International Organisation of Employers
Organisation Internationale des Employeurs
Organización Internacional de Empleadores
The Global Voice of Business

Check against delivery!

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

Subject 1: General Statement

Thank you Chair,

I am speaking on behalf of the International Organisation of Employers, the largest network of the private sector in the world, with more than 150 business and employer organisation members. We have endorsed the UN Guiding Principles on Business and Human Rights and continue to be active in promoting and disseminating these principles and related implementation tools among our members and networks.

We participated in the first and second sessions of the IGWG in 2015 and 2016. Together with BIAC, FTA and the ICC, we have provided a detailed response to the "elements" paper prepared by the Chairperson-Rapporteur for this third session of the IGWG. This can be found on the OHCHR website, as well as at the back of the room.

In this joint statement, we make it clear that the international business community does not support the “elements" because they represent a big step backwards and they jeopardize the consensus achieved by the UNGPs, whose spirit and wording they undermine. We explain that the "elements" are counterproductive for the business and human rights agenda and that they are unclear. In particular:

- We underscore our opposition to the proposal to impose direct international human rights obligations on transnational corporations (TNCs) and other business enterprises (OBEs), which takes the debate back to the politically-charged era of the UN Norms, which were abandoned in 2005.

- We demonstrate that the "elements" are, in fact, focused on TNCs not OBEs, and that seeking to introduce supply chain legal liability on TNCs is a major breach of the UNGPs and risks dampening investment flows to industrialised, emerging and least developed economies.

- We stress that the "elements" break the consensus achieved by the UNGPs and create unnecessary confusion by blurring and re-casting the respective duties and responsibilities of States and business enterprises under the UN three-pillar "Protect, Respect, Remedy" framework.

- We examine the deep flaws in the various proposals on trade and investment, extraterritorial jurisdiction and the reversal of the burden of proof.

- And we raise a number of questions about the many unclear and vague terms and proposals in the "elements" paper that add to its counterproductive nature.

We would also like to stress here the challenges we faced to respond to the "elements" paper in its entirety because of limited time to consult widely with our members and the fact that the "elements" cover an extensive list of ideas, points and proposals. It is also hard to understand, at this point in time, what you, Mister Chairperson-Rapporteur, envisage for this process and, more fundamentally, for a possible binding instrument.

We encourage you, as well all stakeholders, to refer to our joint submission which explains the reasons why the international business community does not support the “elements” for a draft legally binding instrument.

Finally, we echo the EU's request today that all *positions* are properly reflected in the report of the third session, and that it is not just a general summary as in previous reports.

Thank you very much.