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**Ad Hoc Committee on a Comprehensive and
Integral International Convention on Protection
and Promotion of the Rights and Dignity of
Persons with Disabilities**

New York, 29 July-9 August 2002

**Comprehensive and integral international convention
to promote and protect the rights and dignity of persons
with disabilities**

Position paper by the European Union

Reference is made to the following resolutions and documents:

Resolution 2000/51 adopted by the Commission on Human Rights on 25 April 2000. The resolution incorporates and expands resolution 1998/31 of 21 April 1998 and contains a number of statements and recommendations for the future development of disability as a human rights issue. An essential outcome of the endeavours of the Office of the High Commissioner for Human Rights in this respect is a study on human rights and disability entitled "The current use and future potential of United Nations human rights instruments in the context of disability", presented to the fifty-eighth session of the Commission on Human Rights, drawing the attention of Governments, United Nations bodies, non-governmental organizations and other relevant actors to its recommendations (E/CN.4/2002/18/Add.1);

Resolution 56/168 adopted by the General Assembly on 19 December 2001. The resolution, inter alia, decides to establish an ad hoc committee, open to the participation of all Member States and observers of the United Nations, to consider proposals for a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities, based on a holistic approach in the work done in the fields of social development, human rights and non-discrimination and taking into account the recommendations of the Commission on Human Rights and the Commission for Social Development;

Resolution of 21 February 2002 of the Commission for Social Development concerning a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities;

Resolution of 27 February 2002 of the Commission for Social Development concerning “Further promotion of equalization of opportunities by, for and with persons with disabilities and protection of their human rights”;

Resolution 2002/61 adopted by the Commission on Human Rights on 25 April 2002 concerning “Human rights of persons with disabilities”. The resolution, *inter alia*, calls for a strengthening of the work of the United Nations on human rights and disability;

E/CN.5/2002/4 — Report of the Special Rapporteur of the Commission for Social Development on monitoring the implementation of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities on his third mandate, 2000-2002.

The European Union is committed to a rights-based approach to questions concerning people with disabilities. In 1996 the Member States meeting in Council of the European Union adopted a resolution on equality of opportunity for people with disabilities. In accordance with article 13 of the Treaty establishing the European Community, which mandates the European Union to take appropriate action to combat discrimination, on 27 November 2000, the Council adopted directive 2000/78 on the establishment of a General Framework for Equal Treatment in Employment and Occupation, which covers, *inter alia*, disability. Such an approach is also consistent with article 21 of the Charter of Fundamental Rights of the European Union, which prohibits discrimination based on any grounds, including disability, and article 26, which recognizes the right of persons with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community. Furthermore, the European Union has proclaimed 2003 as the European Year of the People with Disabilities with the aim of raising awareness of the rights of people with disabilities to protection against discrimination and to full and equal enjoyment of their rights.

The Member States of the European Union are prepared to take an active and engaged part in the work of the Ad Hoc Committee on all practical and procedural issues as well as on establishing the basis for future discussions. This commitment emanates from a basic understanding that the mandate of the Committee requires consideration of “proposals for a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities”, and that the mentioning of a specific legal instrument does not exclude the Committee from considering other options as well.

The European Union, at this point in time, would like to keep an open mind on the ultimate shape and content of this legal instrument. It notes that the options concerning the shape of such instrument would include the following:

- A general instrument focusing on the transcendent norm of equality and non-discrimination with respect to human rights in the context of disability;
- A general human rights convention containing both civil and political as well as economic, social and cultural rights tailored to the particular circumstances of people with disabilities;
- A narrower instrument focusing on one or the other set of human rights;

- An instrument of general principles with the possibility of subsequent optional protocols containing progressively greater details;
- Optional protocols to one or several of the existing international human rights instruments.

The European Union welcomes the forthcoming work towards an integral international convention to promote and protect the rights and dignity of persons with disabilities. At this early state in the process, and without prejudice to a debate on general principles of the Ad Hoc Committee, the initial preference of the European Union, with respect to the shape and content of a legal instrument, would be for one containing general principles, mainly including equality and non-discrimination with respect to human rights in the context of disability.

The European Union considers it to be of the utmost importance that any process of elaborating a convention should take place in parallel with concrete efforts to further mainstream the disability perspective into the monitoring mechanisms of the six core United Nations human rights conventions. Furthermore, the European Union is firmly of the view that the elaboration of a convention should not delay the ongoing process of refining and updating the United Nations Standard Rules. In its view, any future legal instrument must be mutually supportive with the United Nations Standard Rules.

In any subsequent drafting process it must be kept in mind that any legal instrument should be enforceable and realistic. A poorly drafted instrument could end up reinforcing a segregationist tendency in law and policy for persons with disabilities. Therefore, it must be avoided that any new instrument should undermine or duplicate other international human rights rules or standards. Standards below already existing human rights standards must not be accepted. It is also crucial to make sure that new rules are consistent with existing rules and regulations, except in the case where an improvement or clarification is intended.

In order to expedite the process, the Ad Hoc Committee should refrain from discussing utopian proposals, or proposals that in other contexts have proved impossible to carry through.

The European Union considers it of vital importance that an effective monitoring mechanism is attached to any kind of legal instrument that will eventually be the outcome of these discussions. Proposals in this regard should also take due note of existing mainstream mechanisms to the maximum possible extent. A comprehensive and integral international instrument to promote and protect the rights and dignity of persons with disabilities should build on the existing positive achievements of the human rights treaty bodies in the field of disability. It should complement and strengthen the work done by the treaty monitoring bodies under the six core human rights treaties. However, at this early stage of the work of the Ad Hoc Committee, it seems premature to go into specifics. The European Union will revert to this matter in due course.