

Statement by ***H.E. Penda Naanda, Ambassador/Permanent Representative,*** 6th session of the Open-Ended IGWG on Transnational Corporations and Other Business Enterprises with respect to Human Rights, Geneva, 26 October 2020

Mr. Chair,

Namibia would like to join others in congratulating you on your assumption of the role as chairperson-rapporteur and wish you success with your task. We are confident that, under your leadership, we will do justice to the discussions on the second revised draft legally binding instrument. We applaud H.E. Madame Bachelet for her inspiring introductory remarks and thank Ambassador Luis Gallegos for his insightful and valuable intervention and last but not least, we welcome the participation of accredited NGO’s and CSO’s during this session of the Working Group.

Mr. Chair,

We also wish to thank the Chair-Rapporteur of the 5th IGWG for the second revised draft legally binding instrument, which was released on 06 August 2020. It is evident from the text that and effort was made to incorporate the diverse positions and concerns of all concerned parties. We have liaised with other States, NGO’s and key stakeholders on the content of the draft and will actively participate on each article thereof during this Working Group session and look forward to constructive and fruitful discussions with all participants.

Mr. Chair,

Namibia participates in this IGWG not just as a member of the Human Rights Council or as an individual State, but as a member of the international community that wishes to forge a viable and conducive relationship with businesses in an effort to prevent the abuse and/or violation of human rights in the scope of economic activities taking place across the globe and to provide means to those who have suffered abuse/violation of their rights to access justice and remedies.

Mr. Chair,

On the Preamble and Articles 1 & 2, Namibia wishes to make the following comments:

Preamble:

Article 1:

Article 1.1 Includes under “victim” - dependents of the direct victim. Depending on the culture and norms applicable to the victim, the dependents may vary greatly and proof of dependency may become problematic. We propose clear wording on these dependents in order to comprehensively cover them under the definitions. Further, under Article 1.1, we understand that “economic loss” does not loss suffered by business enterprises and seek clarification of the text in this regard.

State-Owned Enterprises are now explicitly covered under Article 1.3. However, we must assume that SOE’s are already covered under all business enterprises within the territory or jurisdiction of the State. We are uncertain as to the value added by singling out SOE’s in this regard?

In the same Article 1.3, we would like to have clarity on the words: “or other activity undertaken…” as we regard this a very wide range of activities, which in our opinion may or may not include non-profitable organizations in light of the explanatory note provided, which states that “Business activities” are considered for-profit economic or other activity undertaken by a natural or legal person.

We are satisfied that Article 1.4 and 1.5 includes global value and supply chains, but there might be a need for specific reference to GVC’s in 1.5 to adequately cover the dispersal of tasks and activities.

Article 2:

The statement of purpose is extremely valuable in setting out the rationale for this anticipated legally binding instrument and should, in our opinion, make more specific reference to businesses undertaking “activities of a transnational character” and not just to the broad context of “business activities” in general.

These are our submissions on the Articles under discussion, Mr. Chair.

I thank you.