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Article 6: Statute of limitations
&
Article 7: Applicable law
&
Article 13: Consistency with International Law

Thank you Chair,

The IOE does not support the Zero Draft Treaty or the Draft Optional Protocol and we strongly argue for preserving the approach outlined by the UNGPs. Given the short speaking slot, I refer people to the Joint Business Response.

Regarding Article 6 on "Statute of limitations":

- As others have pointed out, the reference to "crimes under international law" is not clearly defined.

- When it says that domestic statutes of limitations "should not be unduly restrictive and shall allow an adequate period of time for the investigation and prosecution of the violation…" the adverb "unduly" and the adjective "adequate" are very vague. This is a big problem for a proposed legally binding instrument. State parties must be able to limit liability to cases where there is a predictable and causal relationship between the damage and the action or omission.

Regarding Article 7 on "Applicable law":

- As with many provisions in the Zero Draft Treaty, it is important to consider the specific proposals in Article 7 alongside others in the draft text. The text on "Applicable Law" would result in the extraterritorial application of one State's domestic law in another jurisdiction. There are many problems with this. For example:

  - The focus placed on expanding extraterritorial jurisdiction does not respect national sovereignty and the principle of non-intervention in the domestic affairs of other States.

  - The provisions take the focus off the need for States to improve victims' access to effective remedy at the domestic and local level.

  - They ignore the practical and procedural shortcomings of ETJ.

- Furthermore, this text contradicts the internationally recognized principle of the Rome II Regulation – under which the law in the jurisdiction where the tort occurred applies in general.

Regarding Article 13 on "Consistency with International Law":

- Some provisions under this Article – that correctly assert the sovereignty and territorial integrity State Parties – are incoherent with other provisions in the draft Treaty concerning extraterritorial jurisdiction.

- The provisions on trade and investment raise problems about the potential for a hierarchy of international law (beyond *jus cogens*). For the record, the UNGPs do not assert the primacy of international human rights law (as one panelist implied).

Thank you very much.