

**Proposed modifications to articles 1 to 17
of the Working Group Draft Text
As of 28 May 2004, 6pm**

Article 1 ~ 17

[...] deleted

(...) added

**Article 1
Purpose**

The purpose¹ of this Convention shall be to [seek the full and equal enjoyment – India] ensure [promote and protect – Thailand] (ensure - Thailand) the [equal – Egypt] (promotion and protection – Egypt, Eritrea) (effective – Jordan) (full – EU) and equal enjoyment of all human rights and fundamental freedoms (and strive for elimination of discrimination against –India) by persons with disabilities.²

The purpose of this Convention shall be to protect and promote (all-Mexico) the rights and (dignity – Mexico) of persons with disabilities.

(The purpose of the present convention is to promote and protect the full enjoyment of all rights by and the dignity of persons with disabilities on the basis of universal principles of equality and equity -Mexico, Colombia)

(The purpose of the present convention is to prevent discrimination and violation of the rights of persons with disabilities and to ensure their participation as equal members of society - Sierra Leone)

¹ Some members of the Working Group suggested that international cooperation should be included as one of the objectives of the Convention. Other members suggested that international cooperation was a means to achieve the objectives of the Convention, and not an objective itself. See also preambular paragraph (i).

² An alternative formulation that the Ad Hoc Committee may wish to consider is: "The purpose of this Convention shall be to protect and promote the rights of persons with disabilities."

(The purpose of this convention shall be to promote, protect and fulfil the full and equal enjoyment of all rights and fundamental freedoms of all persons with disabilities -Uganda)

Article 2

General principles

The fundamental principles of this Convention shall be:

(In their actions to achieve the objective of the convention and to implement its provisions, the parties shall be guided inter alia by the following fundamental principles: -Japan)

(a) Dignity, individual autonomy including the freedom to make one's own choices, and [independence – Costa Rica] (independent life - Costa Rica) of persons;

(b) Non-discrimination;

(c) [Full inclusion of persons with disabilities as equal citizens and participants in all aspects of life; - EU, Mexico, Costa Rica] (Full and effective participation and inclusion in society on an equal basis for persons with disabilities - EU, Mexico, Costa Rica)

(d) Respect for difference and acceptance of disability as part of human diversity and [humanity – Mexico, South Africa] (human dignity -Mexico, South Africa)

(e) Equality of opportunity.

(International cooperation - Mali, Sudan, Eritrea, Jordan)

(Equality between men and women - Canada, Mexico, Costa Rica, Norway)

(Affirmative action to correct disadvantage occasioned by disability; the indivisibility and interdependence of rights as they relate to persons with disabilities; the progressive realisation of economic, social and cultural rights - Kenya)

(Special attention will be paid to the situation of persons with severe, intellectual and multiple disabilities - India)

(The social model will be preferred over the medical model, however there may be provisions for affirmative action in specific situations of disadvantage - India)

(Personal development in and enjoyment of all stages of life - Costa Rica)

(Accessibility and universal design -South Africa, Thailand)

(Realization of a barrier-free environment -Japan)

(Disability inclusive international cooperation -Thailand)

(Self-determination. Actualization of full human potential. Empowerment of disabled persons, basic principle to the social model - Jordan)

((2 bis) [States parties shall undertake all appropriate legislative, administrative and other means for the implementation of the present convention -Russian Fed.]. With regard to economic, social and cultural rights States parties shall undertake such measures to the maximum extent of their available resources and where needed within the framework of international cooperation - EU, India, Mexico, Thailand)

[Article 4

General obligations^{3,4}

1. [States Parties undertake (guaranteeing the exercise and enjoyment – Argentina) to ensure [the full realization of all human rights and fundamental freedoms for all individuals [within

³ Both the Bangkok draft and the Chair's draft included in this section a paragraph on remedies. Some members of the Working Group noted that while the International Covenant on Civil and Political Rights included such a provision, the International Covenant on Economic, Social and Cultural rights did not. It may be difficult, therefore, to include such an article in a convention that elaborates the rights contained in both Covenants. The Ad Hoc Committee may wish to consider this issue further.

⁴ The issue of the progressive realization of economic, social and cultural rights was raised by several delegations during the Working Group's discussion. The Working Group noted that, consistent with existing international human rights law, the concept would apply to some of the rights in the Convention (the economic, social and cultural rights), but not to others (the civil and political rights). The Ad Hoc Committee will need to consider how best to incorporate this issue into the Convention, and may wish to note the precedent set in the Convention on the Rights of the Child. The debate was raised in relation to other articles also.

their jurisdiction⁵ - Canada] without discrimination of any kind on the basis of disability. - Lebanon] (achievement of the purpose of the convention and the rights that are guaranteed by this convention – Lebanon) To this end, States Parties undertake:

(States parties undertake to adopt legislative or administrative and other measures to ensure the full realization of all human rights and fundamental freedoms for all individuals within their jurisdiction without discrimination of any kind on the basis of disabilities, with regard to economic social and cultural rights States parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international cooperation – China)

(“In order to secure non-discrimination of persons with disabilities, States Parties undertake in particular” – EU):

(To respect and ensure the rights set forth in the present convention and to adopt – Japan)

(a) [To adopt (appropriate – Japan) legislative, administrative and other measures to give effect to this Convention, and to amend, repeal or nullify any laws and regulations and to discourage customs or practices that are inconsistent with this Convention];

(to take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws or regulations which have the effect or purpose of creating or perpetuating such discrimination wherever it exists; - EU)

⁵ The phrase “within their jurisdiction” will need closer examination by the Ad Hoc Committee. It is taken from article 2 of the Convention on the Rights of the Child. It may be too inclusive and imply, for example, that rights that are not guaranteed for non-citizens could be extended to non-citizens with disabilities. Article 1 (2) of the International Convention on the Elimination of All Forms of Racial Discrimination may offer an alternative approach, but that may be too exclusive and imply that non-citizens with disabilities do not enjoy any of the protections of the present Convention.

(to amend repeal or nullify any laws or regulations and discourage customs or practices that are inconsistent with this convention – China)

(States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international cooperation – Argentina)

(b) To embody the [rights – EU] (principles – EU) of equality (of opportunity – EU) and non-discrimination on the ground of disability in their national constitutions or other appropriate legislation, if not yet incorporated therein, and to ensure, through law and other appropriate means, the practical realization of these rights;

(c)[To [mainstream - Thailand] (integrate – Thailand) disability issues into all economic and social development policies and programmes (including international cooperation – Thailand) (including specific allocation of resources to satisfy obligations towards persons with disabilities – Kenya)];

(States shall ensure that the needs and concerns of persons with disabilities are incorporated into economic and social development plans and policies, and not treated separately – EU)

(d) To refrain from engaging in any act or practice [that is inconsistent with this Convention –EU] (of discrimination against persons with disabilities – EU) and to ensure that public authorities and institutions act in conformity with this [Convention - EU] (obligation- EU);

(e) To take all appropriate measures to eliminate discrimination on the ground of disability by any person, organization or [private - EU] enterprise;

[Discrimination does not include provisions, criteria or practices that are objective and demonstratively justified by the State Party by a legitimate aim and where the means of achieving that aim are reasonable and necessary – India]

(f) To [promote⁶ - Uganda] (ensure – Uganda) the development, availability and use of universally designed goods, services, equipment and facilities (including assistive technologies – Thailand). [Such goods, services, equipment and facilities should require the minimum possible adaptation and the least cost to meet the specific needs of a person with disabilities – Thailand].⁷

((g) To provide the conditions and environments under which persons with disabilities may live in a self-sustained manner by fully exercising their capacity – Japan)

(To establish credible and effective structures to oversee implementation and monitoring; to ensure a barrier free society through the establishment of an effective enabling environment; to provide particular protection and support for persons with disabilities who are vulnerable on account of situations such as conflict and natural disasters or because of their status as children, women and persons living with HIV/AIDS.– Kenya)

(In relation to the economic, social and cultural rights of this convention, States Parties undertake to give immediate effect to those aspects of those rights which are capable of immediate implementation (including, but not limited to, obligation of non-discrimination in the enjoyment of those rights) and in relation to other aspects of those rights, progressively the full realization of those rights by all appropriate means – India)

⁶ The Ad Hoc Committee may wish to consider whether a term that places stronger obligations on States Parties should replace “promote”.

⁷ The Ad Hoc Committee may wish to consider whether the term “universal design” or its near synonym “inclusive design” should be used here and throughout the Convention. The Ad Hoc Committee may also wish to consider whether this paragraph should remain as part of draft article 4, be incorporated into draft article 19 or be a separate article in its own right.

2. In the development and implementation of policies and legislation to implement this Convention, States parties shall do so in [close – India] consultation with, and include the active involvement of] (partnership – New Zealand), persons with disabilities (their families – India) and their representative organizations (and care-givers – Trinidad and Tobago) (, recognizing the expertise of persons with disabilities and the leadership they can provide in all affairs concerning them – New Zealand).

