Argentina agreed on the importance of definitions and submitted proposals on “disability” and “discrimination against persons with disabilities,” citing the Inter-American Convention on the Elimination of Discrimination against Persons with Disabilities.

El Salvador called for a meaning somewhere in the convention of “persons with disabilities.”

Mexico submitted a proposed definition of “persons with disabilities” to the Secretariat.

Sierra Leone referenced the footnotes in document 265. “Accessibility” has been addressed in Article 19, discrimination has been addressed in Article 7, reasonable accommodation has been addressed in Article 7, communication could be addressed in another article, so we are

left with the need to define disability and persons with disabilities which could be addressed in a separate article, whereas others could be addressed within the separate articles.

Inter-Governmental Organizations

International Labour Organization (ILO) supported defining concepts that appear throughout the text early on in the convention. A definition of “persons with disabilities” should be: 1. focused on the reduction in prospects for participation arising from duly recognized physical, sensory, intellectual or mental impairment, referencing ILO Convention 159 and the ILO Code of Practice on Managing Disability in the Workplace; 2. include direct and indirect discrimination; 3. specify that affirmative actions are allowable to combat discrimination. Reasonable accommodation should also be defined. A definition of disability would be limiting, but if a decision to incorporate this in the convention was made, the definition should be broad, inclusive, and reflect the social dimension of disability. The ILO submitted proposed language.

Non-Governmental Organizations

PWDA called for a broad and inclusive definition, encompassing all impairment groups, including people with disabilities resulting from health conditions like HIV/AIDS, and recognizing that disability may be permanent, temporary, episodic or transitory.

WBU referenced the consensus in the International Disability Caucus that certain terms must be defined, including language, reasonable accommodation, universal design, accessibility, communication, discrimination, persons with disabilities.

WFD called for a definition of “language” covering spoken and sign languages, and submitted proposed text. Deaf people should be able to use sign language on the same basis that others in society use their language.

WNUSP emphasized the need to ensure that people with psychosocial disabilities are recognized as persons protected, and able to assert their rights, under this convention. Therefore a definition may be necessary, whether it is referred to as such or couched in another form. Any definition should ensure that people with psychosocial disabilities need not be recognized by a medical professional in order to be defined as such, as this would require them to seek services they may not want. WNUSP rejects defining disability in terms of the need for support. People with disabilities may choose to seek support, and they may also “choose to accommodate themselves in their everyday life.” WNUSP rejects the Argentine proposal referencing the Inter-American Convention.

DPI rejects any definition of disability that excluded people with disabilities from protection under the convention. Many States do not have working definitions of disability in their legislation and many have definitions grounded in the medical model, that exclude people who face barriers to inclusion in society. States must adopt an understanding of disability that is drawn from the social model.

European Disability Forum (EDF) supported defining reasonable accommodation and discrimination in Article 7. EDF supported the statement of WFD regarding recognition of sign language as a language. There may be merit in defining accessibility and universal design in a specific article as these terms will be used in many articles. Any definition of disability should be broad and based on the social model. There is merit to having a definition. If there is no definition there would be certain groups of disabled people in the EU who would not be covered because there are countries that do not, for example, include people with psychosocial disabilities in their legislation.

Save the Children Alliance supported defining disability in the convention which will be important for data collection and monitoring and implementation. It must be broad and inclusive. It supports the definition of disability found in the Landmine Survivors Network Legal Analysis. Save the Children proposed defining diversity, reasonable accommodation, and communication including language proposed by WFD.

National Human Rights Institutions supported defining disability, discrimination, and accessibility. Discrimination and accessibility may be defined within particular articles. The definitions contained in the Chair's draft are helpful definitions. A definition of disability must be broad and inclusive and based on the social model. There is a danger in not defining disability – States may refuse to ratify the convention if its meaning and obligations are uncertain, it would fail to provide a template for national law and policy and for guiding disability awareness, and states which lack legal or policy protections for some types of disability would not be stimulated to develop more inclusive policies.

MONITORING (Article 25)

Costa Rica highlighted the need for the best follow up that is also efficient, given the trend of establishing new bodies that only burden the UN budget further. It proposed adding compliance with the convention as a measure of the Human Development Index, a well known mechanism that could readily be used. This would not mean however that a Committee should not be established or that States Parties could not meet.

