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A SERVICE MADE POSSIBLE BY LANDMINE SURVIVORS NETWORK

Morning Session

Commenced: 10:26 AM

Adjourned: 12:59 PM

Discussion of Article 23 was completed, and interventions regarding Article 24 was completed. Discussion, both substantive and procedural, began on the Annex to the WG Text on International Cooperation. Mexico, Viet nam and China circulated draft text for a proposed new Article in this regard.

ARTICLE 23: SOCIAL SECURITY AND ADEQUATE STANDARD OF LIVING (Contd)

The Chair opened the floor for comments from NGOs.

International Labour Organisation (ILO) supported the Article, and suggested adding the following: "States Parties shall undertake periodic reviews of their systems of social security, including employee compensation, to ensure that adequate support is provided and that no undue obstacles are inadvertently placed in the way of persons with disabilities in entering employment, retaining their job or occupation, or returning to the open labour market and paid employment." This would ensure that social security provisions would not create disincentives to vocational training and employment and self-employment for people with disabilities (PWD), i.e. the "benefits trap" effect. ILO welcomed the provision to ensure PWD, especially women and girls and older people with disabilities, to both social security and poverty reduction strategies, since many PWD live in poverty, particularly in developing countries. ILO would welcome the opportunity to assist in monitoring implementation of right-to-work aspects of this Convention.

Lebanon proposed changing the title to "social securities," which would not limit the provisions to the context of any particular organization or system. In the first sentence of the chapeau, it suggested replacing "social security" with "all types of social securities." It also proposed an addition to 23.1(f) that reads, "Ensure that PWD are able to access life, health and other types of insurance."

National Human Rights Institutions (NHRI) supported the NZ proposal to change the title and to reorder the sequence of Articles. The right to social security and an adequate standard of living are recognized as separate rights under existing international law, and adequate standard of living is broader than just social security. Social Security is the means to attain an adequate standard of living. Therefore NHRI aligned with the proposal to invert the order of the chapeaus, and proposed replacing "appropriate" with "necessary," and replacing "safeguard" with "protect" since the chapeau addresses state obligations. In 23.1(a), the text should be amended to read "Ensure the necessary services, devices and other forms of assistance for PWD." In 23.1(c) the words "with severe and multiple disabilities" should be deleted, as should the words "which should not become a disincentive to develop

themselves." In 23.1(d), "accessible" should be inserted before "governmental housing," and the words "including through earmarking percentages of governmental housing for persons with disabilities" should be deleted. A blanket tax exemption, without linkage to disability-related expenses, is undesirable, and so 23.1(e) should be reformulated. Regarding 23.1(f), the complexity of this issue should be reviewed to address discrimination, particularly against women. NHRI supported keeping "access to clean water" in 23.2. Clean water has become a basic service; this is elaborated in general comment 15 by the committee on the ICESCR.

World Network of Users and Survivors of Psychiatry (WNUSP) supported the Article, particularly the portions dealing with poverty reduction, and New Zealand's proposal that PWD should benefit equally from development. It endorsed deletion from 23.1(c) of "severe and multiple," terms which are based on the medical model in making distinctions among PWD on the basis of severity. WNUSP proposed adding a new paragraph, 23.1(g), to ensure preservation of autonomy in the delivery of social services. It reads, "Ensure that autonomy is preserved in the delivery of social services, including by prohibiting the bundling of services (making provision of any service contingent on acceptance of any other service)." Alternatively, this paragraph could go in Article 15.

People with Disabilities Australia, Inc. (PWDA), jointly with the **Australian National Association of Community Legal Centres**, and the **Australian Federation of Disability Organisations** proposed, per footnote 99, replacing "social insurance" with the broader term "social assistance" because PWD need many special measures not needed by the general population. Leaving out this concept could have the unintended consequence of prohibiting services targeted to people with disabilities in the name of nondiscrimination. On the other hand, it is important to ensure that special services are administered in a nondiscriminatory way. Therefore the chapeau should be redrafted to clarify that nondiscrimination applies to the administration, not the provision, of special measures. In 23.1(c), the phrase "living in situations of poverty" should be deleted, since even PWD who are not poor often have additional, disability-related costs and may require social assistance. These extra costs are largely related to social and economic participation, and must be addressed so as not to become a disincentive to participation. This goal should be progressively realized, depending upon the resources of States. The phrase "which should not become a disincentive to develop themselves;" as PWD will typically require social security in order to develop themselves. Special measures are not a disincentive to personal development; they are a precondition for it. In 23.2(d), it suggested adding "through universal design" after "ensure."

Disabled Peoples International (DPI) suggested deleting "severe and multiple disability," which is a medical model concept. It supported splitting Article 23 would be helpful. The two issues, "standard of living" and "social security," are addressed separately in most human rights instruments. The UN Standard Rules might be of some assistance to the WG.

ARTICLE 24: PARTICIPATION IN CULTURAL LIFE, RECREATION, LEISURE AND SPORT

Ireland, on behalf of the **European Union (EU)** suggested amending the chapeau by replacing "and shall take all appropriate measures to ensure that persons with disabilities" with "and shall promote appropriate measures for persons with disabilities to," because the original text goes beyond the powers of States to deliver. The Convention should deal with the universality of PWD, so 24.3 should be deleted because it singles out a particular disability group. In 24.4, to avoid appearing to create new rights, the chapeau should be

revised to read as follows: "With a view to enabling persons with disabilities to participate on an equal basis as others in recreational, leisure and sporting activities, States Parties shall take appropriate measures to" in order to indicate the purpose of State measures. Because instruction, training and support are provided by sporting organizations on a voluntary basis, not by States, 24.4(b) should be revised to read: "ensure that persons with disabilities have an opportunity to organize and participate in sporting activities and encourage the provision of appropriate instruction, training and support." Finally, both 24.4(c), which is covered in Article 19, and 24.4(d), which is covered by the EU's revised 24.4(e), should be deleted.