(States when developing and implementing policies and legislation to give effect to this convention, shall take appropriate measures to ensure adequate consultation with, and involvement of, persons with disabilities and their representative organizations - EU)

(3. States parties shall undertake all appropriate legislative administrative and other measures for the implementation of the rights recognised in the present convention with regard to economic social and cultural rights, particularly with regard to art 9d, 13, 15, 16, 17, 19 to 24. States parties shall undertake such measures to the maximum extent of their available resources with a view to achieving progressively the full realization of such rights and when needed within the framework of international cooperation – Israel) – EU: see article 3bis]

[[Article 5

Promotion of positive attitudes [to] (towards – Canada) persons with disabilities – EU]

(Creation and raising of awareness – South Africa)

(Creation of a culture of respect and inclusion – Mexico)

1. States Parties undertake to adopt (by appropriate and active means – Australia) [immediate – Argentina] and effective measures to:

(a) Raise awareness throughout society regarding [disability - Swaziland] (in various forms – Philippines) and persons with disabilities (their needs, potential and contribution to society –

Uganda) (and foster (a culture of – Mexico) respect for the rights of persons with disabilities – EU) (and their human rights – Costa Rica);

(b) Combat (negative - Trinidad and Tobago) stereotypes (negative cultural practices – Trinidad and Tobago) and prejudices about persons with disabilities ;

(Combat practices whether cultural religious or other which discriminate persons with disabilities.- Kenya)

(c) [[Promote] (To commit ourselves to - AG) an image of – Canada] (portray - Canada) persons with disabilities (irrespective of type, severity and complexity of their disabilities– Thailand) as capable and contributing members of society sharing the same rights and freedoms (and responsibilities – Philippines) as all others and in a manner consistent with the overall purpose of this Convention.

2. [These measures shall include, among others:

(a) Initiating and maintaining (promoting - Canada) an effective [public – Yemen] (social – Yemen) [awareness - Canada] (policies – Costa Rica) campaign designed to [nurture (awareness of and respect for) [receptiveness - Canada] – South Africa] (respect and protection – Philippines) (promote the rights of persons with disabilities – South Africa) to the rights of persons with disabilities;

(b) [Promoting awareness – South Africa] (to develop and maintain programmes of awareness – South Africa) (in their population – Costa Rica), including in all children from an early age and at all levels of the education system, to foster an attitude of respect for the rights of persons with disabilities;

(c) Encouraging all organs of the media to [project an image of - Canada] (portray – Canada) persons with disabilities (in a manner – Canada) consistent with [the purpose – Canada] of this Convention (through inter alia the use of proper terminology – Trinidad and Tobago);

(d) Working in partnership with persons with disabilities and their representative organizations (and families – Uganda) in all measures taken to give effect to the obligations contained in this article. - EU] – EU: see article 3bis]

Article 6

Statistics and data collection⁸

(Collection and protection of statistics and data – Uganda)

(Collection and protection of statistics – Colombia)

[In order to formulate and implement appropriate (regulations and - Mexico) policies to protect and promote the rights of persons with disabilities, States Parties [should encourage] (should include in their data gathering programme – Philippines) (actions for – Mexico) the collection (, compilation- Mexico), analysis and [codification – Mexico] (dissemination – Mexico) (and dissemination – Costa Rica) of statistics (on persons with disabilities – Mexico) and [information on disabilities – Mexico] (and their surroundings – Mexico) and on the effective enjoyment of human rights by persons with disabilities. The process of [collecting – Mexico] (collection – Mexico) and [maintaining – Mexico] (preservation – Mexico) this information [should – Costa Rica] (shall – Costa Rica):

(a) Respect the right to privacy, the dignity and the rights of persons with disabilities, (. Therefore – Mexico) [and – Mexico]

⁸ There were differing views within the Working Group regarding the inclusion of this draft article. Some delegations strongly supported the inclusion of an article on statistics and data collection in the text of the Convention for several reasons. Data collection is recommended in rule 13 of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities. Its inclusion could allow States to respond more effectively to the needs of persons with disabilities and to have an accurate assessment of the situation of the persons concerned so as to implement programmes for their benefit. General Assembly resolution 58/132 of 22 December 2003, in paragraph 8, also deals with the issue of data and statistics. In the present draft article, the respect for the right to privacy is fundamental.

Other delegations opposed the inclusion of an article on statistics and data collection in the Convention, for several reasons. They expressed a concern for the respect of the right to privacy and the risk of misusing the information, and considered that such an article did not belong in a human rights treaty. They considered that statistics were not useful as a policy tool, and that resources spent in data collection should be used instead in programmes for persons with disabilities. There should be a mainstreaming of surveys and not just surveys for persons with disabilities.

Other delegations suggested that the draft article should be re-titled. One suggestion was "Collection and protection of statistics and data". It was clearly considered that any data collected on disabilities must not infringe on the human rights of persons with disabilities.

the [information collected from persons with disabilities – Mexico] (collection of disability statistics – Mexico) [should – Costa Rica] (shall – Costa Rica) be [on a voluntary basis – Eritrea, Mexico] (treated with sensitivity - Eritrea) (done with the consent of persons with disabilities – Mexico);

(b) [Be kept only in a statistical format without identifying individuals and [should – Costa Rica] (shall – Costa Rica) be kept secure to prevent unauthorized access or misuse of information – Mexico] (Adhere to ethic regulations and principles regarding respect of anonymity and confidentiality, as well as the use of the disability statistics for social awareness - Mexico) ;

(c) (The governmental authorities responsible for statistics in the States Parties shall – Mexico) [Ensure that the design and implementation of data collection is done in partnership with persons with disabilities, their representative organizations and [all – Mexico] other [relevant – Mexico] (interested – Mexico) stakeholders; - Jordan]

(d) [[Be disaggregated – Mexico] (Disaggregate the data – Mexico) according to the purpose of the collection of [information – Mexico] (statistics – Mexico) and should include (at least, information about – Mexico) age, sex [and type of disability - Lebanon] (if it is located in rural or urban areas – Costa Rica); (States should move away from statistical investigations that merely enumerate impairments that can become a statistical means of pathologising people with disabilities – Lebanon) – Jordan]

(e) Include detailed information on their access to public services, rehabilitation programmes, education, housing and employment (and other relevant areas – Lebanon) (health care, training, social security and housing – Algeria) (as well as the barriers faced by persons with disabilities to exercise their rights – Mexico);

(f) [Adhere to established ethics regarding respect for anonymity and confidentiality in the collection of statistics and data - Mexico] (Establish regulations and mechanisms to safeguard disability statistics and ensure their adequate use – Mexico) – EU]

((g) States Parties shall assume the responsibility for the dissemination of disability statistics and ensure its accessibility to all interested stakeholders – Mexico)

(2. States parties should include disability figures among the indicators to assess the development of the country reflecting the close link between poverty and disability when relevant - Lebanon)

(The States parties should provide conducive environment that would encourage non-governmental organisations and the private sector to conduct research and studies on the issues of concern to persons with disabilities – Philippines)

(Where necessary, States Parties shall collect appropriate information to enable them to formulate and implement policies to give effect to this Convention. The process of collecting and maintaining this information should:

(a) comply with legally established safeguards to ensure confidentiality and respect for the privacy of persons with disabilities, including legislation on data protection;

(b) comply with internationally accepted norms to protect human rights and fundamental freedoms;

(c) where appropriate, be undertaken in collaboration with and following consultation of organisations of persons with disabilities. - EU)

[Article 7

Equality and non-discrimination

[1. States Parties recognize that all persons are equal before (and under – Canada) the law and are entitled without [any discrimination] (all forms of discrimination – Japan) to the equal protection (and equal benefits – Canada) of the law. States Parties shall prohibit any (such – Israel) discrimination on the basis of disability, and guarantee to all persons with disabilities equal and effective protection against discrimination. [States Parties shall also

prohibit any discrimination and guarantee to all persons with disabilities equal and effective protection against discrimination [on any ground such as race, colour, sex, language, religion, political or other opinion, national (ethnic – Canada) or social origin, property, birth, source or type of disability, age (health – Kenya) (health, marital status, belief, culture – African Group) or any other status. – China] – Israel]

2. (a) [Discrimination shall mean any distinction, exclusion or restriction (, condition, act or policy – Israel) which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise by persons with disabilities, [on an equal footing] (on a basis of equality with others – Canada), of all human rights and fundamental freedoms;] (For the purpose of the present convention the term discrimination against persons with disabilities shall mean any distinction exclusion or restriction made on the basis of disability which has the effect or purpose of impairing or nullifying the recognition enjoyment or exercise by persons with disabilities on a basis of equality of human rights and fundamental freedoms in the political economic, social, cultural civil or any other field- Argentina) (public, private and familiar – Costa Rica)

(b) [Discrimination shall include all forms of discrimination, [including direct, indirect⁹ - Yemen] and systemic, and shall also include discrimination based on an actual (past – Israel) (disability - Canada) or a disability (that is -Canada) [perceived]¹⁰(or attributed by society – Canada) (imputed – Australia) disability – Japan] (or by association with a person with a disability – Australia).

⁹ Some members of the Working Group considered that the Convention should have a specific reference to both direct and indirect discrimination. Other members considered that the distinction between the two forms of discrimination was not sufficiently clear. They considered that both a reference to "all forms of discrimination" in paragraph 1, and the reference to the "effect" of discrimination in paragraph 2 (a), would cover the concept of indirect discrimination.

¹⁰ The Ad Hoc Committee may wish to consider the scope of this term, and whether it should apply to the individual's perception of themselves, or society's perception of them.

3. [Discrimination does not include a provision, criterion or practice that is objectively and demonstrably justified by the State Party by a legitimate aim and where the means of achieving that aim are reasonable and necessary.¹¹ (and consistent with international human rights law – Japan, African Group). – Australia]

4. In order to secure the right to equality for persons with disabilities, States Parties undertake to take all appropriate steps, including by legislation, [to provide] (to ensure – Israel) (adequate and – Costa Rica) [reasonable accommodation – Yemen] (acceptable accommodation – Yemen),¹² defined as necessary and appropriate

¹¹ This paragraph has not appeared in any of the core international human rights treaties, although the concept has been developed in the jurisprudence of the treaty bodies. The Human Rights Committee has included it, for example, in its general comment on article 26 of the International Covenant on Civil and Political Rights. The Working Group discussed three options for the consideration of the Ad Hoc Committee: (a) The paragraph should not appear in the text at all; (b) the paragraph should be included only as an exception to the specific prohibition on indirect discrimination; and (c) the paragraph should apply to all forms of discrimination. In addition to those options, some members proposed adding the following phrase to the end of the paragraph: "... and consistent with international human rights law".