The Netherlands (EU) requested that the first reading of this article not be completed until the next day as the Committee was ahead of the agenda.

New Zealand pointed out it may be premature to discuss monitoring absent any text on which to focus, but noted at this stage that any mechanism for international monitoring must: be consistent with substantive articles; be flexible enough to address treaty body reform and draw on their best practices; take into account funding shortages for the system as a whole; be funded from the general budget. If a new treaty body will ensure this will not be a second class convention, then creating such a body is the best solution. New Zealand is yet to be convinced that alternative proposals would be more effective or less resource intensive than a new body. New Zealand referenced the many challenges associated with the existing treaty body system.

Mexico called for a specific article on both national and international monitoring mechanisms. It referenced its proposal for a mechanism that takes into account existing mechanisms, includes the role of States Parties in submitting national reports, that of civil society in submitting information, and the participation of civil society in deliberations. Its proposal includes the consideration of communications on violations. The composition of a committee of experts should include persons of high moral authority and include PWD. The mechanism should hold conferences of States Parties to promote cooperation, encourage dialogue, exchange best practices and consider processes that could help ensure respect for the convention. Its proposed language establishes national institutions, and a committee of experts mandated to consider state reports, make general recommendations, and invite IGOs and NGOs to participate. It also outlines the composition of the committee, how such experts would be chosen, the content of national reports to be submitted, duration of committee meetings, competence of committee to receive and consider communications on violations, conference of States Parties and its functions.

Cuba supported the establishment or strengthening of national mechanisms. Regarding international monitoring, consideration should be given to existing bodies, but Cuba does not

object to the creation of a separate committee. The convention should include provisions on committee membership and composition, how members are elected, and the mandate. Cuba agrees with the Mexican proposal in calling for equitable geographic distribution in the committee and suggested a quota system based on the number of ratifications per region. Account should also be taken of reporting to a committee.

Canada pointed out that a detailed discussion of monitoring requires information on the content of the convention. It appreciates the challenges as expressed by New Zealand. A monitoring body should take into account the views of the Secretary General concerning treaty body reform. The monitoring approach is a negative one, based on a non-compliance model. Given the importance of progressive implementation Canada wants to see the facilitation of progress, beyond simply monitoring, and that would require a more positive approach to monitoring at the national level. A Canadian national-level reporting framework, including indicators for measuring outcomes of disability policy and legislation, has been developed in cooperation with NGOs. Canada emphasized the importance of mainstreaming disability into existing reporting on human rights treaties. It may be necessary to look at more than one mechanism or body fulfilling all monitoring tasks under the convention, and other international and national mechanisms may have to do some work as well. NGOs must be involved in monitoring.

Japan noted that final comments on a monitoring mechanism are premature. A national implementation framework as set forth in Article 25 refers to one focal point when there may be others, and therefore should refer to "focal points". It suggests adding a reference to incorporating the needs and views of PWD. Given the overly burdened current treaty body system, a blend with existing monitoring mechanisms might be contemplated, in line with Canada's position.

India shared New Zealand's concerns of the existing system, referencing the burden of reporting on States and the back-log of reports in the Committees. India could not support "adding to this already onerous responsibility, therefore at this stage we would favor the retention of the monitoring obligations as currently provided under Article 25."

Yemen noted that the Working Group did not have enough time to consider an international monitoring mechanism, but this is essential. PWD and their representative organizations must participate in any monitoring mechanisms.

South Africa called for provisions on international monitoring in addition to the existing provision on national monitoring: 1) reporting requirements; 2) a treaty body with strong and effective representation of PWD; 3) meaningful and effective national monitoring mechanisms in keeping with national legal systems. Where applicable, regional mechanisms should be incorporated into the monitoring. The monitoring mechanism should be in keeping with existing treaty bodies under ICCPR, CRC and CEDAW.

Serbia and Montenegro thanked Mexico and South Africa for their detailed proposals.

Eritrea called for an international monitoring mechanism.