Yemen proposed splitting Article 24 into two articles -- one, Article 24, "Participation in cultural life, including intellectual, civilization and history, which would end after 24.3; and another, Article 24(bis), "Participation in recreation and sport activities," drawing on the text in 24.4. In 24.1(b), "free" should be added before "multimedia formats." In 24.1(c), the words "international and regional" should be added before "television."

Mexico proposed a title change with the addition of "physical culture" between "leisure" and "and sport." In 24.1(a) the words "and express" should be inserted following "utilize." In 24.1(d), "hospitality" should be replaced by "hotel," and the words "and services" should be inserted after "industry." In the 24.4 chapeau the words "on an equal basis with others," should be replaced by "in conditions of equity with other persons." In 24.4(a), "sporting activities" should be deleted and, after "leisure" should be inserted the words "activities, physical culture and sports." In 24.4(b), the phrases "the same" and "that is available to other participants" should be deleted, and "in conditions of equity with other participants" should be inserted after "support." In 24.4(c), Mexico suggested inserting "all" before "PWD," and "to participate in sporting activities in conditions of equity within the education system, including children with disabilities" following "venues." It suggested deleting "and that children with disabilities have equal access to participating in sporting activities with the education system." In 24.4(d) it suggested inserting "and" after "recreational"; and deleting "and sporting" after "leisure"; and adding "physical culture and sports" after "activities." States should take on a major role in promoting access to cultural opportunities for PWD.

Thailand suggested amending 24.2 by deleting the words "and unreasonable" and replacing them with "any." Following "cultural materials," the rest of the sentence should be deleted. States should play a major legislative role in ensuring these rights. Many activities are organized and run by private entities, but they are obliged to follow the law.

Chile noted, in reference to 24.1(d) regarding access to cultural facilities, that "access" is important, but it is equally important to consider what else is required for people to enjoy cultural events. In 24.4, it proposed adding two subsections. The first would refer to developing the sports potential of PWD, by promoting their involvement at various levels. The second would address training for teachers and monitors handling sports and recreational programs in methods for facilitating the participation of PWD.

South Africa proposed separating recreational and leisure rights from cultural rights, addressing the latter in a new paragraph, 24(bis), which would also incorporate the current Article's content relating to cultural and linguistic identity and rights as suggested by footnote 109. Providing for cultural and linguistic rights would bring this Convention into conformity with other international instruments. South Africa also proposed several amendments. In the chapeau of 24.4, "equal" should be replaced with "equitable"; and the words "to promote a

healthy lifestyle" should be inserted after "sporting activities." In 24.4(a), "encourage" should be replaced by "ensure"; before "regional" should be inserted the word "club," because this is where participation in organized sports often begins, providing a base for advancing to higher levels of sport; and the words "to the fullest extent possible" should be deleted because this implies a focus on their limitations. The text of 24.4(b) should be changed to read, "Ensure that PWD have an opportunity to organise and participate in sporting, recreational and leisure activities, and to receive equitable and relevant instruction, training, resources and support." South Africa explained that providing "the same" resources and support to PWD would be inequitable; and the phrase "that is available to other participants" is redundant. The text of 24.4(c) should be changed to read: "Ensure that PWD have access to sporting, recreational, and leisure facilities." The clause regarding children with disabilities' access to sporting activities within the education system should be moved to Article 17 on Education. In 24.4(d), the word "equal" should be inserted before "access." South Africa suggested a new subparagraph, 24.4(d)(bis), as follows: "Ensure equitable access to government and private funding for PWD to facilitate full participation in sporting, recreational and leisure activities and organization." In order to target the media, 24.4(d)(bis) should go on to read as follows: "Encourage all public media to give appropriate and equitable coverage of the achievement of persons with disabilities in sports, recreational and leisure activities, as well as the availability of such activities to all persons with disabilities."

New Zealand noted duplication in the provisions of this Article. For example, the facility access provisions in 24.1(d) duplicate Article 19's references to accessibility in the built environment; and the issue of cultural materials in accessible formats, required by 24.1(b), should be adequately dealt with in Article 13, access to information. Therefore, parts of these subparagraphs can be eliminated. New Zealand also disagreed with proposals to separate cultural/artistic activities from other activities. Based on these concerns, it submitted a proposed revision of 24.1, consolidating paragraphs 24.1 and 24.4, to address rights to participate in both types of activities. (24.2 and 24.3 would remain essentially unchanged.) In its revision, New Zealand attempts to address several other concerns as well. The current paragraph 24.4 seems concerned primarily with the competitive nature of sports, in which participants advance to different levels; however, other kinds of cultural activities may also be pursued at the local, regional, national, and international levels, whether competitively or not. Also, the opportunity to develop and utilize potential should apply to physical, as well as creative and artistic, endeavors. The amendment to the chapeau of 24.1 aims to use language from other international human rights instruments, including the Convention on the Rights of the Child (CRC). The phrase "on an equal basis" in 24.1(b) takes into account the fact that some activities are private, and not available to the general public. New Zealand pointed out that 24.4(c) contains two very different ideas, and suggested expanding the second half of the subparagraph, to cover children with disabilities' access to *all* cultural, leisure, and physical activities, not just those in the education system, and moving it to the Article on children. New Zealand opposed the EU's proposal to delete 24.3, because sign language is integral to the cultural development of Deaf people. However, it recommended consideration of whether the cultural identity of other groups of PWD should also be addressed here. New Zealand opposed Thailand's proposal to amend 24.2 by deleting the phrase "while respecting the provisions of international law." That clause would not inhibit the implementation of the paragraph.

Kenya suggested change in the title to "Participation in Cultural Life, Religion, Recreation, Leisure, and Sport." It introduced new paragraph, 24.4(bis), to read as follows: "States

Parties recognize the fundamental right of PWD to practice a religion of their choice, and shall take all appropriate measures to ensure that PWD:

"(a) enjoy the opportunity to develop their spirituality and practice their faith;

"(b) have access to houses of worship, shrines and sites of religious importance;

"(c) can belong to a community of believers and participate fully in the life of the congregation and in the rites, ceremonies and sacraments that are a part of worship;

"(d) have access to appropriate religious education and receive instruction in the format that best suits their needs;

"(e) will be protected from religious abuse, exploitation and coercion."