¹² The Ad Hoc Committee may wish to consider the following points when considering the term "reasonable accommodation":

The Working Group considered that there was a need for a concept such as "reasonable accommodation" in the Convention in order to secure compliance with the principle of non-discrimination.

There was widespread agreement in the Working Group on the need to keep the notion both general and flexible in order to ensure that it could be readily adapted to different sectors (e.g., employment, education, etc.) and in order to respect the diversity of legal traditions.

There was also general agreement that the process of determining what amounted to a "reasonable accommodation" should be both *individualized* (in the sense that it should consciously address the individual's specific need for accommodation) and *interactive* as between the individual and the relevant entity concerned. It was understood that an entity should not be allowed to compel an individual to accept any particular "reasonable accommodation". It was also felt, however, that in situations where a range of "reasonable accommodations" was available — each of which was, by definition, reasonable — an individual did not have the right to choose the one that he or she preferred.

There was general agreement that the availability of State funding should limit the use of "disproportionate burden" as a reason by employers and service providers not to provide reasonable accommodation.

Some members of the Working Group supported the proposition that a failure to "reasonably accommodate" should in itself constitute discrimination; some of those members highlighted General Comment No. 5 of the Committee on Economic, Social and Cultural Rights as supporting this view.

Other members of the Working Group considered that the Convention should not dictate the manner by which the concept of "reasonable accommodation" should be achieved or framed under relevant domestic legislation. Specifically, they took the view that it was inappropriate for an international legal instrument designed primarily to engage State responsibility

modification and adjustments to guarantee to persons with disabilities the enjoyment or exercise on an equal footing of all human rights and fundamental freedoms, [unless such measures would impose [a disproportionate burden] – Kenya] (an unjustifiable hardship – Australia) (unreasonable difficulties – China). (In determining whether the burden in question is disproportionate consideration should be given to all relevant factors including the availability of state funding for the purpose of making accommodations- Israel).

5. [[Special] (positive – Canada) measures¹³] (measures of affirmative action – Colombia) (such as positive discrimination and positive action – Israel) aimed at accelerating de facto equality of persons with disabilities shall not be considered discrimination as defined in the present Convention, [but shall in no way entail as a consequence the maintenance of unequal or separate standards; [those measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.¹⁴ – Japan] – Lebanon] – EU]

(Nothing in this article shall prevent limiting the scope of special measures on a rational basis in accordance with the severity of the disability – Israel) – EU: see article 3bis]

((7 bis) To ensure the right to equality for all persons with disabilities. States Parties shall take affirmative action measures to benefit all persons with disabilities. – Colombia)

(EU Proposed Article 3bis:

1. States Parties recognise that all persons are equal before the law and are entitled without any discrimination to the equal protection of the law. States Parties shall prohibit any discrimination on the basis of disability, and guarantee to all persons with disabilities equal and effective protection against discrimination.

to frame a failure to “reasonably accommodate” on the part of private entities as a violation of the non-discrimination principle.

¹³ The term “special measures” is used in other international human rights treaties. The Ad Hoc Committee may wish to discuss the appropriateness of using the term in the disability context, and whether alternative terms could be used.

¹⁴ The Ad Hoc Committee may wish to discuss whether special measures in the disability context should be limited in time or more permanent.

2. For the purpose of the present Convention, the term "discrimination on the grounds of disability" shall mean any distinction, exclusion or restriction which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise on an equal footing by persons with disabilities of all human rights and fundamental freedoms.
 - (a) Direct discrimination shall be taken to occur where one person is treated less favourably than another is, has been or would be treated in a comparable situation, on the grounds of disability;
 - (b) Indirect discrimination shall be taken to occur where an apparently neutral provision, criterion or practice would put a person having a disability at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary or unless measures are taken to eliminate that disadvantage.
3. In order to guarantee compliance with the principle of equal treatment in relation to persons with disabilities, States Parties undertake to take all appropriate steps, including by legislation, to ensure that reasonable accommodation is provided; reasonable accommodation to be defined as necessary and appropriate modification and adjustments, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal footing of all human rights and fundamental freedoms, unless such measures would impose a disproportionate burden.
4. Special measures aimed at accelerating de facto equality of persons with disabilities shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; those measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.
5. In order to secure non-discrimination of persons with disabilities, States Parties undertake in particular:
 - (a) to take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws or regulations which have the effect or

purpose of creating or perpetuating such discrimination wherever it exists;

- (b) to embody the principles of equality of opportunity and non-discrimination on the ground of disability in their national constitutions or other appropriate legislation, if not yet incorporated therein, and to ensure, through law and other appropriate means, the practical realisation of these principles;
- (c) States shall ensure that the needs and concerns of persons with disabilities are incorporated into economic and social development plans and policies, and not treated separately;
- (d) to refrain from engaging in any act or practice of discrimination against persons with disabilities and to ensure that public authorities and institutions act in conformity with this obligation;
- (e) to take all appropriate measures to eliminate discrimination on the ground of disability by any person, organisation or enterprise;
- (f) to raise awareness throughout society regarding disability and persons with disabilities and foster respect for the rights of persons with disabilities;
- (g) to combat stereotypes and prejudices about persons with disabilities
- (h) to promote an image of persons with disabilities as capable and contributing members of society sharing the same rights and freedoms as all others and in a manner consistent with the overall purpose of this Convention.
- (i) encouraging all organs of the media to project an image of persons with disabilities consistent with the purpose of this Convention; - EU)

Article 8

Right to life¹⁵

[States Parties reaffirm the inherent right to life of all persons with disabilities, and shall take all necessary measures to ensure its effective enjoyment by them.¹⁶ Argentina] (in particular, in situations of armed conflicts and natural disasters, in accordance with international law, human rights, refugee and international humanitarian law – Jordan)

(States Parties shall, in accordance to their obligations in the context of international law and the Universal Declaration of human rights and international treaties and conventions for the protection of civilians from armed conflicts, take all necessary measures to guarantee the protection and care for persons with disabilities that are affected by armed conflicts or are refugees or are internally displaced persons and under occupation - Yemen) (including foreign occupation – Palestine)

(States Parties recognize that any person with disabilities has an inherent right to life – Argentina)

(States Parties reaffirm the inherent right to life of all persons and shall take all necessary measures to ensure its effective enjoyment by persons with disabilities. – Costa Rica)

(In accordance with their obligations under international humanitarian law to protect civilian population in armed conflicts and risk situations, States Parties shall take all feasible measures to ensure the protection and care of all persons with disabilities who are affected by armed conflicts – Uganda) (including foreign occupation – Palestine)

¹⁵ There were different views expressed within the Working Group as to whether the Convention should include an article on the right to life, and if so, its content.

¹⁶ In the context of the discussion on this draft article, some members of the Working Group suggested that the Convention should contain a separate draft article on the protection of the rights of persons with disabilities in armed conflict, similar to the approach taken in article 38 (4) of the Convention on the Rights of the Child. It was also suggested that such an article could deal more broadly with the protection of the rights of groups at particular risk.

(States Parties shall ensure to the maximum extent possible the survival and development of persons with disabilities – India)

Article 9

**[Equal recognition as a person before the law]
(Equality under the law – Mexico)**

[States Parties shall:

[[(a) Recognize persons with disabilities as individuals with ~~equal~~ – China) rights before the law, ~~(as other persons – Uganda)~~ [equal to all other persons – China]; - Mexico] ~~(Recognise persons with disabilities as subjects of rights and obligations before the law, in equal conditions to those of persons without disabilities – Mexico)~~

[(b) ~~[Accept- Uganda]~~ ~~(ensure – Uganda)~~ that persons with disabilities have full legal capacity on an equal basis [as others,¹⁷ ~~[including in [financial – Uganda] (political, civil, social, cultural and economic – Uganda) matters - India] – Costa Rica]~~ ~~(except as provided by law – India); - China] – EU] – Mexico]~~

~~(Recognise persons with disabilities as individuals with equal rights before the law and guarantee equality before the law, without discrimination against persons with disabilities – EU)~~

(c) ~~[(Endeavour to – India)~~ Ensure that where assistance is necessary to exercise that legal capacity:

(i) The assistance is ~~(to the extent feasible – India)~~ proportional to the degree of assistance required by the person concerned and tailored to their circumstances, ~~[and does not; [interfere – Uganda] (undermine – Uganda) with the legal capacity, rights and freedoms of the person; - EU]~~

[(ii) Relevant decisions are taken [only - EU] (by ~~a~~, competent, independent and impartial authority – EU) in accordance with a procedure established by law and with the application of

¹⁷ The intent of this subparagraph is to acknowledge that children are not generally accepted as having full legal capacity and that neither would, therefore, children with disabilities. In terms of legal capacity, persons with disabilities should be treated without discrimination on the basis of disability.

relevant legal safeguards¹⁸ (including periodic revisions – Costa Rica) (including provisions for review – EU);

[(d)(Endeavour to – India) Ensure that persons with disabilities who experience difficulty in asserting their rights, in understanding information and in communicating have access to assistance to understand information presented to them and to express their decisions, choices and preferences, [as well as to enter into binding agreements or contracts, to sign documents and act as witnesses;¹⁹ – India] – China]

