

# Draft Report

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## Human Rights Council

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Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

### **Report on the seventh session of the open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights\***

*Chair-Rapporteur:* Emilio Rafael Izquierdo Miño

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\* The annexes to the present report are circulated as received, in the language of submission only.

## **I. Introduction**

1. The open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights, established by the Human Rights Council in its resolution 26/9 of 26 June 2014, was mandated to elaborate an international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises with respect to human rights.

2. The working group's seventh session took place from 25 to 29 October 2021.<sup>1</sup> The session opened with a statement from the High Commissioner for Human Rights in which she emphasized some important trends in the business and human rights space. First, she noted the increased transformation of the corporate responsibility to respect human rights as enshrined in the Guiding Principles on Business and Human Rights into legal duties. Mandatory human rights due diligence initiatives had been adopted in several different States, and such initiatives were being considered in other States, as well as a regional organization. The High Commissioner welcomed such legislative developments as being part of a smart mix of measures States should adopt to foster business respect for human rights, and drew attention to her office's submission to the working group this year, which details different considerations that should go into mandatory human rights due diligence regimes.<sup>2</sup> Second, she noted the alarming trend regarding the rising threat to human rights posed by the triple planetary crisis: climate change, pollution, and biodiversity loss. Beyond strengthening the respect and protection of human and environmental rights, there is an urgent need to ensure access to justice and remedy for victims of abuses. In the face of current challenges, including the global pandemic, the High Commissioner emphasized that the private sector can make its best contribution by ensuring respect for human rights and for the planet in its own operations and business relationships. Lastly, she reiterated her view that the treaty process represents an opportunity to increase business respect for human rights, paving the way for more principled, responsible, and accountable business operations. She urged everyone to engage constructively in the process.

## **II. Organization of the session**

### **A. Election of the Chair-Rapporteur**

3. The Permanent Representative of Ecuador, Emilio Rafael Izquierdo Miño, was elected Chair-Rapporteur by acclamation following his nomination, on behalf of the Group of Latin American and Caribbean States, by the delegation of Paraguay.

### **B. Attendance**

4. The list of participants is contained in annex I.

### **C. Documentation**

5. The working group had before it the following documents:

- (a) Human Rights Council resolution 26/9;
- (b) The provisional agenda of the working group (A/HRC/WG.16/7/1);

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<sup>1</sup> The seventh session took place within a context in which safety measures were taken with regard to combatting the spread of COVID-19. Thus, participation in the working group's sessions was permitted in person, through the Zoom platform, and through pre-recorded video statements (for general statements only). Additional information about the modalities of the session is available at [www.ohchr.org/EN/HRBodies/HRC/WGTransCorp/Session7/Pages/Session7.aspx](http://www.ohchr.org/EN/HRBodies/HRC/WGTransCorp/Session7/Pages/Session7.aspx). A webcast of the entire session in all UN languages is available at <http://webtv.un.org/>.

<sup>2</sup> [www.ohchr.org/Documents/Issues/Business/igwg-7th-ohchr-submission.pdf](http://www.ohchr.org/Documents/Issues/Business/igwg-7th-ohchr-submission.pdf).

- (c) The Chair-Rapporteur's third revised draft legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises;
- (d) A programme of work;
- (e) Other documents, including a scenario note, provided by the Chair, on modalities for organizing the seventh session and the process projected after the seventh session, all of which were made available to the working group on its website.<sup>3</sup>

#### **D. Adoption of the agenda and programme of work**

- 6. The Chair-Rapporteur presented the draft programme of work and invited comments. As there were no comments by States, the programme of work was adopted.