Israel proposed several amendments. In the chapeau of 24.1, after "to ensure," should be inserted "including by way of legislation to the maximum extent that is reasonable." At the end of 24.1(a) should be added "and the society as a whole"; and the words "and physical potential" should be inserted following the words "intellectual." In 24.1(d), after "libraries," should be inserted "concert and other musical performances"; and the words "as far as possible" should be replaced by "work to the maximum extent possible." In 24.3, the words "who are deaf" should be replaced by "with disabilities of all kinds." In 24.4, at end of the chapeau should be added "Do all the following at the maximum extent that is reasonable." In 24.4(d), after "leisure," the word "tourism" should be added.

Japan agreed with the EU amendment for the chapeau of 24.1, and suggested that some issues here need to be done by the private sector rather than the government due to financial implications. In 24.2, it suggested strengthening the last part of sentence to comply with international agreements, by replacing "while" with "in accordance with international agreements." In suggested deleting 24.3, as this issue should be dealt with under 2(d). Japan supported the thrust of 24.4, but it may be overly prescriptive and needing simplification.

Guatemala made two proposals. In 24.2, it suggested deleting "excessive and discriminatory" since intellectual property rights have not been an obstacle for PWD. In 24.4, it suggested deleting "on an equal basis with others."

Canada supported a more principled and less prescriptive article. In the chapeau of 24.1, it endorsed the revisions offered by the EU. It echoed New Zealand's concerns about the overly detailed nature of 24.1(b), (c), and (d), and the overlap among them and with other Articles, especially with the access issue. It supported the New Zealand proposed revision of 24.1(b): pointing out the problem of listing technologies which may become outdated, it supported shortening the subparagraph and deleting its mention of specific formats. In 24.2, it suggested deletion of "an unreasonable," while retaining "discriminatory." It proposed retaining 24.4 on its own, as dedicated to the very important issue of sports. Regarding 24.4(c), it echoed New Zealand's comments that the content addresses two issues, access to venues and recreational participation by children, which either are or could be covered elsewhere in the Convention. Canada expressed uncertainty about what is intended in 24.4(d), and asked for either clarification, or else deletion.

The Republic of Korea echoed Canada in attaching importance to 24.4(a) regarding sports activities for PWD. To broaden the scope of this subparagraph, Korea proposed appending to it, "and promote sporting activities tailored to the needs of persons with disabilities as well as disability-specific sports."

Jordan called for retaining both cultural and sports in this Article, because it “put the mind and body together”, and supported Kenya’s proposal to include religion, in order to add the component of “soul.” It proposed a rewording of 24.1(b) to read: “Enjoy equitable access to and participation in cultural and sports material, activities, services and facilities.” Subparagraphs 24.1(c) and (d) should be deleted, as the ideas therein are included in the previous article. Article 24.4 in its entirety should be deleted.

China proposed adding language on a gradual timetable through the insertion of “progressive” after “appropriate.” Paragraph 24.2 should focus on how to ensure that PWD have access to culture, not to stipulate how States Parties should formulate their law as to the protection of intellectual rights so as not to discriminate against PWD, as countries, apart from legislation, have other measures to ensure access to culture. There are also specific international instruments to protect intellectual property in order to avoid unnecessary inconsistency. China recommended that the Committee revisit the paragraph and consider rewording it in a way that would ensure equal enjoyment of cultural rights. It directed the Committee to footnote 109 (for 24.3), and endorsed the idea contained therein, that to avoid unbalanced text, the content of this paragraph should be reflected in other paragraphs or Articles. Upon consideration of footnote 111, China proposed that in 24.4(a) “mainstream” be deleted, as sports activities for people without disabilities might not meet the needs of PWD and disability-specific activities, such as the Paralympics, may need to be organized.

Bahrain supported this Article and proposed inserting in 24.4(c), after “resources,” the words “to qualified and specialized children.”

Costa Rica considered this Article to have particular relevance, as quality of life is impacted by the ability to participate in cultural life, recreational activities, leisure, and sport. In 24.1(d), in addition to physical access to sites, the subparagraph should address “enjoyment of” cultural representations (e.g., to see and enjoy volcanoes). Regarding 24.3, Costa Rica wanted to draw distinctions, as the paragraph as it stands generates a discriminatory dimension, and proposed a rewording: “States Parties recognize that persons living under their jurisdiction are entitled to their own specific cultural and linguistic identities and shall take all appropriate measures to support it.” In 24.4 it proposed the insertion of “including tourism” after “sporting activities.” In 24.4(b), “same” should be deleted so that the last part of the subparagraph reads: “to receive instruction, training and resources appropriate to ensure the involvement of PWD.” A new subparagraph should be placed after 24.4(c): “To see to it that persons with disabilities gain access and be able to enjoy tourist activities.” In 24.4(c) “with the educational system” should be replaced by “including the educational system.” Subparagraph 24.4(d) should be deleted.

Morocco proposed the insertion of “at the least cost” after “enjoy access” in 24.4(b).

The Holy See supported this Article in principle and Kenya’s contribution. Religious practice is a non-derogable right recognized in both the UDHR and international juridical instruments. Affording protection of this right in this Convention is a serious issue. It agreed with Jordan on the integration in human life of many aspects: mind, body, and soul.

Ireland, speaking only on its own behalf, commented on the proposal offered by Kenya. Ireland has consistently been a main sponsor of resolutions on the freedom of religion and belief, and when it questions the inclusion of this issue in the article, it is not out of a lack of

interest in the subject. PWD are already entitled to all human rights and it is not necessary in this Convention to repeat each and every one contained in the two international covenants on human rights. The question of freedom of thought, conscience, religion and belief is well set out in Article 18 of the ICCPR, has been elaborated on in the Declaration on the Elimination of All Forms of Intolerance Based on Religion and Belief, and further elaborated upon by the jurisprudence of the Human Rights Committee, and in the resolutions sponsored by Ireland over the past 20 years. In this framework, the proposal from Kenya would significantly restrict the rights of PWD. It unintentionally elaborates a separate right to freedom of religion in relation to PWD, which undermines the general right which they already possess under international law. It would not oppose an appropriate reference in this Convention, but expressed grave reservations as to the formulation of Kenya's proposal.

