

PRINCIPLE 10. ROUND-TABLE DISCUSSION 1 AUGUST 2014

COMMENTS ON A “BINDING INSTRUMENT”

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INDEX OF THE PRESENTATION*

I.- Why a binding instrument?

- A new instrument of “soft law” would be an unnecessary duplication.
- Incidence of the instrument in national legal systems: the need to adopt legislative and other measures.
- National access mechanisms and reduce social conflict.
- Creation of an institutional framework: models and functions. Contribution to settlement of disputes.
- Increase presence and influence of the region at the international level.

II.- Which model of binding instrument?

- A political decision: will of the State prevails.
- Preservation of the principles of progressive realization and non-regression.
- Closed or open treaty?
- Models of open treaties: possible formulas.
- Difficulties of a closed treaty.
- Progressive realization as a specific content of the binding instrument.

III.- What effects would a binding instrument produce?

- Only those States that have ratified it are bound by the instrument.
- Scope and content of obligations: political decision.
- Non compliance of the treaty generates international liability.
- Liability is not equal to imposition of sanctions.
- Cooperation and settlement of disputes.

* For the sole purposes of the round-table discussion held on 1 August 2014. Do not cite