Persons with disabilities: rights and dignity, United Nations legally binding instrument

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OBJECTIVE: to present a recommendation in order to authorise the Commission to participate in the negotiations on an international legally binding instrument to promote and protect the rights and dignity of persons with disabilities. CONTENT: The purpose of this recommendation to the Council is to authorise the Commission to negotiate in the context of the forthcoming sessions of the United Nations Ad Hoc Committee a comprehensive and integral international convention to protect and promote the rights and dignity of persons with disabilities and to conduct these negotiations on behalf of the European Community. The Community competence is based on Article 13 of the EC Treaty, which enables the Community to take initiatives to combat discrimination on the grounds of disability. The Community has already made use of these new provisions, in particular in the areas of employment and occupation. Building on the achievement of this first use of Article 13 of the Treaty, the Commission considers that it is important that the European Community confirms at international level its overall strategy with regard to disability, the core of which is a shared commitment by all Member States to combat discrimination on this ground. It is therefore the Commission's intention to play an active role on behalf of the European Community in the process of the development of a future UN legally binding instrument. As regards general background, disability issues have been considered on several occasions in UN history. In the 1970s, two declarations, the Declaration on the Rights of Mentally Retarded Persons (DRMRP) and the Declaration on the Rights of Disabled Persons (RDP), were the first instruments in which the human rights of persons with disabilities were explicitly recognised. However, these declarations are now outmoded. In addition, these instruments are not binding on the UN member states and contain no provisions for monitoring disabled people's rights. It is in this context that, in December 2001, the Government of Mexico put forward UN Resolution 56/168, calling for consideration of a convention on the human rights of persons with disabilities and calling for the immediate formation of an ad-hoc committee. This ad-hoc committee would draw up a comprehensive and integral international convention to protect and promote the rights and dignity of persons with disabilities. At this stage the shape and content of the envisaged instrument have not been addressed. Discussion is under way about this and several options could be considered. There is certainly a growing consensus on the idea that a legally binding instrument on disability should, on the one hand, complement and strengthen the monitoring of disability rights by the treaty monitoring bodies. On the other hand, the UN legally binding instrument should serve to tailor the application of human rights to people with disabilities. Such an instrument would not in the main create new rights, but would seek to clarify and make more visible existing international obligations in this regard. It would also provide a clear signal from and to the international community and serve as a political catalyst and educational tool in bringing about a change in the way people with disabilities enjoy their rights. The legally binding instrument should protect people with disabilities from unfair discrimination in having access to and enjoying human rights throughout the world. It would cover both direct and indirect discrimination. In view of the above, the Commission recommends that the Council decide: - that the European Community will participate in the negotiations on a legally binding instrument on the promotion and protection of the rights and dignity of persons with disability in the UN forum; - a special committee be appointed to assist it in its negotiation task.