### **III. Opening statements**

#### **A. General statement and introductory remarks by the Chair-Rapporteur**

7. In his opening statement, the Chair-Rapporteur thanked the High Commissioner for her opening statement and expressed his appreciation to States for the continued trust in his Chairmanship. He was heartened to see so many participants despite the logistical difficulties due to the global pandemic. The Chair shared his sorrow over the recent passing of John Ruggie, who he considered to be an exceptional leader who played a key role in furthering the business and human rights agenda. He hoped that the Working Group would carry on John Ruggie's legacy. The Chair recalled the history of the working group, including its past sessions and previous drafts of the legally binding instrument. The third revised draft of the legally binding instrument built upon all discussions thus far, as well as the matrices developed in the intersessional period compiling concrete textual proposals and general comments.<sup>4</sup> The Chair emphasized that the instrument is meant to strengthen access to justice and remedy for those harmed in the context of business activities. He highlighted several improvements to the latest draft to help obtain this goal, including in relation to issues involving gender, scope, human rights due diligence, and jurisdiction. He further pointed out that he is convinced that it is possible improve victims' access to effective justice and remedy through binding standards that complement the international precepts of voluntary adoption, such as the Guiding Principles on Business and Human Rights. He noted that, despite the positive progress made, important work remains, and to achieve progress, there should be broad participation during the session of the Working Group, including with the active participation of civil society. The Chair shared plans to gather a group of Friends of the Chair after the week's session to help make progress on the text in the intersessional period. He concluded by recalling some reasons motivating the Working Group. Despite commitments by States on business and human rights, abuses continue to occur, with people and communities often left without options for access to justice and effective remedy. Further, the COVID pandemic had exacerbated problems, particularly for those facing situations of vulnerability. The Chair recalled that the Guiding Principles request States to consider "a smart mix of measures – national and international, mandatory and voluntary – to foster business respect for human rights." In this regard, he stressed that the approach, scope and content of the instrument seek to complement the non-binding standards. He quoted a submission by a group of special rapporteurs, in which they note that "[t]ime has come for States to act collectively to develop an effective international instrument to ensure that businesses take seriously their human rights responsibilities wherever they operate."<sup>5</sup> The Chair called for the Working Group to urgently move forward, and to actively participate in

<sup>3</sup> See [www.ohchr.org/EN/HRBodies/HRC/WGTransCorp/Session7/Pages/Session7.aspx](http://www.ohchr.org/EN/HRBodies/HRC/WGTransCorp/Session7/Pages/Session7.aspx).

<sup>4</sup> The matrices are available on the sixth session webpage at [www.ohchr.org/EN/HRBodies/HRC/WGTransCorp/Session6/Pages/Session6.aspx](http://www.ohchr.org/EN/HRBodies/HRC/WGTransCorp/Session6/Pages/Session6.aspx).

<sup>5</sup> [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27672&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27672&LangID=E).

the discussions to improve the latest draft of the instrument and thus achieve an international instrument of the widest acceptance.

## **B. General statements**

8. Delegations and non-governmental organizations congratulated the Chair-Rapporteur on his election, thanked him for the third revised draft legally binding instrument, and thanked the High Commissioner and her office for the support for this session.

9. The Working Group discussed the many reasons why it was important to be addressing the issue of transnational corporations and other business enterprises. Delegations and non-governmental organizations shared different types of abuses taking place in the context of business activities, particularly in relation to the environment and to violence against individuals, communities, and human rights defenders. Additionally, the differential impacts faced by different groups (such as indigenous peoples, afro-descendants, persons with disabilities, LGBTI people, children, and women) were highlighted. Several delegations noted how the COVID pandemic exacerbated existing inequalities and disproportionately affected those in situations of vulnerability or marginalization. Further, some delegations and many non-governmental organizations noted the great economic power of many corporations, which sometimes exceeded that of States.

10. Many delegations reaffirmed their commitment to protect human rights in the context of business activities and shared domestic actions taken in this regard, for instance relating to legislation on mandatory human rights diligence and other issues, national action plans on business and human rights, and other efforts to implement the Guiding Principles on Business and Human Rights. A regional organization also shared different actions being taken at the regional level, including a forthcoming initiative on sustainable corporate governance.

