IOE Intervention (ECOSOC Status)

Speaker: Mr Matthias Thorns (in person delivery)

Monday, 26 October

Item 4

* Preamble
* Article 1. Definitions
* Article 2. Statement of purpose

Dear Chair

Thank you for giving me the floor.

I speak on behalf of the International Organisation of Employers and is members in 150 countries, representing more than 50 million companies.

In view of the short time I have I would like to make the three comments:

**On the definition of “Victim” in Article 1.1:** The revised draft treaty stipulates that the term victim shall include the immediate family members or dependents of the direct victim, and persons who have suffered harm in intervening to assist. This use of the word “shall” means that family members and dependents are necessarily included as “victims” – regardless of the circumstances. This overbroad definition should be revised to use the term “may” instead of “shall.” Indeed, most jurisdictions do not automatically extend judgments or damages to prevailing plaintiffs’ families in all circumstances. Moreover, the notion of "emotional suffering" is not a concept of damages that is recognized in many legal systems. Finally, there should be a clear distinction between the term “victim” and the “plaintiff” – the status of victim being given only after a sentencing. From this distinction, remedies can be granted only to the victims.

**On the defintion of “Human rights abuse” in Article 1.2:** The term “environmental rights” is included in the definition of “Human rights abuse’. The term ‘environmental rights’ itself is not defined, nor is it included in any international human rights treaty. Therefore, the inclusion of this term in the draft creates uncertainty as to the scope of the rights subject to the treaty and has no basis in international human rights law. The term “environmental rights” should be removed.

**On the** **definition of “Business relationships” Article 1.5:** The revised draft treaty defines a business relationship as “any relationship between natural or legal persons to conduct business activities, (…) including activities undertaken by electronic means”. Defining business relationships as “any relationship” expands the potential scope of diligence duties and liability imposed on companies to an impractical extent. Indeed, this formulation will encompass entities in global supply chains with whom companies have no contractual relationship and into whose operations the companies have no control or visibility. This new language also represents a major step backwards, as the previous draft of the treaty appeared to recognize that the relationships to be regulated were limited to “contractual relationships.” Moreover, the term "electronic means” is not only not defined, but also exponentially expands the regulatory scope, as, for example, internet transactions may involve intermediary entities in jurisdictions that have nothing to do with the parties to the transaction.