(States Parties Shall endeavour to provide assistance to persons with disabilities who experience difficulties in exercising their rights – China)

[(e) Take all appropriate and effective measures to ensure the equal right of persons with disabilities to own or inherit (use or otherwise dispose of – Kenya) property, to control their own financial affairs and (if the person with disabilities are in need they – Vietnam) to have equal access to bank loans, mortgages and other forms of financial credit; (bearing in mind the quality and degree of disability – Syria) – Mexico] – EU]

(f) Ensure that persons with disabilities are not arbitrarily deprived of their property. – Sierra Leone] – Canada]

((g) The State must protect the interests of persons with disabilities who cannot exercise their legal capacity in reduced/temporarily reduced situations. In exceptional circumstances when legal safeguards are necessary, the appointment of third parties as legal

¹⁸ Subparagraph (c) allows for the provision of assistance to a disabled person to exercise their legal capacity, and is based on the assumption of full legal capacity, even if the person needs assistance in exercising that capacity. It is intended that subparagraph (c) (ii) should apply only in exceptional circumstances, for which legal safeguards must be provided. The Ad Hoc Committee may wish to consider whether the subparagraph is sufficiently clear, and also how best to protect persons with disabilities who cannot exercise their legal capacity. A separate subparagraph may be required for this purpose. Some members of the Working Group proposed that where others are exercising legal capacity for a person with disabilities, those decisions should not interfere with the rights and freedoms of the person concerned.

¹⁹ The first part of subparagraph (d) has more general application than the equal recognition of persons with disabilities as persons before the law, and the Ad Hoc Committee may wish to consider its most appropriate placement in the Convention.

/guardian/surrogate may be made in the best interests of persons with disabilities. – India)

((g) Take appropriate and effective measures to eliminate physical (social – Botswana) and communication barriers and to reduce understanding difficulty of persons with disabilities in order to exercise all rights in judicial procedure which are provided in the international Covenant on Civil and Political Rights. – Japan)

((g) Take all necessary measures to ensure everyone whose rights and freedoms as recognised in this convention are violated should have an effective remedy before a national authority, notwithstanding that the violation has been committed in an official capacity. - Costa Rica)

(1. States Parties shall recognize that, in civil matters, adults with disabilities have a legal capacity identical to that of other adults and shall accord them equal opportunities to exercise that capacity. In particular, they shall recognize that adults with disabilities have equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.

2. States Parties shall ensure that where adults with disabilities need support to exercise their legal capacity, including assistance to understand information and to express their decisions, choices and wishes, the assistance is proportional to the degree of support required and tailored to the adult's individual circumstances.

3. Only a competent, independent and impartial authority, under a standard and procedure established by law, can find an adult not to have legal capacity. States Parties shall provide by law for a procedure with appropriate safeguards for the appointment of a personal representative to exercise legal capacity on the adult's behalf. Such an appointment should be guided by principles consistent with this Convention and international human rights law, including:

(a) ensuring that the appointment is proportional to the adult's degree of legal incapacity and tailored to the adult's individual circumstances; and,

(b) ensuring that personal representatives take into account, to the maximum extent possible, the adult's decisions, choices and wishes. – Canada)

((c) ensuring regular review of the findings of legal incapacity – Jordan)

Article 10

Liberty and security of the person

1. States Parties shall ensure that persons with disabilities:

(a) Enjoy the right to liberty and security of the person, without discrimination [based on disability – Jordan];

(b) Are not deprived of their liberty²⁰ unlawfully²¹ or arbitrarily, and that any deprivation of liberty shall be in conformity with the law, and in no case shall be based (solely – Canada) on disability.²²

((c) when lawfully deprived of liberty measures shall be taken to ensure that they receive rehabilitation while under confinement – Uganda)

2. States Parties shall ensure that if persons with disabilities are deprived of their liberty (through a civil or criminal procedure – Mexico), they are:

(a) Treated with humanity and respect for the inherent dignity of the human person, and in a manner that (the degree of the violation of freedom against persons with disabilities should not

²⁰ The jurisprudence of the Human Rights Committee (see, for example, General Comment No. 8) notes that States interpret deprivation of liberty too narrowly, so that it applies only to the criminal justice system. The right to liberty and security of persons, however, applies to all deprivations of liberty, whether in criminal cases or in other cases such as, for example, mental illness or intellectual disability, vagrancy, drug addition, educational purposes or immigration control. The Ad Hoc Committee may wish to consider: (a) whether civil and criminal cases should be dealt with separately; (b) whether the text needs further elaboration on civil cases of deprivation of liberty; and (c) whether, for criminal cases, the clauses in this text dealing with procedural matters need strengthening (see also article 9 of the International Covenant on Civil and Political Rights).

²¹ The Ad Hoc Committee may wish to discuss whether the wording of paragraph 1 (b) does or does not prohibit civil commitment, and whether it should.

²² The Ad Hoc Committee may wish to consider adding a provision that obliges States to reform laws and procedures that perpetuate the arrest and detention of persons with disabilities on the basis of disability.

exceed the general standard and proper provision of conveniences such as the measure for ensuring a meeting with the guardian, assistive tools and due medical service should be properly secured – Korea) takes into account [the needs they have because of - Jordan] (the challenges they encounter due to – Jordan) their disabilities; (fully respecting their rights in conditions of equality – Costa Rica)

(b) Provided with adequate information in accessible formats as to (the applicable law and – China) (their legal rights and - New Zealand) the reasons for [their deprivation of – New Zealand] liberty (at the time this occurs – New Zealand);

(c) Provided with prompt access to legal and other appropriate assistance to:

(i) Challenge the lawfulness of the deprivation of their liberty before a court or other competent, independent and impartial authority (in which case they shall be provided with a prompt decision on any such action);

(ii) [Seek regular review of the deprivation of their liberty; - Japan]

(d)[[Provided with compensation in the case of unlawful deprivation of liberty, [[or deprivation of liberty based on disability, - Japan] contrary to this Convention. – China] – EU, Mexico]

(Compensated following determination by an appropriate authority that the deprivation of liberty has been unlawful.- EU)

(The States Parties shall assure to persons with disabilities within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any unlawful deprivation of liberty which violates his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such acts. – Mexico)

((e) States Parties shall guarantee that when persons with disabilities are detained or imprisoned that they be placed in a site adapted to their particular circumstances of disability respecting their right to

participate in all activities necessary for them to be reincorporated in social life– Colombia)

(3. i. States Parties shall accept the principle that forced institutionalisation of persons with disabilities is illegal, save in exceptional circumstances in accordance with the procedures established by law and with the application of appropriate legal safeguards.

ii. The law shall provide that in any case of forced institutionalisation of persons with disabilities, the best interests of the person concerned will be fully taken into account. – EU)

(3. Any person with a disability who has been victim of unlawful deprivation of liberty shall have an enforceable right to compensation – Canada)

(4. The States Parties shall commit to make a thorough revision of their legal frame, in criminal and civil matters as well as in execution of sentences, in order to take into consideration the different types of disabilities and adapt their legal frame to guarantee the respect of the human rights of the persons with disabilities who are deprived of their freedoms for the commission of a crime – Mexico)

Article 11

Freedom from torture or cruel, inhuman or degrading treatment or punishment

1. States Parties shall take all effective legislative, administrative, judicial, educational or other measures to prevent persons with disabilities from being subjected to torture (in all its forms – Algeria) or cruel, inhuman or degrading treatment or punishment (violence and abuse – India).

2. In particular, States Parties shall prohibit, and protect persons with disabilities from, medical or scientific (and other forms of – Thailand) experimentation without the free and informed consent of the person concerned, [and shall protect persons with disabilities from forced

interventions (, abduction – Uganda) or forced institutionalization aimed at correcting, improving or alleviating any actual or perceived impairment.²³ – EU] (In instances of reduced or temporarily reduced capacity to give this consent, appropriate objective, neutral legal procedure and safeguards should be provided in the best interests of persons with disabilities and legal guardians/surrogate's consent should be obtained where third party interests are concerned/harmed. – India)

(3. In order to monitor living conditions and facilities of places where persons with disabilities are placed, international instruments shall be applied, as appropriate including, the Optional Protocol of the Convention against Torture, for the realization of visits by national or international bodies to detention centres. – Mexico)

Article 12

Freedom from violence and abuse

1. [[States Parties recognize – Sierra Leone] (Recognizing – Sierra Leone) that persons with disabilities are at greater risk, both within and outside the home, of (abandonment – Republic of Korea) violence, injury or (mental or physical – Mexico) abuse neglect or negligent treatment, maltreatment or exploitation, including (economic and - New Zealand) sexual exploitation and abuse – Argentina] – China]. (Therefore – Mexico) States Parties shall [therefore - EU] take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities (and their families – Jordan) (and to prevent these forms of violence and abuse by ensuring inter alia (the support for persons with disabilities and their families or caregivers – Trinidad and Tobago) the provision of information– Mexico), both within and outside the home, from all forms of (abandonment – Republic of Korea) violence, injury or (mental or physical – Costa Rica) abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual (and economic – Mexico) exploitation and abuse.

²³ Members of the Working Group had differing opinions on whether forced intervention and forced institutionalization should be dealt with under "Freedom from torture", or under "Freedom from violence and abuse", or under both. Some members also considered that forced medical intervention and forced institutionalization should be permitted in accordance with appropriate legal procedures and safeguards.