11. Many delegations and non-governmental organizations noted that, despite such efforts being undertaken, an international legally binding instrument was necessary and timely. In their view, international binding standards on business and human rights could fill gaps in legal protection, boost international cooperation, build upon non-binding norms, and supplement and strengthen domestic legislation. An international legally binding instrument could also help establish a level playing field and legal certainty for businesses. Some delegations and many non-governmental organizations highlighted different groups that could benefit from increased legal protection, including women, indigenous peoples, children, and human rights defenders. Further, many delegations and non-governmental organizations noted that such an instrument could help ensure access to justice and remedy for those impacted in the context of business activities and help end corporate impunity.

12. It was stressed that the instrument should build upon and be aligned with relevant standards and work. Reference was made to the 2030 Agenda for Sustainable Development, the Sustainable Development Goals, International Labour Organization standards, amongst others. However, most discussion was focused on the Guiding Principles on Business and Human Rights, which many delegations indicated must be the basis for the discussions at the Working Group. Although the relevance of the Guiding Principles was not questioned, many non-governmental organizations stressed the importance of developing binding standards that go beyond the Guiding Principles.

13. Many delegations agreed that there was a need to develop an international legally binding instrument, and many reaffirmed their support for Human Rights Council resolution 26/9 and the Working Group. However, some other delegations voiced concerns with the process and questioned whether there was sufficient support for the third revised draft text. These governments stressed the importance of a consensual approach to the development of international standards, and the need for support from a critical mass of States across regions in order to ensure that the instrument would be effective. Some delegations called for wider and more active participation by States to ensure diverse views could be taken into account during the discussions.

14. With regard to the third revised draft instrument itself, many delegations shared their appreciation for the Chair's efforts in elaborating the draft, noting the progress that had been

made. Several delegations thanked the Chair for incorporating their recommendations from the previous session of the Working Group. Delegations and many non-governmental organizations favourably noted the enhanced protections of certain groups and the increased gender perspective adopted throughout the text.

15. Other delegations voiced concerns with the draft text, with some noting that the latest draft failed to incorporate important suggestions made in the sixth session. Many delegations considered that the draft would have significant implementation challenges. In their view, some parts of the text were too ambiguous and vague, whereas other parts were overly prescriptive. Some delegations considered the text failed to take appropriate account of differences in legal systems.

16. There was disagreement as to the appropriate scope of businesses to be covered under the instrument. Several delegations welcomed that the draft text applied to all business activities. However, other delegations considered the scope of businesses covered to be overly expansive, exceeding the mandate of Council resolution 26/9, or at least going against the spirit of the resolution. There was also disagreement expressed over the scope of issues to be addressed in the instrument. For instance, some delegations considered references to the environment and environmental rights to go beyond the mandate of the Working Group; many non-governmental organizations, on the other hand, argued how important it was to retain, and even strengthen, such provisions.

17. Despite such disagreements, many delegations committed to constructively participate in the Working Group's deliberations, and there were many calls for increased engagement by States and other relevant stakeholders in order to help develop the text moving forward.

#### **IV. Negotiation of the third revised draft legally binding instrument**

18. During the sessions allocated for the negotiation of the third revised draft instrument, discussions proceeded article by article as follows. The Chair presented a draft article and the changes introduced in the third revised draft. Afterwards, State delegations were invited to present specific textual proposals on the various provisions of the article, as well as respond to any proposed text by expressing support, non-support or suggesting amendments.<sup>6</sup> Specific textual proposals and amendments to such proposals were captured with proper attribution on the projected screen. Requests for clarifications and general comments were noted by the Chair, in particular for consideration after the session, including through the "Friends of the Chair." Following the discussion amongst States, time was given to specialized agencies and other international organizations, national human rights institutions, and non-governmental organizations to share their textual proposals and comments on the article.