Uganda support Kenya's proposal, as many places of worship are not accessible to PWD, and some organizers of these institutions may not be aware of the needs of PWD. Some of the practices of these institutions are onerous to PWD and if PWD are going to enjoy the right to worship at a religious institution of their choice then this Convention should include a provision to ensure that those involved in these institutions take into account the needs of PWD. In 24.1(d), the word "exhibits" should be inserted between "two" and "monuments." In 24.3, "and the deafblind" should be inserted after "deaf." In 24.4(b), "necessary" should replace "same," as it might not be possible for persons with certain disabilities to receive the same instruction, so "necessary" is a more appropriate word. Uganda supported Kenya's amendment for 24.4(d). It introduced a new paragraph 24.5: "States Parties shall take all appropriate steps to remove all discriminatory societal barriers to the enjoyment of all the rights in this Article."

Thailand expressed concern that some delegates misunderstand the impact of intellectual property protection laws. There is a great deal of evidence that existing laws protecting intellectual property rights and copyrights do constitute and/or lead to discriminatory barriers to access to cultural materials by PWD. The Convention should find a way to ensure that domestic and international laws, intended to protect intellectual property rights and copyrights, do not limit PWD access to materials.

Namibia supported Kenya's proposal to insert "religion" in the title. In 24.4(a), "Ensure" should replace "Encourage"; "integrated" should replace "mainstream"; and "all levels, including local," should be inserted before "regional." In 24.4(b), "necessary" should replace "same." It proposed a new, 24.4(e), as follows: "Ensure that persons with disabilities subject to multiple forms of discrimination, such as women and refugees have access to sports, recreation and leisure activities."

Philippines supported the suggestion, advanced by Kenya, Uganda, the Holy See and Namibia, to incorporate religion as one of the issues that States Parties should recognize and support.

The Chair opened the floor for comments from interested NGOs.

Inclusion International stated that like music, sports offer the opportunity for persons with intellectual disabilities, and all persons, to self-expression. Music and sport bring people together and provide shared understanding and appreciation regardless of disability. It is necessary to support everyone, to build confidence and self-esteem and to make everyone

feel as though they are part of the team. Sport should be integrated. It stressed the importance of moving beyond the Special Olympics to true inclusion in sport.

Landmine Survivors Network fully supported the inclusion in this Convention of the rights to participate in cultural life as well as recreation, sport, and leisure. The participation of PWD in sport and recreation activities contributes to physical fitness, mental well-being and social integration, but too often PWD are excluded from participation in sports and recreation activities. A strong provision for the right to sport, recreation, and leisure would serve to raise awareness of the importance of such participation, both for individuals and for society. LSN strongly supported Yemen's proposal to address sport, recreation and leisure in a separate article. In the UN Standard Rules on the Equalization of Opportunities for People with Disabilities (UN SR) there are separate rules, one dealing with culture, and one dealing with sport and recreation. Separating the articles would allow for full elaboration of the issues related to each right and would assist States with implementation and monitoring. LSN supported Kenya's proposal to add religion. Also, it expressed concern that the current text does not reference the right of children with disabilities to play, which represents a departure from existing law, such as the CRC. It proposed adding a new subparagraph specifically addressing the right of children with disabilities to have access to age-appropriate play, leisure, and recreational sport activities.

People with Disability Australia Incorporated, along with **(Australian) National Association of Community Legal Centres** and the **Australian Federation of Disability Organizations** applauded the terms of this Article. It stated that the removal of barriers constituted by intellectual property law (including copyrights) applies to all information, not just cultural information, and suggested that this provision could be dealt with more comprehensively in 19.2 (Accessibility). "Exhibits" should be inserted before "monuments" and "throughout" should be inserted after "to" in 24.1(d), to clarify that all aspects of sites of cultural significance are made accessible. As suggested by LSN and other delegations, "necessary" should replace "same" in 24.4(b), since PWD may need additional support to participate in sport. The ideas contained in 24.4(c) should be separated into two articles to avoid confusion. The words "services and facilities" should follow "venues" in this subparagraph. Religious participation and the accessibility of religious sites should also be addressed in this article.

Save the Children asserted the importance of the right to play for the development of personality, potential, and expression on an equal basis with others and without discrimination. In recognizing the importance of play and sports for the socialization of children, young people, and adults with disabilities, SCF recommended the insertion of a new paragraph:

"States Parties recognize the right of all children and adults with disabilities to play and shall take all appropriate measures to ensure that PWD:

"(a) have the opportunity to develop their personality potential and expression on an equal basis with others;

"(b) have the opportunity to socialize, make friends, and participate in society;

"(c) have access to playgrounds, events, and activities on an equal basis with others;

"(d) have the necessary support to initiate and take part in play like others."

24.1(b) should be appended with "and that such access also extends to literature and cultural materials appropriate for children with disabilities."

World Federation of the Deafblind expressed concern that sport and culture appear in the same article, and recommended their separation. People who are deafblind live in a different world, a tactile one. The qualities they develop as a result of living in a tactile world – patience, caution, concentration – are those qualities required by artists, and thus, culture is not only something to consume, but is also a right to perform. WFDB supported the proposal of Thailand, because it is increasingly difficult for people who are deafblind to access literature and other materials due to the strengthening of copyright laws.

Northeastern University Center for the Study of Sport in Society supported Yemen, South Africa, and Namibia on their proposals for 24.4 and New Zealand's efforts to include local levels of participation in 24.4(a). This article should be revised by replacing "regional, national and international levels" with "all levels of participation". It also supported Korea's inclusion of "disability specific" in 24.4(b), as this provision reflects the intention of developing sport programs where athletes with disabilities participate with other athletes with similar disabilities. The Convention has been forthright in qualifying "mainstream" sports but it is necessary that 24.4(b) refer to disability specific sport in order to avoid redundancy with the provisions in 24.4(a). It supported Uganda's proposal to replace "same" with "necessary" in 24.4(b).

