International Organisation of Employers
Organisation Internationale des Employeurs
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The Global Voice of Business

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Third session of the Intergovernmental Working Group on transnational corporations and other business enterprises with respect to human rights

Subject 1: General Framework

Thank you Mr Chairperson-Rapporteur, I am speaking on behalf of the IOE, the largest network of the private sector in the world.

Our points are reflected in the joint statement from the international business community in response to the "elements" paper, which we do not support.

This intervention responds to the points in the "General Framework" part of the "elements" paper.

- **Preamble:**
  - We are concerned about the extensive list of "instruments" cited in this section, many of which have varying political support and legal status.
  - At the same time, the UN Guiding Principles on Business and Human Rights (UNGPs), which are recognised as the global authoritative standard on this topic, get lost among the "shopping list" of instruments.
  - It is also very worrying and peculiar that the Preamble section cites the "Norms on the responsibilities of transnational corporations and other business enterprises with regards to human rights" when the UN abandoned them in 2005, and before the UNGPs.
  - We are also confused that the proposal to include a "general background of impacts" only provides examples of economic, social, cultural rights.

- **Principles:**
  - Some elements appear to mirror the obligations of States to protect human rights in the manner that is articulated under the UNGPs. This raises the following question to us:
  - Why is an additional UN instrument needed or desirable if a key challenge is the inability of States to meet their existing duties that are already enumerated in the UNGPs, other instruments, and applicable domestic law?

- **Purpose:** We would like to understand why the drafters are using the three-part "respect", "promotion" and "protection" framing? The term "promotion", in particular, causes confusion:
  - For example, "promoting" human rights often suggests corporate philanthropic activities. The UNGPs note that such activity is welcome but cannot "offset a failure to respect human rights throughout their operations".
  - Furthermore, while companies should respect human rights and they can help advance human rights by using their "leverage", we strongly refute that they should have an international obligation to "promote" human rights.

- **Objectives:**
  - We would like to say that it is not clear why or how a future international legally binding instrument will achieve the seven broad objectives. In fact, the "elements" paper tells us that this initiative is aimed squarely at TNCs and not at strengthening Governments' capacity to implement and enforce their own domestic laws and frameworks.

Finally, we urge again that all *positions* are duly reflected in the report of the third session.

I thank you for your attention.