As a general comment related to articles 5, 6 and 7, we would like to emphasise once more the importance of remaining faithful to the mandate stipulated under HRC resolution 26/9. Another over-arching comment relates to the need to refer to both abuses and violations throughout the text for the reasons submitted earlier.

With respect to article 5 on Protection of Victims, we would like to support the reference to the environment in article 5(2).

As for article 5(3), my delegation believes this obligation is not directly related to the protection of victims, and includes instead a general obligation to investigate human rights abuses and violations, and to take action against violators. We therefore believe this should be a stand alone article of the LBI.

With respect to article 6 on Prevention, this article recognises the international law principle that State parties should prevent their companies from violating human rights in other jurisdictions. A state must balance its own economic benefit with the human rights of persons in other States and jurisdictions. The principle of prevention is central to achieving the objectives of the LBI.

Article 6(1) is very confusing and seems to confound a number of obligations. The way it is currently worded suggests that the obligation in the first sentence applies only States of domicile, while the obligation in the second sentence applies to only host States. We would therefore like to suggest the following: State Parties shall regulate effectively the activities of TNC’s and OBE’s domiciled in their territory or jurisdiction, then to add to this and “or otherwise under their jurisdiction or control and TNC’s and OBE’s undertaking business activities of a transnational character within their territory or jurisdiction”. The obligation therefore includes both the State of domicile and the host State.

It can then proceed to read “For this purpose, States shall take all necessary legal and policy measures to ensure that TNC’s and OBE’s undertaking business activities of a transnational character domiciled within their territory or jurisdiction, “or otherwise under their jurisdiction or control and TNC’s and OBE’s undertaking business activities of a transnational character within their territory or jurisdiction” respect al internationally recognised human rights etc.

With respect to paragraphs 2 and 3, we support the reference to the obligation to undertake human rights due diligence and human rights and environmental impact assessments. These are essential to prevent abuses and violations before they happen. The reference in paragraph (2) (b) to taking appropriate measures to prevent and mitigate actual or potential human rights abuses is also welcome.

Under paragraph (3)(c), we would like to add a reference to peasants and rural communities to the categories of persons facing heightened risk of transnational business-related human rights abuse and violations.

We support the reference in para 5 to the obligations of States to ensure effective national procedures are in place to ensure compliance.

We also support, in principle, article 6(6), while suggesting to rephrase it to read “State Parties shall hold corporations liable if they fail to comply with the obligations laid down in Articles 6.2 and 6.3,” consistent with the rest of that article.

With respect to article 7 paragraph 5, which requires that the doctrine of forum non convenient is not used, this provision ensures that jurisdiction is obligatory.