World Federation of the Deaf noted the importance of this Article to the development of one's full potential and personality, and for Deaf people in particular, for whom language is a basic to identity development. Culture, for the Deaf community, is based in vision. The right of language, identity, and culture does not mean segregation from society because sign language spans other cultures. If these cultural and linguistic rights of the Deaf community are not recognized, it will be unable to develop to its full creative, artistic, and intellectual potential.

World Blind Union strongly supported Thailand's proposal for 24.2, as even schoolbooks are covered by copyright and are sometimes not able to be made accessible to persons with visual impairments. Regarding 24.4(c), WBU proposed adding text that refers to audio description as a means to access to cultural material.

National Human Rights Institutions recognized the merit in splitting this article into two separate articles, one dealing with cultural life, and one dealing with recreation, leisure, and sport. It recommended retaining 24.3.

Arab Organization of Disabled People recommended separating cultural life from recreation, leisure and sport, because for PWD, sport is not only recreation, but also deals with rehabilitation from a physical and social perspective. It supported the proposals of Yemen.

World Union for Progressive Judaism supported the inclusion of Article 24 and fully supported proposals adding the right to have access to religious activities and services. It proposed a new paragraph recommended that all cultural and religious materials be accessible.

ANNEX TO WG DRAFT TEXT: INTERNATIONAL COOPERATION

The **Chair** stated that there is no specific WG draft Article on IC; rather, this issue was addressed in the summary of discussions found in Annex II.

Mexico asserted it is necessary to include a separate article on the issue of international cooperation (IC) in the Convention. The WG agreed that while the responsibility to implement the provisions of the Convention falls on national authorities, the complementary nature of IC in supporting efforts to attain the goals set forth in the Convention is an important element. Mexico proposed specific text for this new Article that includes the variety of views voiced in the consultations, and is followed by references to IC as it has appeared in legal instruments and frameworks. The proposed additions recognized the various stakeholders and sought to clarify IC in the context of this Convention, while attempting to avoid misunderstandings or distortions. The proposed Article is divided into three sections: 1) IC within and between States; 2) IC between States and regional and international organizations; and 3) IC within and among civil society and the private sector. In drafting this proposed Article, Mexico considered different international juridically binding instruments, resolutions, other documents, proposals, and publications put before the Committee, using norms and standards appropriate to PWD.

Ireland, speaking on behalf of the **EU**, emphasised that, as in the case of all human rights instruments, implementation and fulfillment of the provisions would be primarily the responsibility of individual States Parties. Implementation of the obligations undertaken by States Parties to the Convention must not in any way be conditional on receiving international aid or assistance. PWD must enjoy all human rights and fundamental freedoms, and obligations of States toward non-discrimination cannot be avoided or evaded on the pretext that there has not been IC. The Committee should consider inclusion of a provision related to international sharing and exchange of experience, expertise, and good practice to assist in the effective implementation of the Convention. The EU made a proposal on IC as part of Article 2(bis), and will make a proposal on an appropriate reference in the Preamble.

Thailand supported the inclusion of this article as a mechanism to implement this Convention. It particularly supported the idea reflected in 1(c), but proposed amendments, so that it would read: "Ensuring that existing and future IC activities, agreements, and programs are inclusive to PWD." In 1(d), "devices" should be replaced by "technologies," a term which suggests a broader connotation.

The **Chair** stated that the Secretariat would not make amendments to the provided text, as this is not a formal proposal by the WG.

South Africa, as coordinator of the African Group, supported the inclusion of the issue of IC as a separate Article in this Convention and supported the proposal made by Mexico. IC is important at three different levels: 1) the governmental level; 2) the non-governmental level; and 3) within the framework of international organizations. Issues such as technology, capacity building, exchange of information, and other issues should be highlighted in this proposal.

China considered IC to be important to the realization of the goal of this Convention, and supported in principle to incorporate the idea of IC in the Convention and that it should be included as a separate Article.

India agreed that the progressive implementation of the proposed Convention is the primary responsibility of national governments, but recognized the enrichment process possible through the mechanism of IC. It agreed with other delegations that this should be a separate article and supported Mexico's proposal, but would also accept the formulation which appears in Article 23.4 of the CRC with "PWD" replacing "disabled children," as follows: "States Parties shall promote, in the spirit of IC, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of PWD, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries."

Mexico asked for clarification of procedure on this issue of IC.

The **Chair** replied that the Committee now is in a completely different type of procedure as there was no agreement on including any such language in the draft Convention proposed by the WG, instead the Annex reflected the discussion. Therefore it would not be appropriate to enter into a drafting discussion at this point, as this is the first time the Committee as a whole considers the Annex of the report of the WG, and whether or not there will be a drafting exercise is a decision that will be taken at a later stage.

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Afternoon Session

Commenced:	3:10 PM
Suspended:	5:23 PM
Reconvened:	5:59 PM
Adjourned:	6:00 PM

The discussion on International Cooperation was completed and included several additional ideas on its inclusion in the draft text. The latter half of the session was devoted to procedural matters, on the agenda for the next day as well as AHC4, and the question of whether NGO's could participate in informal consultations.

INTERNATIONAL COOPERATION (Cont)

Lebanon supported including IC in the preamble and as an independent Article so as to ensure implementation of this Convention. IC does not necessarily mean global cooperation. Lebanon supported in principle the texts proposed by Mexico and China. The Mexico draft is complete and comprehensive; Lebanon will study it further.

Jordan agreed that working together is important, for disability as well as other matters. IC should appear in general obligations, but not in a separate Article.

Yemen stated that the Convention needs to refer to IC very explicitly to help States abide by the obligations. This will not lead to inaction by States. IC can include expertise, information exchange, and financial assistance. Contributions, for example, could earmark a portion for

PWD. Yemen agreed with Lebanon that IC should appear both in the Preamble and a separate Article.

