Introductory Statement on ARTICLES 16 and 17 on the REVISED DRAFT OF THE CONVENTIONON THE RIGHT TO DEVELOPMENT pursuant to the RECOMMENDATIONS of the

EXPERT DRAFTING GROUP-
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23rd SESSION OF THE INTERGOVERNMENTAL WORKING

 GROUP ON THE RIGHT TO DEVELOPMENT

 16th – 20th MAY 2022

Opening:

Resulting from the various meetings of the Expert Drafting Group and the Working Sessions of the Working Group on the Right to Development and from the interventions and requests of the participating States at the said Sessions, including the non-aligned States, Intergovernmental and International organisations, NGO’s, Civil Societies organisations, and others; the Expert Drafting Group, having discussed and considered all these agreed on the Revised Draft circulated yesterday and we all thank all the intervenors for their comments and suggestions for changes to the text which were of the utmost assistance to us in the preparation of the said Revised Text, which we hope with our recommendations and our reasons for them, would lead to a strong, meaningful and effective instrument being produced from all the efforts of this Intergovernmental Working Group

on the Right to Development.

**Article 16
Equality between men and women**

The title of this Article of “Gender Equality” gave rise to several interventions and suggestions for a multitude of actions, inter alia, that there was no need for such an Article to be included in the Draft, and several others suggested various modifications on one and both those words and inclusions of LGBTI people, older women, child or children, girls and in the end, the Drafting Group of Experts, accepted the suggestion of replacing it with that above and decided to recommend the use of “Equality between men and Women”, instead of the former title for several good reasons, because the word “gender” has caused and continues to cause great confusions in the minds and practice of too many States officials and agents wherein its meaning has become fluid and unreliable. A situation which is not ideal for any instrument nay more, one which seeks to articulate clearly and precisely the components of the Right to Development and infuse them with obligatory duties for States Parties faithful implementation.

Another basic and requisite reason is that this revised title, clearly focuses on the objective of the entire Article from the inception, which is to address specifically and succinctly the existing and continuing fact of discrimination in all its forms against women and girls. We also underline the fact that any reference to ‘women and girls” refers to all women and girls in all their diversities and throughout their life cycle.
Consequently, we could not recommend the addition of the term “empowerment” to ensure State Parties obligations to empower women and girls, because this title encompasses such obligations of States. This inclusion of this term is therefore not necessary and it would be mere surplusage.

The Drafting Group, however concluded that clarity is not added by the suggested change of
“equity” in place of “equality” and therefore could not recommend this suggested change.
The Group however accepted that deleting “undertake to take” and replacing it with “undertake to adopt” which did add clarity of intent.

Such intent is to keep our usages of terms as close to CEDAW’s strong Article 2, which states:- “State Parties are called upon to use exclusively the concepts of equality of women and men or gender equality and not use the concept of gender equity in implementing their obligations under the Convention” . The Expert Drafting Group, does not therefore recommend using the word “equity” and thereby decrease the effectiveness of this Article.

It should noted that 2 States supported the Article are previously drafted.

It is our recommendation that this title is this Revised Draft best imparts the meaning and intent of the Article.

It cannot be controverted that this Article is an absolute necessity for inclusion in any instrument on the Right to Development in period of time, wherein discriminations and sexual violence have been increasing, as is the impunity related to the investigations and prosecutions of the perpetrators, even throughout the Covid Pandemic

**1. States Parties, in accordance with their obligations under international law, shall ensure full equality for all women and men, and shalladopt measures, including through temporary special measures as and when appropriate, to end all forms of discrimination against all women and girls everywhere so as to ensure their full and equal enjoyment of the right to development.**

**2. To that end, States Parties shall adopt appropriate measures, individually and jointly, inter alia:**

**(a) To prevent and eliminate all forms of violence and harmful practices against all women and girls in the public and private spheres online and offline, including trafficking and sexual and other types of exploitation;**

**(b) To ensure women’s full, equal, effective and meaningful participation and equal opportunities for leadership at all levels in the conceptualization, decision-making, implementation, monitoring and evaluation of policies and programmes in political, economic, cultural and public life, and within legal persons;**

**(c) To adopt and strengthen policies and enforceable legislation for the promotion of equality of opportunities and the empowerment of all women and girls at all levels;**

**(d) To incorporate and mainstream gender perspectives into the formulation, adoption, and implementation of all national laws, policies and practices and international legal instruments, policies, and practices;**

**(e) To ensure equal and equitable access to, and control over, the resources necessary for the full realization of the right to development by women and girls everywhere;**

**(f) To ensure equal and equitable access to quality education and services necessary for the full realization of the right to development by women and girls everywhere;**

**(g) To realize the women, peace and security agenda and ensure the full, effective and meaningful participation of women in the prevention and resolution of armed conflicts and in peacebuilding for the maintenance and promotion of peace and security at all levels.**

**Article 17 Indigenous peoples**

**1. Indigenous peoples have the right to freely pursue their development in all spheres, in accordance with their own needs and interests. They have the right to determine and develop priorities and strategies for exercising their right to development.**

**2. In accordance with international law, States Parties shall consult and cooperate in good faith with the indigenous and tribal peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.**

**3. States Parties shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.**