19. Given the session's focus on State-led negotiations, article by article, the present report does not attempt to reflect all of the views expressed during the session. Rather, the annex compiling the textual proposals made during the session should be consulted for an overview of States' positions.<sup>7</sup> A full recording of the session's deliberations is available on UN Web TV in all UN languages.<sup>8</sup> Further, all general statements delivered during the seventh session that were shared with the Secretariat are available on the webpage dedicated to the Working Group's session.<sup>9</sup>

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<sup>6</sup> The seventh session took place under extraordinary measures and uncertain circumstances due to the COVID-19 pandemic that disrupted the full participation of States and other relevant stakeholders in the discussions and negotiations of the instrument.

<sup>7</sup> See Annex II.

<sup>8</sup> <http://webtv.un.org/>.

<sup>9</sup> [www.ohchr.org/EN/HRBodies/HRC/WGTransCorp/Session7/Pages/Session7.aspx](http://www.ohchr.org/EN/HRBodies/HRC/WGTransCorp/Session7/Pages/Session7.aspx).

## **VII. Recommendations of the Chair-Rapporteur and conclusions of the working group**

### **A. Recommendations of the Chair-Rapporteur**

20. Following the discussions held during the seventh session, and acknowledging the comments and concrete textual suggestions on the third revised draft legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises expressed therein, the Chair-Rapporteur makes the following recommendations:

(a) That the Secretariat prepare, and post on the working group's website, as an annex to the present report, no later than the end of December 2021:

(i) a compilation of the general statements from States and other relevant stakeholders on the third revised draft legally binding instrument that were provided to the Secretariat and presented during the seventh session, reproduced in the language received;

(ii) a compilation of the comments and requests for clarification from States that were provided to the Secretariat by 12 November 2021 and presented during the seventh session, reproduced in the language received;

(iii) the text of the third revised draft legally binding instrument with the concrete textual proposals submitted by States during the seventh session;

(b) That the Chair-Rapporteur invite a group of Ambassadors in Geneva to act as "Friends of the Chair", which shall reflect a balanced regional representation, to start consultations with a view to facilitate and advance work on the draft legally binding instrument during the inter-sessional period, aiming at ensuring the broadest possible, cross-regional support. Under the guidance of the Chair-Rapporteur, the "Friends of the Chair" should convene and lead consultations among States on the draft legally binding instrument, taking into consideration the concrete textual suggestions, comments, and requests for clarification made during the seventh session;

(c) That the Chair-Rapporteur update the draft legally binding instrument taking into consideration the compilation of the concrete textual proposals submitted by States during the seventh session and the outcomes of the consultations as reported by the "Friends of the Chair", and circulate it, including by publishing it on the working group's website, no later than the end of July 2022;

(d) That the Chair-Rapporteur note the concrete textual proposals submitted by the civil society organizations, business organizations, trade unions, other observers and relevant stakeholders during the seventh session, for the appropriate consideration of the States in the work on the draft legally binding instrument after the session. They will be consulted by the "Friends of the Chair" and be invited to submit written inputs;

(e) That the Chair-Rapporteur prepare a programme of work for the eighth session;

(f) That the Chair-Rapporteur promote State-led direct substantive intergovernmental negotiations during the working group's eighth session, to be held in 2022, on the basis of the updated draft legally binding instrument.

### **B. Conclusions of the working group**

21. At the final meeting of its seventh session, on 29 October 2021, the working group adopted the following conclusions, in accordance with its mandate established by the Human Rights Council in its resolution 26/9:

(a) The working group welcomed the opening message of the United Nations High Commissioner for Human Rights and thanked the representatives who took part in the negotiation of the third revised draft legally binding instrument.