Australia agreed with the EU that implementing this Convention is a national responsibility, and that compliance should not be conditioned on receiving international assistance. It does not oppose mentioning IC in the Convention, possibly as the EU's Article 2(bis) or in the Preamble, either instead of or in addition to a separate article. The Convention should be flexible in its implementation and should not be too prescriptive. If IC is defined, it should be defined as broadly as possible.

Israel stated that the area of disability is well-suited for IC of all kinds. It agreed that the Convention is a matter for national implementation and should not be dependent on IC. However, because of its importance, IC should not just be in the Preamble, but should be addressed in a separate Article. Israel has looked at Mexico's proposal and proposed several amendments. Because PWD have difficulties getting recognized as disabled, a new subparagraph, 1(f), should be added as follows: "Conclude agreements for the issue of regional or international disabled persons cards for the purpose of various entitlements." Because research is important for PWD, 2(e) should be appended with the words "including the establishment of bilateral, regional and international research and development funds." Subparagraph 3(a) should be appended with the words "including partnerships and cooperation agreements between local and municipal authorities in different states." IC should be distinguished from the need for international and national monitoring of the Convention's implementation.

Palestine stated that IC is already taking place in many fields, and supported a separate Article because it would be valuable, especially in the area of universal design. Exchange of experience is vital so that States can implement access concepts. States should provide information on the status of PWD rights.

Mexico was concerned that delegations' proposals were not being reflected in the Secretariat's Proposed Modifications, and requested that this be done. **Ireland** later asked for clarification. The **Chair** agreed that delegations' contributions would be recorded by the Secretariat. **Ireland** stated that the EU has no disagreement with this procedure, but noted that these notations should be done without prejudice regarding whether or not to include them in the Convention.

Jamaica stated that IC should be a fundamental principle, at all levels of the Convention, to ensure successful implementation. Technical assistance to develop aids is needed; technology costs are high because aids are made where few PWD live. Technology transfers to more areas will allow more PWD to obtain aids and devices at less cost. IC may also help to solve the problem of life insurance offered by reinsurers in developed countries, who do not want to approve insurance for PWD living in developing countries.

Costa Rica appreciated Mexico's exhaustive work on IC, but, echoing Australia, suggested that its proposed text may be too detailed. IC should appear in both the preamble and in a separate Article. Both North-South and South-South cooperation is needed.

New Zealand has not had an opportunity to study Mexico's proposal thoroughly and has formed no opinion as to where the concept of IC should be placed, whether in a new or

existing Article; however, the concept is important to include. Mexico's approach may be too long and detailed and not appropriate for binding treaty language. This reflects much of the debate surrounding this Convention; some delegations favor detailed language and others prefer more general but legally enforceable language. Any section on IC should take the same approach as the rest of this Convention

Cuba stated that IC encourages implementation in countries with lesser degrees of development. The spirit of solidarity needs to be reflected. Mexico's proposal is exhaustive and inclusive. It supported the promotion of IC should be a part of objectives of this Convention.

Mali supported the principle of IC in this Convention. Cooperation can be north-south and south-south. It supported the need for a separate article. IC does not mean dependence because no one is big and no one is small.

Argentina stated that IC is an important means to achieving the Convention's goals and objectives, but not as an obligation in and of itself. It supported using the wording in the CRC which has a reference in the preamble and in general obligations. Article 4 of the CRC says: "States Parties will adopt all administrative, legislative, and other measures to give effect to the provisions in this Convention." The ICESCR says: "States Parties will adopt these measures to the best of the resources available to them and when necessary within the framework of IC." It believes this Convention should consider similar language.

Philippines highlighted that member states participation in this Committee is in the spirit of IC to promote and protect the rights of PWD, and therefore IC is integral to this Convention. It supported the Mexican proposal.

Guatemala believed IC is essential for developing full rights of PWD. It supported a separate article, not just in the Preamble. It supported the principles in the Mexico text.

Trinidad and Tobago supported a separate article on IC because implementation will be easier with North-South and South-South cooperation.

Norway stressed that implementation of this Convention rests with States Parties. IC can not be a condition for implementation. IC should be mentioned in the text to encourage national efforts, but it should be succinct and principled. Mexico's draft is interesting, but is too detailed.

Viet Nam supported the Article proposed by China and proposed additional language of its own.

Cameroon supported a separate Article on IC, such as those proposed by Mexico and China, to mobilize IC to assist in the implementation of this Convention. It will formulate wording for this Article.

Japan supported a separate Article. It is concerned that the lack of IC can be excuse for not implementing this Convention, but IC will facilitate implementation. It believes IC covers information exchange, best practices exchange, and cooperation between North-South, South-South, and North-North. It will study Mexico and China's proposal. It asked for

clarification as to whether the text of 2(e), "Fostering bilateral, regional and international financial arrangements," refers to creating new mechanism or using current mechanisms.

Canada stated this is a very difficult issue which requires difficult drafting because the Convention is a national responsibility and cannot be used to lessen obligations of State Parties. It supported including a principled reference, not a programmatic reference, to IC in the Preamble.

Chile supported the inclusion of IC in the preamble because it sets the stage for the Convention. IC should also appear in a separate Article, to guide member States.

Colombia supported a specific Article because IC is not only a cost, but an investment. IC benefits both sending and receiving countries.

Mexico replied to Japan by stating a right without an appropriate mechanism is useless. There are many new standards in this Convention and countries will need assistance to implement these new standards. Paragraph 2(e) does not imply new entities, but using resources that already exist and including in these programmes the equal enjoyment of PWD.

The floor was open for comments from NGOs.

The **Special Rapporteur** affirmed that there is a moral obligation to implement this Convention, throughout the entire international community. Including IC as a separate Article is an expression of an absolute requirement, and placing it in the Preamble reaffirms and strengthens the importance of this Convention. IC does not necessarily mean material cooperation alone; it also covers technical cooperation such as the exchange of information, expertise, statistics, technology, research, and those means which might improve communications and education. IC can mobilize technological and financial resources. The role of institutions at all levels, international, national and NGO, must be highlighted.