2. [Such measures should prohibit, and protect persons with disabilities from (abduction and save in exceptional circumstances according to a procedure with appropriate safeguards established by law, intrusive or forced – Canada), forced interventions or forced institutionalization aimed at correcting, improving or alleviating any actual or perceived [impairment – Canada] (disabilities – Canada), and [abduction. – Argentina, Mexico] – EU]

(States shall take the necessary measures to ensure that medical and related interventions, including corrective surgery, are not undertaken without the free and informed consent of the person concerned – EU)

(States Parties recognise that armed conflicts particularly undermine the freedom from violence and abuse of persons with disabilities. States Parties shall, therefore, take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities from armed conflict. – Kenya)

3. [States Parties shall also take all appropriate measures to prevent violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including (economic and - New Zealand) sexual exploitation and abuse (especially against children and women with disabilities – India), by ensuring, inter alia, support for persons with disabilities and their families, including the provision of information (and education about how to avoid, recognise and report instances of the above. States Parties shall also ensure those working with persons with disabilities are trained to identify and prevent such instances – New Zealand) (and other appropriate forms of assistance and support. In such cases States Parties shall take all appropriate measures to promote their physical and psychological recovery and reintegration into communities – India) - EU]

(Such measures shall include the provision of appropriate information to persons with disabilities and their families – EU)

(3 bis. i. States Parties shall accept the principle that forced intervention of persons with disabilities is illegal, save in

exceptional circumstances in accordance with the procedures established by law and with the application of appropriate legal safeguards.

ii. The law shall provide that in any case of forced intervention of persons with disabilities, the best interests of the person concerned will be fully taken into account.- EU)

4. [States Parties shall ensure that all facilities and programmes, both public and private, where persons with disabilities [are placed together, separate from others, - Uganda] (live or access services – Uganda) are effectively monitored to prevent the occurrence of violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual exploitation and abuse. – New Zealand]

(Recognizing that persons with disabilities are more at risk of violence, injury or abuse neglect or negligent treatment, maltreatment or exploitation, including economic and sexual exploitation and abuse in segregated facilities and programmes where persons with disabilities are placed together, separate from other people, States Parties shall ensure that those facilities and programmes, both public and private, are effectively monitored by independent authorities, which include persons with disabilities, and the monitoring reports made available to the public. – New Zealand)

5. [Where persons with disabilities are the victim of any form of violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including (economic and - New Zealand) sexual exploitation and abuse – Mexico], States Parties shall take all appropriate measures²⁴ to promote their physical and psychological recovery (, rehabilitation – Philippines) and social reintegration (including through the provision of protection services – Trinidad and Tobago). (Such recovery and reintegration shall take place in an environment which fosters the health, self respect, dignity and autonomy of the person. – New Zealand)

²⁴ Some Working Group members suggested that this paragraph should include an explicit provision of legal remedies.

6. States Parties shall (endeavour to – India) [ensure – Canada] (encourage – Canada) the identification, reporting, [referral – New Zealand], and investigation, [treatment – EU] (prosecution – EU, Canada) [and follow-up] of (all – New Zealand) instances of [violence and abuse] (violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including economic and – New Zealand) sexual exploitation and abuse, (and their timely referral to appropriate protection agencies and, where necessary, to the courts – New Zealand) [and the provision (as appropriate – EU) of protection services and (adequate deterrence and effective sanctions, including as appropriate – Costa Rica), [as appropriate – EU], [judicial involvement] (legal remedies – Sierra Leone). – India] (the provision of protection services and where necessary access to judicial interventions should also be made available – India).

(States Parties reaffirm the rights of persons to make choices over their bodies and shall ensure that persons with disabilities are not subjected to sterilization or forced abortion – Uganda)

(States Parties shall ensure that all facilities and programmes, public and private, where persons with disabilities are placed, are effectively monitored, in coordination with civil society, of these forms of violence and abuse. – Mexico)

Article 13

Freedom of expression and opinion, and access to information

(Right to information and communication – Costa Rica)

(The right of access to information – Israel) (and to promote facility of expression – India)

(States Parties undertake to ensure the enjoyment of the right to information and communication to persons with disabilities. In this regard – Costa Rica) States Parties shall take appropriate measures to ensure that persons with disabilities can exercise their right to freedom of expression and opinion through ([alternative] (appropriate – Liechtenstein) modes of communication of their choice, where appropriate, including – Costa Rica) Braille, sign

language²⁵ [and other modes of communication²⁶ of their choice, - Costa Rica] and to seek, receive and impart information, [on an equal footing - Costa Rica] (on conditions of equality - Costa Rica) (on the basis of equality - Canada) with others, including by:

(a) [Providing [public - EU] (official - EU) information - Japan] (Taking appropriate steps to provide public information - Japan) to persons with disabilities, [[on request - Thailand, Kuwait], in a timely manner - Namibia] and without additional cost, (and without tax - Morocco) in accessible formats²⁷ [and technologies [of their choice - EU], - Argentina] (and technologies appropriate to different disabilities - Argentina) taking into account different kinds of disability;

(b) Accepting (and promoting - Mexico) the use of [alternative - New Zealand] (a variety of - New Zealand) modes of communication by persons with disabilities in official interactions;

(c) [Educating persons with disabilities] (Providing education programmes aimed at teaching persons with disabilities and their families [alternative - New Zealand] (a variety of communication modes - New Zealand) [and augmentative - New Zealand] - Costa Rica) (Providing education and learning - Jordan) (and non-disabled persons wishing to communicate with persons with disabilities - Lebanon) (their families and the general public - Trinidad and Tobago) to use [alternative - New Zealand] (a variety of communication modes - New Zealand) [and augmentative - New Zealand] modes (and providing opportunities for those concerned with persons with disabilities to be educated in augmentative and alternative communication modes - Yemen);

(d) (Promoting and where appropriate - EU) Undertaking and [promoting - EU] the research, development and

²⁵ Some members of the Working Group considered that this draft article should include a reference to sign language as the natural language of deaf people in their access to information, communication, services, participation and education.

²⁶ The Ad Hoc Committee may wish to consider the most appropriate terms to use in this draft article. "Mode of communication", "format" (used in subparagraph (a)), and "alternative and augmentative communication modes" (used in subparagraph (c)) have related, but not identical meanings.

²⁷ The Ad Hoc Committee may wish to consider whether it should include mention of specific formats in this paragraph, such as plain language or easy-to-read formats.

production of new technologies, including information and communication technologies, and assistive technologies, [[suitable – Thailand] (accessible – Thailand) (and affordable – Philippines) for – Canada] (in consultation with – Canada) persons with disabilities; (and ensuring access to these technologies by all countries – Trinidad and Tobago) (, guided by the principle of universal design – Thailand)

(e) Promoting other appropriate forms of assistance and support to persons with disabilities (including expanding the necessary level of expertise to assist persons with disabilities – Rep. of Korea), (and where necessary their parents and care givers – Uganda) to ensure their access to information (,including training of interpreters, and access to new information and communication technologies – Costa Rica);²⁸

(Providing training of life assistance and intermediaries such as sign language and tactile interpreters, note takers, readers and others – Lebanon)

(f) [Encouraging – Yemen]²⁹ (Obliging – Yemen) (Ensuring – Uganda) (Requiring/ensuring – Jordan) private (and public – Trinidad and Tobago) entities (, including the mass media – Liechtenstein) that provide services to the general public to provide information and services in accessible and usable formats for persons with disabilities;

[(g)[Encouraging – Yemen] (Obliging – Yemen) (Requiring/ensuring – Jordan) the mass media to make their services accessible to (children and – Jordan) persons with disabilities. – Liechtenstein]

((h) Developing a national sign language – Uganda)

(Promoting that persons with disabilities enjoy the new information and telecommunication technologies – Mexico)

²⁸ The Ad Hoc Committee may wish to consider expanding this subparagraph to cover the provision and training of live assistance and intermediaries, such as Braille and caption transcribers, note-takers, sign language and tactile communication interpreters, and readers.

²⁹ The Ad Hoc Committee may wish to consider whether “encourage” is the best term to use in subparagraphs (f) and (g).

((h) Providing information to persons with disabilities about mobility aids, devices and other forms of assistive devices and technologies – South Africa)

(2. States Parties will take all appropriate measures to ensure that accessible information and communication technologies be designed, developed and produced at an early stage so that the information society becomes inclusive at minimum cost - Lebanon)

Article 14

Respect for privacy, the home and the family

(Respect for privacy, marriage and family – China)

(Respect for privacy – South Africa)

1. [[Persons with disabilities, [including those living in institutions – Canada] (should they have decided to do so – Yemen) shall not be subjected to arbitrary or unlawful interference with their [privacy – Argentina] (private life – Argentina, EU), and [shall – Costa Rica] have the right to the protection of the law against such interference (in all fields – Costa Rica). – Liechtenstein] States Parties to this Convention shall take effective measures to protect [the privacy – Liechtenstein] (the private and family life – Liechtenstein) [of the home, family,- Costa Rica] (communication including – Kenya) [correspondence³⁰ - India] (communication – India) (communications, information and documents – Costa Rica) and medical records of persons with disabilities (equally with other persons – Japan) and their (freedom of – EU) [choice – Liechtenstein] (freedom- Liechtenstein) to take decisions on personal matters. – Qatar]

(No person with disability, including those living in institutions, shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home. Correspondence, medical records or choice to take decisions on personal matters, nor to unlawful attacks on his or her honour and reputation - Qatar)

³⁰ The Ad Hoc Committee may wish to consider whether the word “correspondence” should be replaced with the broader term “communications”.