Chile stressed that without a follow up mechanism the Convention is merely a declaration of principles. A body is required for follow-up. Chile could plan for a committee and a special rapporteur to follow up on the committee's work. Links between the international and national levels should be explored, as should the possibility of individual communications, inter-state communications, and a national body to oversee implementation at the national level.

Australia cautioned against duplicating and undermining existing mechanisms. Further development of the Convention is needed before decisions can be taken.

Republic of Korea acknowledged the problem of overburdening the existing monitoring system and the need to avoid duplication and other problems associated with the monitoring mechanisms. However some kind of international mechanism should be considered.

Israel stressed the importance of international and national level bodies to supervise implementation of the convention. The monitoring mechanisms should mirror others in structure, expertise and capacity and should include among its members PWD. Israel referenced its submission of a comprehensive text on this issue at AHC3.

Thailand supported the language in Article 25, in the Bangkok Draft, and in parts of the proposal submitted by Israel. It reviewed the draft submitted by the International Disability Caucus and saw merit in many of these proposals. It recognizes the need to strengthen monitoring at both the national and international levels to ensure the convention is fully implemented.

Non-Governmental Organizations

Amnesty International stressed that monitoring must be guided by principles derived from the overall aim of the convention. There must be a well-conceived and vigorous approach to monitoring; The system must support monitoring at the national level and provide links between national and international mechanisms. Any monitoring mechanism must be grounded in the existing human rights framework, take into account disability-specific issues, be supported by OHCHR, DESA, and other agencies; ensure strong involvement by civil society, including PWD; be an independent and impartial reviewer of implementation, and create disability expertise. Any new system must receive sufficient funding and secretariat support. AI supports a dual track approach – a consolidated reference point within the treaty monitoring system for its expertise on disability rights and broad access by PWD, combined with mainstreaming and building on existing standards and procedures.

PWDA welcomed the measures on domestic level monitoring in the existing article and made a number of suggestions to strengthen it: the development of national action plans on implementing the convention, domestic complaints avenues for violations, and the designation of a convention ombudsman at the national level. Noting the absence of a provision on international monitoring, it proposed, among other things, establishing a new treaty body, state reporting, a complaints system, and a Special Rapporteur.

National Human Rights Institutions (NHRI) supported retaining Article 25 and called for two levels of monitoring: domestic and international. It noted the weaknesses in Article 25 as drafted, and stressed the important role of NHRIs, reinforced in the Paris Principles, in guiding monitoring bodies. An effective international monitoring mechanism can play an important role supporting national level implementation. It suggested creating a new committee in a process that would take into account treaty body reforms. The committee will carry out a full range of standard functions given a compulsory reporting procedure, optional individual complaints procedures and an optional inquiry procedure.

International Labour Organization (ILO) supported an international monitoring mechanism in addition to a national level one as provided for in Article 25. A new treaty body should take into account the current treaty body review process. The system should make provision for all relevant stakeholders, including governments, NGOs, UN agencies, employers' organizations and trade unions. The Migrant Workers Convention should be consulted for creating a committee involving stakeholders.

Landmine Survivors Network (on behalf of LSN, RI, WFD, WNUSP, WFDDB, ISHR, ICJ, COHRE, HI, EDF, Bizruit, World Union of Progressive Judaism, and Save the Children Alliance)

The new convention must be rights-based and firmly embedded in the UN human rights system. The international mechanism should supervise implementation and make structural, social development changes. Development of a monitoring mechanism should not be made contingent on treaty reform and should reflect the following essential principles: members' recognized expertise on disability rights and their independence; competence to develop jurisprudence through general comments and individual and collective complaints; implementation through in-country visits and regional meetings; follow-up procedures; access by a variety of actors and stakeholders; adequate resources.

Special Rapporteur on Disability endorsed the NGO statement, noted that a monitoring mechanism is of vital importance and should not fall below existing mechanisms, and should look beyond violations of the convention to focus also on implementation measures of States Parties.

WNUSP clarified the NGO statement, adding that the composition of the body should consist of a majority of people with disabilities, along with the other attributes mentioned.

DPI hoped a consensus would emerge at this session on a comprehensive mechanism, that should operate at the national, regional and international level, and involving the participation of PWD at all levels.

The Chair noted ongoing consultations on the process of work during this session but no consensus had been reached.

The meeting was adjourned.

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