The **Economic and Social Commission for Asia and the Pacific**, as the development wing of the UN, supported the emphasis on international technical cooperation in ensuring the full enjoyment of the rights of PWD. It considered this right to be included in the current text and in the Bangkok draft of the Preamble. However, it might be more appropriate and more effective to include the detailed steps for implementation of technical cooperation in an Annex or perhaps separate documents such as implementation guidelines, recommendations, or even an optional protocol that was suggested by the ILO.

National Human Rights Institutions noted there are many forms of IC that may support national efforts to realize the human rights of PWD. One effective form is cooperation between national human rights institutions, which in the past have been able to share their substantive and technical expertise and other experiences with each other in a number of areas, including on bilateral bases and regional fora. Cooperation of this sort involving the exchange of information and experience between and among developing countries in all directions could be extremely helpful in the implementation of this Convention and NHRI requested that the role of these institutions be recognized in this context if a specific article on IC is to be included in this Convention.

Landmine Survivors Network supported proposals on IC into this Convention, which have a

basis in a number of existing international instruments. IC refers to such important concepts as information sharing, cooperative research, training, and awareness raising activities. It is invaluable to share information and experiences across LSN networks in mine affected and post conflict societies across the world. Although each network faces unique circumstances, there are shared and common experiences, challenges, and solutions, and without mechanisms to cooperate across networks, there is the risk of reinventing the wheel. All countries face this danger if IC is not incorporated as a supporting measure to aid implementation. North and South and East and West alike can all learn from each other. The inclusion of IC is important not only as a general principle but also as an implementation measure.

Handicap International asserted that it is necessary to include IC as a means of implementation. Millions are spent by international organizations on projects that in fact create rather than remove barriers to access. Furthermore it noted that this Convention can be properly implemented only if disability organizations are involved in the creation and monitoring of action plans.

People with Disabilities Australia, jointly with the **National Association of Community Legal Centres of Australia**, **Australian Federation of Disability Organizations**, **Inclusion International**, **InterAmerican Institute on Disability**, and **Forum for the Human Rights of People Disabilities Costa Rica**, and the **National Federation of Disability Organisations**, supported the proposal by the Mexican and Chinese delegations for an explicit framework for IC. In light of the fact that approximately 2/3 of the world's 600 m PWD live in the developing world it is essential that the practical implementation of this convention involve a transfer of resources, knowledge, technical assistance and policy advice to the developing world. People with disabilities are over represented among poorest of the poor, and in order for them to benefit from this Convention, IC is essential. IC is not limited to north to south transfers, but also between developed states, in the harmonization of standards on accessibility, on the regulation of non state actors, and in the removal of structural barriers like intellectual property and copyright law, telecommunications, insurance and civil aviation. It is important to recognize that often IC will entail little more than information exchange, and substantial resource transfer is already taking place through multilateral banks and NGOs. Current aid programs often create, rather than eliminate, barriers to people with disabilities. Eg inaccessible infrastructure, or education programs that fail to include children with disabilities. Both donors and recipients must mainstream disability issues. DPOs must be supported within this framework given their importance in monitoring and domestic implementation. They strongly support the position of the EU that that all states must accept an immediate obligation to comply with the terms of this treaty without preconditioning this on IC.

World Blind Union asserted that disability must be mainstreamed in all international development cooperation. Whether IC is mentioned in the Preamble or in an article of its own, this Convention must recognize the duty of both developing and industrial countries in this regard.

Rehabilitation International underlined the need for a strong text that makes existing development cooperation consistent with the needs of PWD, in for example, construction that is accessible, healthcare, education, and technology. North- South technical cooperation includes study visits, training / scientific exchange programs. South-South cooperation

includes best practices, networking, and workshops – these have been essential to the advancement of disability to the standards of today. RI sought to clarify a misunderstanding on the position of some NGOs. NGOs recognize that the responsibility of implementing a Convention of this kind lies with governments. This is not a question of some countries “sending an invoice to other countries.” But IC could be an important tool to fulfill the goals of this Convention.

European Disability Forum supported the position of the EU that IC should not be used as an excuse for inaction. The responsibilities that emanate from this Convention should not be dependent on the existence of IC. However the elements of the Mexican proposals are welcome. IC is a way to avoid “reinventing the wheel” as far as information exchange was concerned. PWD need to be included in multilateral and bilateral cooperation. Currently, as highlighted by previous speakers, public funding continues to be used to establish new barriers that exclude PWD.

World Federation of the DeafBlind thanked Mexico and China for this initiative. He noted that in the past decade IC has made possible the emergence of DeafBlind organizations all over the world. It has been difficult to enlist states in this effort but it is hoped that with an Article on IC will help States open their eyes to the position of the disability community.

Disabled Peoples International stated that 80% of its members live in developing countries. IC needs further discussion but it is critical to address so this Convention is useful to PWD.

Arab Organisation for the Disabled asserted that IC needs to be included as a separate article as well as in the Preamble. It supported the Lebanon submission. IC includes exchange of experts, training, conducting research, improving contacts between disability activists and government officials and PWD throughout the world.

World Federation of the Deaf supports IC and cooperation at many levels. In UN activities, including information society for all, Millennium goals, and poverty reduction programmes, PWD need to be considered. PWD have information and resources which can benefit the world community. WFD is unsure whether the Convention needs a separate article, but IC needs to be in the Preamble.

ILO, which uses IC in its work, stated that IC needs to encourage a disability component in all international development activities, and reach out to the World Bank and IMF who fund poverty reduction programs. By drawing attention to the need to include PWD in these programs, the Convention will make a significant contribution.

Chile proposed an Article on Access to Justice. It stated that PWD have difficulties obtaining access to this fundamental right. Its proposed text reads as follows: “States Parties must guarantee adequate access to law for PWD to facilitate their ability to address justice in judicial proceedings that could be contentious or not.” Courts would have to train judges and court personnel so this right would be guaranteed. It proposed a “Norm of Interpretation of the Convention”. The provisions of the Convention should always be interpreted in terms that favor PWD thereby avoiding any violation of the rights of PWD.