2. States Parties to this Convention shall take effective and appropriate measures (to encourage the full participation in family life by persons with disabilities and – Qatar) to eliminate discrimination against persons with disabilities in all matters relating to (their private life including – Mexico) marriage and family relations (in all forms – South Africa),³¹ and in particular shall [ensure – Argentina] (take appropriate measures aimed at – Argentina):

[(a) [[That persons with disabilities are not denied the equal opportunity to experience their sexuality, (within the framework of legitimate marriage – Libya, Saudi Arabia) and have (responsible – Philippines) [sexual and other intimate relationships – Libya] (including marriage – Costa Rica) and experience parenthood (in accordance to national legislation – Israel) (, taking into account the best interest of the woman [and the child – New Zealand] – Philippines); - Iran] (through legitimate marriage – Syria) – Qatar] (in accordance with the various religious and social conventions and traditions – Yemen).

(the promotion of measures to change prevailing negative attitudes towards the marriage and sexuality of persons with disabilities, especially girls and women with disabilities, and their founding a family, and the encouragement of the media to play an important role in removing such negative attitudes - Qatar)

(b) The right of [all men and women with disabilities – China] ((all – South Africa) persons with disabilities – China) (to establish and fully develop intimate relations, including marriage - Costa Rica) [who are of marriageable age to marry – Costa Rica] (under appropriate laws – India) [on the basis of free and [full – Canada] (informed – Canada) consent of the intending spouses - China], and to [found a family – India, Qatar] (on an equal basis with other persons - China) (to establish family relations and practice parenthood – Qatar) (bring up a family, and be provided with information and counselling wherever

³¹ The Ad Hoc Committee may wish to consider whether the phrase “marriage and family relations” might be too limiting.

necessary on full dimension and responsibilities of marriage – India); (in accordance with the precepts of religion, convictions and various customs – Yemen) (and experience their sexuality and parenthood – Iran)

((b bis) the rights of persons with disabilities to reproduction, prohibiting all practices aimed at involuntary sterilization and/or inhibiting the exercise of the right to reproduction on the basis of prejudices about persons with disabilities – Costa Rica)

(c) The rights of persons with disabilities to (retain their fertility, New Zealand, Thailand) decide freely and responsibly on the number and spacing of their children³² [on an equal basis [with other persons³³ - Costa Rica] - EU, Mexico] (including protection against non-consensual sterilisation – Kenya) (States Parties shall also ensure that persons with disabilities are not subject to forced sterilization – Mexico) and to [have - India] (be provided with – India) access to information (, advice – Morocco), reproductive (, sex – Yemen) and family planning education, and the means necessary to enable them to exercise these rights; - Holy See]

(The right of men and women with disabilities of marriageable age to marry and found a family shall be recognized, and no marriage shall be entered into without the free and full consent of the intending spouses – Holy See)

(d) [The rights of – New Zealand] (That – New Zealand) persons with disabilities (have the same rights – New Zealand) with regard to

³² Members of the Working Group agreed that a prohibition on the sterilization of persons with disabilities was implicit in the right to decide on the number and spacing of their children, but some members considered that the issue was of such importance that the Ad Hoc Committee should consider making the prohibition explicit.

³³ The understanding of the Working Group is that this draft article does not deal with the national policies of States parties on the size of families but simply stipulates that persons with disabilities should not be treated differently from the general population in this respect. The Ad Hoc Committee may therefore wish to consider whether the phrase “on an equal basis with other persons” is necessary in this subparagraph.

guardianship, wardship, trusteeship and [adoption – Syria, Qatar, Bahrain] (or guardianship – Yemen) (guardianship - Syria) (and sponsorship – Yemen) of children, or similar institutions where these concepts exist in national legislation (; in all case the interests of the child shall be paramount – New Zealand) (, subject to the best interests of the child and in accordance with national legislation- Israel). [For the purpose of guaranteeing these rights, States Parties shall render appropriate assistance to [disabled parents – EU] (persons with disabilities – EU, Serbia and Montenegro) (with available resources – Qatar) dr 6 in the performance of their child-rearing responsibilities;³⁴ - India, Costa Rica]. (These rights may be restricted in exclusive situations specifically stipulated in national legislations – Russian federation)

(e) That a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. [The child shall not however be separated from parents with disabilities on the basis [either directly or indirectly – Japan, EU, Mexico] (all kinds – Japan) (solely – EU, Australia, Norway) of their disability;³⁵ - Argentina, Uganda] (render appropriate assistance to parents of children with disabilities to enable their children to live with them – Uganda) (or the disability of their children. The decision on the separation should be provisional and subject to periodical review – Jordan, Morocco, Thailand, Saudi Arabia)

(f) [The promotion of awareness and the provision of information aimed at changing negative perceptions and social prejudices towards sexuality, [marriage – Costa Rica] (intimate relations including

³⁴ The Ad Hoc Committee may wish to consider the wording of the second sentence of this subparagraph in the light of concerns expressed by some delegations that States parties might find it difficult to guarantee the resources to "render appropriate assistance".

³⁵ The Ad Hoc Committee may wish to consider other formulations for the second sentence of this subparagraph, including the deletion of the words "either directly or indirectly" or their replacement by the word "solely", or the substitution of a positive formulation for the sentence, such as: "States Parties shall render appropriate assistance to parents with disabilities to enable their children to live with them".

marriage – Costa Rica) and parenthood of persons with disabilities. – EU, Qatar] – China]

(States Parties shall take effective and appropriate measures to raise public awareness and provide information to change negative perception and social prejudices towards sexuality, marriage and parenthood of persons with disabilities – China)

(States Parties shall take appropriate measures to change negative perceptions and social prejudices towards sexuality, marriage and parenthood of persons with disabilities – EU)

(NEW PARAGRAPH – Mexico)

Article 15

**Living [independently³⁶ - New Zealand] and being [included – South Africa] (integrated – South Africa) in the community
(Independent community living – Jordan)
(Inclusion in the community and independent living – Mexico)
(Right to a life of independence in the community – India)
(Independent living and social reintegration – Yemen)**

[States Parties to this Convention shall take effective and appropriate measures to enable persons with disabilities [to decide

³⁶ Some members of the Working Group expressed the concern that the words “living independently” in the title and the chapeau of this draft article did not reflect the cultural norm in many countries, and that the words might suggest that persons with disabilities should be separated from their families. The Ad Hoc Committee may wish to consider an alternative formulation.

[to live (in – New Zealand) [independently – New Zealand] and be fully included (States Parties shall – New Zealand) [in – New Zealand] (as members of – New Zealand) the community, [[including by – New Zealand] [ensuring – New Zealand] (ensure – New Zealand) that - Argentina] (with a view to – Argentina) (persons with disabilities – Jordan) : - India] - Mexico - EU] (an independent lifestyle and to be able to enable persons with disabilities to decide for an independent lifestyle and to be able to choose their place and structure of residence, without barring the possibility of being fully integrated in the community and in their families, including by ensuring that: – Mexico)

(States Parties shall take appropriate measures to facilitate persons with disabilities to live independently and be fully included in the community, including measures aimed at ensuring that: - EU)

(a)[Persons with disabilities – Jordan] have the equal opportunity to [choose their place of residence and living arrangements – India, New Zealand] (exercise their choice of living independently or with their family respecting social and cultural practices of family norms and be included in the community – India) (determine how, where, and with whom they live – New Zealand);

(b) [[Persons with disabilities – Jordan] are not obliged to live in an institution or in a particular living arrangement (save as provided in Article 10 – EU) (unless where it is found appropriate – South Africa);³⁷ - Argentina, Sierra Leone, Canada, South Africa, Russian Fed.]

((b bis) Children with disabilities live with their own family or, where that is not possible, (favour that children with disabilities – Lebanon) live in another family situation (whenever possible – Lebanon) – New Zealand)

³⁷ Some members of the Working Group, while accepting the principle, thought that States parties would find it impossible to guarantee this obligation without exception. Other members considered that the subparagraph was redundant, as the issue was covered in paragraph 1 (a).

(c) [[[That – New Zealand] persons with disabilities – Jordan] have access to a range of [in-home - Kuwait], [residential – New Zealand] (options - Kuwait) and other community (based – Canada) support services, including personal assistance, necessary to support [living and inclusion - New Zealand] (them to live where they choose, to participate – New Zealand) in the community, [and to prevent isolation or segregation from the community - Kuwait];³⁸ - EU]

(d) Community services (and facilities – New Zealand) [for the general population – India] are available [on an equal basis – EU] (without discrimination - EU) to persons with disabilities and (have access to community services that – Jordan) are responsive to their needs; (Persons with disabilities are allowed to become members and active participants in community organisations and instrumentalities of their choice. There shall be policies and facilities to assist persons with disabilities to qualify for membership and to be able to participate – Philippines) (Persons with disabilities have right to participate to and benefit from all available community services on an equal basis with the general population – Vietnam)

((d bis) Community support services are provided in a manner that recognises the autonomy, the individuality and dignity of persons with disabilities)

(e) [[Persons with disabilities – Jordan] (their families and caretakers – Botswana) have access to information about [available – New Zealand] (community services including – New Zealand) (community – Botswana) support services.

((f) Support to the families who are taking care of persons with disabilities and also provide material and moral support and provide them with the necessary assistance to ensure the inclusion of persons with disabilities in society – Morocco)

³⁸ Some members of the Working Group considered that it would be difficult for States parties to ensure the availability of the services described in paragraphs 1 (c) and (d), and in particular the undertaking in paragraph 1 (c) to provide personal assistance.

