ICJ statement in the General Comments

Mr Chairperson Rapporteur

The International Commission of Jurists joins others to congratulate you on your election as Chairperson-Rapporteur of the fifth session of this Intergovernmental Working Group. We also thank and congratulate your team and the secretariat for the efficient organization of the meeting.

It is remarkable that this process of elaborating a legally binding instrument to regulate Transnational enterprises and other business enterprises has reached its fifth consecutive year and with a good workable draft in front of all delegations for the negotiations of this week.

The ICJ considers the Revised draft presented by the chairmanship of this process as a good and serious basis for the start of negotiations and commends it to all delegations and observers for their consideration. The draft continuous to be strongly focused on issues of legal accountability of business enterprises and access to justice and remedy for those who allege harm by a business enterprise, where the most pressing gaps are.

Among the most important features of the revised draft is that it affirms the scope of the proposed treaty will encompass all business enterprises, not just transnational companies, while still emphasizing businesses with transnational activities. It aligns the provisions on prevention and due diligence with the UN Guiding Principles on Business and Human Rights (UNGP) and proposes a comprehensive article on legal liability of business enterprises that is more in line with prevailing international law and national practice than the respective provisions in the zero draft. The revised draft also brings some positive novelties such as new articles on implementation (Art. 15) and settlement of disputes (Art. 16), while providing more streamlined and complete language related to access to remedy, justice and reparations. It also presents articles that address the situation of human rights defenders, providing them with special protection in their work promoting business enterprises’ responsibilities for human rights. We will provide specific comments in each of them.

The ICJ looks forward to a fruitful week of discussions and to engage with delegations to make speedy progress in the elaboration of this international legally binding instruments that is so much needed.

Thank you.