Mexico thanked Chile for these two proposals. In principle, these proposals should be considered by the AHC, especially the second proposal. It suggested the AHC consider an

addition to the Convention: This Convention should not undermine any rules or legislation that are more favorable to PWD.

The **Chair** thanked everyone for working in a spirit of transparency, democracy, mutual respect, and cooperation. Over 40 countries and 12 NGOs spoke at this meeting. As agreed in plenary, the first reading of the Draft Text's title, the structure, the Preamble, Article 3, and Article 25 will be postponed to AHC 4 in August. The schedule for Friday will be informal consultations on the consolidated text of Articles 1 and 2 and, if there is time, Articles 6 and 9. The AHC Bureau (Ecuador, South Africa, Sweden, and Philippines) has not reached agreement regarding procedure in informal consultations. The Bureau agreed to appoint "Friends of the Bureau" to facilitate the discussion of some Articles, as follows: Articles 1 and 2 – the Chair; Article 4 – Argentina; Article 5 – Liechtenstein; Article 6 – the Philippines; Article 8 – Ecuador; Article 9 – Canada; Article 10 – Trinidad and Tobago; Article 11 – Sweden; Article 12 – Czech Republic; Article 13 – Morocco; Article 15 – New Zealand; IC – Mexico.

Ireland asked the Chair to confirm that NGOs will be able to participate in the informal consultations, noting their essential contributions.

Mexico also sought clarification of procedure of informal consultations, based on its understanding as facilitator that these consultations are not closed to NGOs; that NGOs can participate in discussions of Articles if there is no expressed opposition; and that private meetings, which can be convened when the delegations deem it necessary, are the only sessions closed to NGOs. Now is not the time for private consultations. Mexico stated that it will not exclude NGOs from consultations that it facilitates.

Canada supported comments made by Mexico and the EU, and expressed concern that some of the issues in Articles are linked, but are assigned to different "Friends of the Bureau" to facilitate. It asked for clarification regarding consistency in this facilitation.

Qatar asked for clarification about whether these "Friends of the Bureau" discussions will be concurrent or one item at a time.

Thailand supported the participation of NGOs in these consultations. It asked the Chair to clarify whether discussions will be concurrent or article by article.

Yemen, stated that it, like the EU and others, is surprised, and asked who opposes NGO participation. It has nothing to hide from these organizations. Meetings may be closed during the time States are negotiating political positions, with regard to the relations of States. NGOs participated and contributed to this Convention and therefore should be present at all discussions. The speaker represents both the government of Yemen, and an NGO. It insisted upon the need for NGOs to attend all discussions.

Israel strongly objected to excluding NGOs and PWD and urged the Bureau reconsider its position as this is contrary to the spirit of the Convention. The AHC must practice what it preaches. It is an essential part of the disability rights revolution for PWD to take responsibility for their own lives, as expressed in the motto "nothing about us, without us." NGOs should be amongst the facilitators. When considering an issue which concerns the rights of PWD, Israel consults PWD and their organizations.

Mexico noted that both the General Assembly resolutions and the decisions of the AHC are the point of reference for the participation of NGOs. This process has benefited from the participation of NGOs from its beginning two years ago. The Chair should decide to continue the established process until the AHC collectively decides that it needs a private meeting. This should not be a decision for the Chair or facilitators; it is a collective decision. There may be a later stage when a private meeting is necessary, but this is not the time. It proposed that the meetings tomorrow be informal but not private, and that consultations with facilitators be informal but not private, unless the AHC collectively decides otherwise.

The **Chair** stated that he, personally agreed with many of the comments, but that he was "in the hands" of the Committee. The Chair asked if anyone was opposed to the participation of NGOs on meetings about Articles 1 and 2.

Qatar stated that it fully supported the participation of NGOs. It asked for clarification about whether the meetings tomorrow would be informal or formal.

The **Chair** clarified the question: Is anyone opposed to the meeting tomorrow morning being open?

Mexico responded to Qatar's question by stating its understanding of the rules: public meetings are open to participation of NGOs and others, private meetings are not. Informal meetings are not defined, *a priori*, as private. Informal meetings are distinguished from public meetings in that there is no formal recording of the meeting and no record keeping. The purpose of informal meetings is "to clean up text, to bring positions closer together," and to have informal discussions without any formal recording of new proposals, to discuss items which may lead to consensus. Mexico proposed tomorrow to have informal meetings which are public.

Saudi Arabia asked for clarification about procedures concerning the compilation text. It inquired whether, during the second reading, delegations can submit additional proposals.

Malaysia noted that the terminology of Mexico on "public and private" does not fit with the official parlance of UN procedure, which refers to open and closed meetings; the latter being only for Member States. It asked for clarification about what "cleaning up text" means because it needs to consult with its home ministries for positions.

South Africa voiced grave concern that as the African Group representative in the Bureau, "the conclusions (the Bureau) has reached as to how to proceed from now on have not been followed." After extensive discussions on this matter, and after the proposals put forward by the Africa Group, it asked for the suspension of the meeting for further consultation with its Group and the Bureau to find an amicable way to move forward. It stated the deliberations of the Bureau should be in accordance with the decisions of the General Assembly (GA). In the GA resolution, it states that if there is no consensus on participation of NGOs, only government delegations will participate. If the AHC needs to depart from the GA resolution, further discussion is needed to reach a common understanding.

The **Chair** suspended the meeting. When the meeting reconvened, the **Chair** announced that the Bureau had met and agreed that the agenda for tomorrow will be in the format of a formal, open meeting of the plenary to discuss Articles 1 and 2.

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The Ad Hoc Committee Daily Summaries are published by the Landmine Survivors Network, a US based international organization with amputee support networks in 6 mine affected / developing countries. They cover the proceedings of the UN Ad Hoc Committee elaborating a Convention on the human rights of people with disabilities.

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