((f) Persons with disabilities who require assistance communicating have access to necessary and appropriate support to enable them to express their decisions, choices and wishes – Canada)

(2. States Parties shall also take appropriate measures to promote the provision of life assistance in order to enable persons with disabilities to live independently – EU)

(2. States Parties shall take appropriate steps to make accessible for persons with disabilities:

(a) a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community and to prevent isolation or segregation from the community;

(b) community services for the general population, on an equal footing with others in a manner responsive to their needs. – Japan)

(Proposed article 15 bis: Women with Disabilities

1. State Parties undertake to ensure the enjoyment of full and equal rights and freedoms by women with disabilities and their equal participation in political, economic, social and cultural activities without any discrimination on the basis of their gender and/or disabilities.

2. State Parties shall take the following steps from a gender perspective so as to ensure that women with disabilities are able to live with dignity in freedom, safety, and autonomy.

(a) Include a separate reference to the protection of the rights of women with disabilities in laws pertaining to women and persons with disabilities;

(b) Incorporate women with disabilities in social surveys and statistics collection efforts and collect gender-disaggregated data on persons with disabilities;

(c) Protect the motherhood of women with disabilities by developing and disseminating policies and programs for assistance based on the recognition of the special needs of women with disabilities in pregnancy, childbirth and post partum health care and child-care;

(d) Ensure that women with disabilities are not deprived of their right

- to work due to their pregnancy or childbirth, and provide the necessary assistances in this regard;
- (e) Ensure that women with disabilities are protected from sexual exploitation, abuse and violence at home, institutional facilities and communities. – Rep. of Korea)

**[Article 16
Children with disabilities³⁹**

[1. States Parties [undertake – India] (shall endeavour – India) to ensure that [each child – South Africa] (children – South Africa) with a disability [within their [jurisdiction – Kuwait] – Liechtenstein] shall enjoy, without discrimination of any kind on the basis of disability, the same rights and fundamental freedoms as other children.

2. States Parties [recognize – Uganda] (shall ensure – Uganda) (also undertake to ensure the creation of conditions under which -Sierra Leone) [that – Sierra Leone] children with disabilities [should – Sierra Leone] (will – Sierra Leone) enjoy a full (active – Sierra Leone) and decent life, [in conditions that ensure dignity, promote self-reliance [and autonomy], (autonomy and citizenship – Holy See) and facilitate the child's active participation in the community.- Sierra Leone] (in dignity within their respective communities – Sierra Leone).

(2 bis. States Parties recognise the evolving capacities of children with disabilities in the exercise of their rights, and the right of children with

³⁹ Paragraphs 2, 3 and 4 of this draft article are based on article 23 of the Convention on the Rights of the Child. That article is a specific elaboration of disability issues in a convention on children that does not otherwise deal with disabilities. Draft article 16 of the present text, however, is a specific elaboration of children's issues in a convention where the rest of the text does deal with disabilities. Duplicating article 23 in this context, therefore, may not adequately deal with the issues faced by children with disabilities. The Ad Hoc Committee may wish to revisit this draft article so that it instead covers issues that affect children with disabilities, but which have not been dealt with elsewhere in the Convention. Examples could include the vulnerability of children with disabilities to sexual abuse and exploitation, of refugee children with disabilities, and of orphan children with disabilities.

disabilities to express their views freely on all matters affecting them, their views being given due weight in accordance with the child's age and maturity. – Canada)

[3. States Parties recognize the right of children with disabilities to inclusive care, which shall include:

(a) [Early provision of appropriate and comprehensive services (including early detection, intervention and rehabilitation - Vietnam) – India];

(Provision of early detection, early referral and early intervention services, including counselling for parents. – India)

(b) The extension, [subject to available resources – Kenya, South Africa], to the eligible child and those responsible for his or her care, [of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child. – South Africa] - Sierra Leone]

(States Parties undertake to provide and extend as far as possible free of charge appropriate early comprehensive services to the child as well as to their parents and others caring for the child. The provision and extension of these services shall be designed to ensure that a child with disabilities has effective access to, inter alia, education, training, participatory recreational activity and activities for the child's cultural and spiritual development – Sierra Leone)

[4. Recognizing the needs of children with disabilities, assistance extended in accordance with (actual circumstances of children with disabilities – Vietnam) paragraph 3 of the present article shall be provided [free of charge – Vietnam], whenever possible, taking into account the financial resources of the parents or others caring for the child and shall be designed to ensure that a child with a disability has effective access to and receives education, training, health-care services, comprehensive [re]habilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social [integration – Uganda] (inclusion – Uganda) and individual

development, including his or her cultural and spiritual development.
– Sierra Leone]

(States Parties shall provide the child with disabilities and his or her parents with appropriate information referral and counselling ensuring in all circumstances that the child maintains his or her self esteem and a positive view of his or her potential and right to live a full and inclusive life. – Sierra Leone)

5. Children with disabilities and their parents (or their caregivers, – Jordan) [other persons caring for or legally responsible for the child - Jordan] shall be provided with appropriate information, referrals and counselling, [and information made available in these ways – Jordan] [should – Uganda] (shall – Uganda) provide them with a positive view of their potential and right to live a full and inclusive life. - Japan] – EU]

(States Parties shall recognise and take appropriate measures to respect the rights of children with disabilities in accordance with Article 23 of the Convention on the Rights of the Child and other relevant provisions of this Convention - Japan)

(5bis States Parties recognize the vulnerability of children to sexual abuse and exploitation and shall endeavour to ensure their protection.

5ter States Parties recognise that the child, for the full and harmonious development of his or her personality, should grow up in a family environment. In the case of destitute or orphaned children, it shall be the duty of the State to make provision for adoption or legal guardianship as per prevalent laws, as also for respite and residential care, as appropriate.

5squat States Parties shall respect the rights and duties of parents and, when applicable, legal guardians to provide direction to the child in the exercise of his or her rights in a manner consistent with the evolving capacities of the child.

5sexst States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of health care, preventive health care, including dissemination of and access to, information concerning methods of rehabilitation, education, vocational training and services with the aim of enabling States Parties to improve their capabilities, skills, human resource development and research, in order to widen their experience in all these areas of expertise. In this regard, particular account shall be taken of the needs of developing countries. – India)

(6. States Parties shall ensure that in all decisions concerning children with disabilities whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be of primary consideration – Uganda)

(6. Where children with disabilities are unable to live with their families, States Parties shall make every effort to provide alternative family care in their community, and such placements shall be in the child's best interests. – Canada)

(7. States Parties shall undertake to prohibit the sterilisation of children and young people with disabilities – Uganda)

(In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all appropriate measures to ensure protection and care of children with disabilities who are affected by an armed conflict, including foreign occupation – Palestine)

Article 17

Education⁴⁰ (and training – Australia, South Africa, Trinidad and Tobago)

(Education, training and lifelong learning – Jordan)

⁴⁰ The Ad Hoc Committee may wish to consider whether this draft article should cover training more extensively, drawing together the provisions on training in other articles.

1. States Parties recognize the right of all persons with disabilities to education (and training – Australia) (in all stages of life and all educational levels and services – Costa Rica, Mexico, Trinidad and Tobago). [[With a view to achieving this right [progressively – Sierra Leone, Kenya, Thailand] and on the basis of equal opportunity, the education of [[children⁴¹ – Russian Fed.] (persons – Russian Fed., Argentina, Costa Rica, New Zealand, Bahrain, Kenya, South Africa, Serbia and Montenegro, Thailand, Mexico, Rep. of Korea, Trinidad and Tobago) with disabilities – Mexico] (persons with disabilities shall take into account their best interests and - Mexico) shall be directed to:⁴² -EU] (The education of persons with disabilities shall be directed to – EU)

(a) The full development of the human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;

((a bis) address the issues of disability, persons with disabilities and human rights in the curriculum of all educational programs – Costa Rica)

(b) Enabling all persons with disabilities to participate effectively (and equitably – South Africa) in a free (and inclusive – Mexico) society;

(c) The development of (self identity, talent, creativity - Costa Rica) the [child's – Russian Fed.] personality, talents and mental and physical (cultural and spiritual – Bahrain) abilities (of persons with disabilities – Russian Fed) to their [fullest –EU] (full – EU) potential;

[(d) [[Taking into account – EU] (Promoting – EU) the best interests of [the child – Russian Fed., Trinidad and Tobago] (children –Trinidad and Tobago) (persons with disabilities – Russian Fed.), (while respecting the rights and responsibilities of parents and, when applicable, legal guardians concerning the child's education –

⁴¹ The Ad Hoc Committee may wish to consider whether the focus of the chapeau should be solely on "children", since other provisions of this draft article refer to "persons" with disabilities.

⁴² Paragraph 1 of this draft article draws on article 13 (1) of the International Covenant on Economic, Social and Cultural Rights and article 29 (1) of the Convention on the Rights of the Child. It does not quote those sources in full, but rather selects those elements that have particular relevance to persons with disabilities. The Ad Hoc Committee may wish to give further consideration to this approach.

Holy See) in particular by individualizing education plans (and granting, if need be, possibilities of education at home – Russian Fed.). – China, Mexico] New Zealand]
(Satisfy the special educational needs of persons with disabilities. – Mexico)
(and agree that:

- a. education shall be directed to the full development of the human personality and sense of dignity and strengthen the respect for human rights and fundamental freedoms;
- b. education shall enable all persons with disabilities to participate effectively in a free society,
- c. education shall promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and
- d. education shall further the activities of the United Nations for the maintenance of peace. - China)

((e) Granting to all persons with disabilities a professional training and retraining taking their physical and psychological limitations into account – Russian Fed.)

