**6th Session of IGWG on TNCs and OBEs with respect to Human Rights**

**Comments on Articles 3&4**

Thank you Mr. Chair,

**Article 3: Scope**

Regarding Article 3 related to the Scope of this treaty we believe that article 3(1) should state that TNCs are of particular focus in the scope, particularly as it relates to the need to establish extraterritorial obligations to examine cases where TNCs operate. In this regard article 3(1) should read as follows: **“~~Unless stated otherwise~~** This (Legally Binding Instrument) shall apply to all business enterprises and **all business activities, with particular focus on transnational corporations** and other business enterprises **in the value chain** that undertake business activities of a transnational character.”

It is also crucial that the scope of this LBI covers the right to self determination as well as international humanitarian law and international criminal law. In this sense we suggest the that article 3(3) reads as follows: “This (Legally Binding Instrument) shall cover all internationally recognized human rights and fundamental freedoms emanating from the Universal Declaration of Human Rights, any core international human rights treaty and fundamental ILO convention to which a State is a party, **international humanitarian law, international criminal law**, and customary international law.”

**Article 4 – Rights of Victims**

In relation to article 4 we believe it is important to establish that the rights of victims are protected under the LBI whether they are infringed upon in the context of non-State agents or by State agents. In this regard we suggest to reintroduce the word “violations” after abuses in article 4(1) so the paragraph would read: “Victims of human rights abuses and **violations** in the context of business activities shall enjoy all internationally recognized human rights and fundamental freedoms.”

Moreover, its regrettable that some important elements related to the rights of victims and their access to justice and effective remedies have been deleted. In this regard we suggest to have additional language in article 4(2)(c) to clearly reflect the immediate and long term measure which should be taken and the importance for long term monitoring for such remedies. In this regard we suggest that article 4(2) (c) reads as follows:

‘victims shall: “...be guaranteed the right to **fair,** adequate, effective, prompt and non-discriminatory access to justice and effective remedy in accordance with this (Legally Binding Instrument) and international law, such as restitution, compensation, rehabilitation, satisfaction, guarantees of non- repetition, injunction, environmental remediation, ecological restoration, **including covering expenses for relocation of victims, replacement of community facilities, and emergency and long-term health assistance. Victims shall be guaranteed the right for long-term monitoring of such remedies.”**

I thank you