(b) The working group took note of the concrete textual suggestions, comments, and requests for clarification received from Governments, regional and political groups, intergovernmental organizations, national human rights institutions, civil society, business organizations, trade unions, and all other relevant stakeholders on the third revised draft legally binding instrument;

(c) The working group acknowledged the negotiation focused on the content of the third revised draft legally binding instrument, as well as the participation and engagement of Governments, regional and political groups, intergovernmental organizations, national human rights institutions, civil society and all other relevant stakeholders;

(d) The working group took note with appreciation of the recommendations of the Chair-Rapporteur and looked forward to the consultations by the “Friends of the Chair”, the updated draft legally binding instrument, and the programme of work for its eighth session.

## **VIII. Adoption of the report**

22. At its 10th meeting, on 29 October 2021, after an exchange of views on the report and its content, the working group adopted ad referendum the draft report on its seventh session and decided to entrust the Chair-Rapporteur with its finalization and submission to the Council for consideration at its forty-ninth session.

## **Annex I**

### **List of participants**

#### **States Members of the United Nations**

Algeria, Argentina, Austria, Belgium, Bolivia (Plurinational State of), Brazil, Cameroon, Chile, China, Colombia, Cuba, Denmark, Djibouti, Ecuador, Egypt, El Salvador, Finland, France, Germany, Haiti, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Japan, Kenya, Liberia, Libya, Luxembourg, Malaysia, Malta, Mauritania, Mexico, Montenegro, Morocco, Mozambique, Namibia, Nepal, Netherlands, Nigeria, Pakistan, Panama, Paraguay, Peru, Philippines, Portugal, Qatar, Russian Federation, Saudi Arabia, Senegal, Serbia, Slovenia, South Africa, Sri Lanka, Sweden, Switzerland, Thailand, Togo, Tunisia, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela (Bolivarian Republic of).

#### **Non-member States represented by an observer**

State of Palestine.

#### **Intergovernmental organizations**

European Union, International Chamber of Commerce, International Labour Organization, South Centre, The Hague Conference on Private International Law.

#### **National human rights institutions**

Commission nationale consultative des droits de l'Homme, Danish Institute for Human Rights, Public Defender of Georgia, German Institute for Human Rights, National Human Rights Council of the Kingdom of Morocco.

#### **Non-governmental organizations in consultative status with the Economic and Social Council**

ActionAid, Al-Haq (Law in the Service of Man), American Association of Jurists, Association for Women's Rights in Development, Association Un Monde Avenir, Associação Brasileira Interdisciplinar de AIDS (ABIA), Associazione Comunita Papa Giovanni XXIII, Bischöfliches Hilfswerk Misereor e.V., Cairo Institute for Human Rights Studies, Center for Constitutional Rights Inc., Centre Europe - tiers monde (CETIM), Centre for Health Science and Law (CHSL), Centre for Human Rights, Child Rights Connect, Commission africaine des promoteurs de la santé et des droits de l'homme, Comité Catholique contre la Faim et pour le Développement (CCFD), Comité des observateurs des droits de l'homme, Conscience and Peace Tax International (CPTI), Conselho Indigenista Missionário CIMI, Coopération internationale pour le développement et la solidarité (CIDSE), Coordinadora Andina de Organizaciones Indígenas, Corporate Accountability International (CAI), Dreikönigsaktion - Hilfswerk der Katholischen Jungschar, Earthjustice, ESCR-Net - International Network for Economic, Social and Cultural Rights, Inc., European Center for Constitutional and Human Rights, FIAN International e.V., Fondation des Oeuvres pour la Solidarité et le Bien Etre Social - FOSBES ONG, Fondation ECPAT International (End Child Prostitution, Child Pornography and Trafficking in Children for Sexual Purposes), Fondation pour l'étude des relations internationales et du développement, Fondation pour un Centre pour le Développement Socio-Eco-Nomique, Franciscans International, Friedrich Ebert Stiftung, Friends of the Earth International, Genève pour les droits de l'homme : formation internationale, Global Policy Forum, Indigenous Peoples'

