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Panel on Thursday morning

Speaking notes

Check against delivery

There will be three points to my presentation this morning – first two findings of fact; second some comments on the structure of the Agreement and outstanding research issues ; and third some reflections on special roles for the future COP

Findings of fact - 1

We have heard a large number of unresolved HR abuse cases involving TNCs

Representatives of campaign have described a large number of HR abuse cases that have not made headway in national or international courts

CSO spokesperson have presented cases where no one has found the appropriate court to apply for remedy

What has not been heard of any claims that the Remedy component of the GP is robust and working

First statement of fact : the Remedy arm of the GP does not work adequately

Finding of Fact -2

Some delegations feel that the GP effectively addresses all relevant issues relating to TNCs and HR;

Some delegations feel that the GP fails to provide a binding legal structure and it fails to provides an effective remedy system;

And some other delegations feel that GP is a sound global framework but that the remedy component needs to be strengthened.

One avenue to balance these positions would be to borrow from the WTO the practice of using plurilateral agreements for such situations. A plurilateral agreement between 50-90 countries which fill the need to strengthen international HR law, particularly with regard to effective measures for remedy, and it could work in a complementary fashion to the third pillar of GP. It would also establish in international law a basic international regime on TNCs and HR, one that could be expanded in membership and in scope over future years.

2. Structure of Agreement

Overall structure

General Principles on HR

Procedural Matters

Principles on specific TNC-HR matters

More detailed structure

1. General Principles regarding HR, TNCs, TNCs and HR and reference to GP
2. Definitions
3. Enhanced procedures along the investigation to outcome chain (e.g. multi-country investigation procedures … implementation of final court orders)
4. Removing barriers to effective processes (e.g. clarification of rules of liability, due diligence etc)
5. Establishing functioning legal platforms
   1. Support to national and sub-national legal systems
   2. The role and procedures for international or regional ombudsperson(s)
   3. The role and procedures for extra-territorial application of law,
   4. the role and procedures for international or regional court(s) on TNCs and HR
   5. the function and operation of a register of all pending TNCs and HR cases
6. . Operational elements, the COP, and the relationship with other COPs and IGOs dealing with HR and TNC matters
7. Adoption and final provisions, including the primacy of human rights elements over other pre-existing intergovernmantal agreement

8. Annex

a. Specific TNCs and HR legal statements

call for Research issues needing attention by faculties, expert bodies, and thinktanks North and South

3. Special functions of the Convention COP

a. receive reports from Governments (normal practice), but also receive reports from CSO, TNCs, Judges, Prosecutors, and plaintiff lawyers, Special representatives, other COPS dealing with TNCand/or HR

b. review the registry of pending cases to look for patterns of issues that need further attention, patterns of cases that may be best combined, and issues that need additional research

c. approve new standards on TNCs and specific human rights which will be placed in the Annex

3.