2. [In realizing this right, States Parties shall (endeavour to – EU, Costa Rica, Australia) (take all possible steps to – Israel) ensure:

(a) [[That all persons with disabilities can choose – Israel] (the availability of – Israel) inclusive and accessible education (and training – Australia) in [their own - Israel] (each – Israel) community (including access to early childhood and pre-school education);⁴³ (taking account of medical and social recommendations – Russian Fed.) – EU]

(That persons with disabilities can avail of inclusive and accessible education (including equal access to early childhood and preschool

⁴³ The intent of this draft article is to provide the right to choose inclusive and accessible education. There is no intention to create an obligation on students with disabilities to attend general schools where their needs may not be adequately met. The Ad Hoc Committee may wish to consider whether the wording of this subparagraph is sufficiently clear.

education) and that such education shall be provided to the (maximum – Costa Rica) extent possible in the communities in which they live – EU, Japan)

(Priority is given to the integration of children with disabilities in the general school system – Israel)

(b) The [provision of [required – Thailand] (needed – Thailand) support, including the specialized training of teachers,⁴⁴ (instructors – Costa Rica) [school counsellors and psychologists - Lebanon] -EU] (other educational staff as needed – Lebanon) (sociologists – Yemen) (appropriate support including specialised training for teachers and other staff – EU), an accessible curriculum, an accessible teaching medium (materials – Costa Rica, Mexico) and technologies, (appropriate assistive devices – Mexico) alternative and augmentative communication modes, alternative learning strategies, an accessible physical environment, (long distance education – Serbia and Montenegro) or other reasonable accommodations to ensure the full participation of [students – Mexico] (persons – Mexico) with disabilities; - China]

(States Parties shall take effective and appropriate measures to progressively realize the rights of persons with disabilities to education on an equal basis.

- a. In order to develop an inclusive and accessible general education to meet the needs of persons with disabilities, States Parties shall provide support, including the specialised training of teachers, school counsellors and psychologists, an accessible curriculum, an accessible teaching medium and technologies, alternative and augmentative communication modes, alternative learning strategies, accessible physical environment, or other reasonable accommodations to ensure the full participation of students with disabilities;
- b. Where the general education does not adequately meet the needs of persons with disabilities, States Parties shall develop special or

⁴⁴ The Ad Hoc Committee may wish to consider whether this draft article should also include the employment of teachers with disabilities in the general education system (see, for example, article 10 (d) of the Indian proposal), the removal of legislative barriers to persons with disabilities becoming teachers, and raising awareness among teachers of the needs of children with disabilities.

alternative forms of education. Any such special or alternative forms of education should:

(i) Adhere to the standards and objectives provided in the general education system, and

(ii) In no way be a barrier for persons with disabilities to participate in the general education. - China)

(Accessibility of the school system to persons with disabilities whose children study in the school, on an equal footing, with other parents.

Appropriate representations for teachers with disabilities in the school system, including by way of prevention of discrimination on the basis of disability in recruitment and throughout the course of employment and making reasonable accommodations in recruitment and throughout the course of employment. – Israel)

(c) That no [child – Bahrain] (person – Bahrain) with disabilities is excluded from [free and [compulsory – Yemen] – Bahrain] (mandatory – Yemen) primary (and intermediate – Bahrain) education on account of [their - Holy See] (his or her – Holy See) disability (unless accommodation of the child's needs on account of his or her disability would impose an extremely unreasonable burden – Israel) (and measures shall be taken to meet their educational needs – Uganda).

((d)promote access to scholarships and financial resources for persons with disabilities, without restricting that access for only those who pursue compulsory primary education. – Mexico)

(States Parties shall encourage the employment of teachers with disabilities in their general education systems and shall ensure the removal of legislative barriers to persons with disabilities becoming teachers and shall raise awareness on the needs of children with disabilities - Uganda)

3. (Acknowledging that education of persons with disabilities in the general education system should be the rule, and the provision of specialist education services the exception – Morocco) [States Parties shall ensure that where the general education (and training – Australia) system does not adequately meet the needs of persons with disabilities special and alternative forms of [learning⁴⁵ - Yemen] (education – Yemen, New Zealand) should be made available. Any such special and alternative forms of [learning – Yemen, Mexico] (education – Yemen, New Zealand) (teaching – Mexico) should:⁴⁶ - EU]

(Where the general education system does not yet adequately meet the needs of persons with disabilities States Parties shall take appropriate measures to promote alternative forms of education. Any alternative forms of education provided under this article should: - EU)

(a) [Reflect the same standards and objectives provided in the general education (and training – Australia) system; - EU]

(Be closely linked to and reflective of the same curriculum and aim to reflect the same standards and objectives provided in the general education system, taking into account the learning and development needs of persons with disabilities. - EU)

⁴⁵ The term "learning" does not have the same meaning as the term "education". The Ad Hoc Committee may wish to consider which is the most appropriate word. An alternative word in this paragraph could be "provision".

⁴⁶ While members of the Working Group considered that choice was an important element of this paragraph, some members considered that the right to education was more important. Other members would have liked greater emphasis on the best interests of the child in this choice.

Different approaches were also identified with respect to setting out the relationship between the provision of specialist education services and the general education system. Some members considered that education of children with disabilities in the general education system should be the rule, and the provision of specialist education services the exception. Others thought that specialist education services should be provided not only where the general education system was inadequate, but should rather be made available at all times without a presumption that one approach was more desirable than the other. Some members of the Working Group, for example, highlighted the need for deaf and blind children to be allowed to be educated in their own groups. If the latter approach were to be taken, the Working Group considered that there should still be an explicit obligation on the State to make the general education system accessible to students with disabilities, without limiting the individual's ability to choose either the general system or the specialist services.

(b) Be provided in such a manner as to allow children with disabilities to participate in the general education system to the maximum extent possible;⁴⁷

[(c) Allow [a free and informed – EU] for choice between general and special (education – EU) systems; (upon careful consideration of the best interests of students with disabilities – Japan) (The level of specialised education must be identical to the one of general education so as to be able to raise persons with disabilities to the level of non disabled people and give them access to higher education – Libya) – Jordan]

(d) In no way limit the duty of States Parties to continue to strive to meet the needs of students with disabilities in the general education system.

4. [States Parties shall (endeavour to – Australia) ensure that [children – Mexico] (persons – Mexico) with sensory disabilities [may choose to be taught – Mexico] (have access to – Mexico) sign language or Braille, as appropriate, and [to receive the curriculum (using alternative modes of communication, including – Costa Rica, Australia) in sign language or Braille (as appropriate – Costa Rica) (or other modes of communication – Yemen). – Mexico] (to facilitate their learning process and to follow the curriculum – Mexico). States Parties shall take appropriate measures to ensure quality education (and training – Australia) to [students – Mexico] (persons – Mexico) with sensory disabilities by (encouraging and promoting – Australia) [ensuring – Australia] the employment of teachers who are fluent in sign language or Braille.⁴⁸ – EU, South Africa]

⁴⁷ The intention of this subparagraph is to ensure that the general education system and specialist education services are not mutually exclusive options, and that there is a range of options in between that are available.

⁴⁸ Some members of the Working Group preferred to keep this paragraph specific to children with sensory disabilities to allow, for example, deaf children to be taught in sign language. Other members questioned whether it should be broadened to include all children who might need alternative communication modes. In either case, there was agreement that wherever sign language, Braille, or alternative communication systems are taught and used, it should be in addition to, and not instead of, the teaching of written or spoken national languages. The Ad Hoc Committee may also consider whether this issue could be addressed in draft article 13 on freedom of expression and opinion.

(States Parties shall take appropriate measures to ensure that persons with disabilities may choose to be taught using a variety of communication modes and shall work to ensure quality education to students with disabilities by ensuring that teachers are able to use different communication modes. – EU, Japan)

(Deaf and deaf blind persons have the right to receive education in their own groups and to become bilingual in sign language in their national spoken and written languages. – Costa Rica)

5. States Parties shall (endeavour to – Australia) (take all possible steps to – Israel) (take appropriate measures to – China) ensure that [persons with disabilities [may access – Israel] (in relation to – Israel) [general – Lebanon, South Africa] (all academic and technical education in public or private institutions at all levels of education- Lebanon) –China] (have equal opportunity to access – China) (secondary and – EU, Thailand) tertiary education, vocational training, (professional training – Kenya), adult education and lifelong learning (and teaching – South Africa) [on an equal basis – South Africa] (on an equitable basis – South Africa) with others (and with appropriate assistance – Australia). [To that end – Israel] (In order to secure the implementation of the provisions of the paragraph – Israel), States Parties [shall render [appropriate - Thailand] (needed – Thailand) [assistance – South Africa] (support – South Africa, Thailand) to persons with disabilities. – EU, China, New Zealand, Australia]. (shall ensure that reasonable accommodation is provided. – EU). (States parties shall guarantee that their national education systems recognize and certify skills acquired through alternative forms of vocational training for persons with disabilities – Lebanon)

((a) Persons with disabilities have access to all such systems including by way of accommodations in examinations and in the curriculum on an equal basis with others;

b) appropriate representation for persons with disabilities and staff in all of the above systems, including by way of prevention of discrimination on the basis of disability and the making of reasonable accommodations in employment and recruitment in such systems. –Israel)

(5bis a) ensure non discriminatory access to the learning environment; b) ensure enabling environment that ensures equitable participation of students with disabilities in the learning process. - South Africa)

(States Parties shall ensure that vocational rehabilitation, training and retraining opportunities are open to people who acquire a disability in the course of their working life. – Uganda)

(The State shall provide for functional education to persons with severe, intellectual and multiple disabilities on a continued basis – India)