International Centre for Policy Research and Education, Institute for Policy Studies, International Association of Democratic Lawyers (IADL), International Commission of Jurists, International Federation for Human Rights Leagues (FIDH), International Human Rights Association of American Minorities (IHRAAM), International Human Rights Council, International Human Rights Observer (IHRO) Pakistan, International Indian Treaty Council, International Institute for Sustainable Development, International Lesbian and Gay Association, International Relief Services, International Organization of Employers (IOE), International Service for Human Rights, International Transport Workers' Federation, International Trade Union Confederation (ITUC), Netherlands National Committee for IUCN, Organization for Defending Victims of Violence, Oxfam International, Rosa-Luxemburg-Stiftung - Gesellschaftsanalyse und Politische Bildung e.V., Sikh Human Rights Group, Society for International Development, Swiss Catholic Lenten Fund, Third World Network, United States Council for the International Business, Incorporated (USCIB), Verein Sudwind Entwicklungspolitik, Womankind Worldwide, Women in Europe for a Common Future, Women's International League for Peace and Freedom (WILPF).

## Annex II

### **The text of the third revised draft legally binding instrument with the concrete textual proposals submitted by States during the seventh session**

## Preamble

The States Parties to this (Legally Binding Instrument),

(PP1) *Reaffirming* the principles and purposes of the Charter of the United Nations;

***Reaffirming the principles and purposes of the Charter of the United Nations and upholding the principles of sovereign equality, peaceful settlement of disputes, and maintenance of the territorial integrity and political independence of States as set out in Article 2 of the United Nations Charter; (China (merging PP9 here), Egypt, Cuba, Iran)***

(PP2) *Recalling* the nine core International Human Rights Instruments adopted by the United Nations, and the eight fundamental Conventions adopted by the International Labour Organization;

(PP3) *Recalling* also the Universal Declaration of Human Rights, as well as the Declaration on the Right to Development, the Vienna Declaration and Programme of Action, the Durban Declaration and Programme of Action, the UN Declaration on Human Rights Defenders, the UN Declaration on the Rights of Indigenous Peoples, relevant ILO Conventions, and recalling further the 2030 Agenda for Sustainable Development, as well as all internationally agreed human rights Declarations;

(PP3) *Recalling* also the Universal Declaration of Human Rights, as well as the Declaration on the Right to Development, the Vienna Declaration and Programme of Action, the Durban Declaration and Programme of Action, the UN Declaration on Human Rights Defenders, the UN Declaration on the Rights of Indigenous Peoples, **Rio Declaration on Environment and Development**, relevant ILO Conventions, **the WHO Framework Convention on Tobacco Control**, and recalling further the 2030 Agenda for Sustainable Development, as well as all internationally agreed human rights Declarations; (**Panama**)

(PP3) *Recalling* also the Universal Declaration of Human Rights, as well as the Declaration on the Right to Development, the Vienna Declaration and Programme of Action, the Durban Declaration and Programme of Action, the UN Declaration on Human Rights Defenders, the UN Declaration on the Rights of Indigenous Peoples, **Rio Declaration on Environment and Development**, relevant ILO Conventions, and recalling further the 2030 Agenda for Sustainable Development, as well as all internationally agreed human rights Declarations; (**Cuba**)

(PP3) *Recalling* also the Universal Declaration of Human Rights, as well as the Declaration on the Right to Development, the Vienna Declaration and Programme of Action, the Durban

Declaration and Programme of Action, the ~~UN Declaration on Human Rights Defenders~~ **Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms**, the UN Declaration on the Rights of Indigenous Peoples, relevant ILO Conventions, and recalling further the 2030 Agenda for Sustainable Development, as well as all internationally agreed human rights Declarations; **(Egypt, China, Iran)**  
**(Keep Declaration on HRDs: Mexico, Panama)**

(PP3) *Recalling* also the Universal Declaration of Human Rights, as well as the Declaration on the Right to Development, the Vienna Declaration and Programme of Action, the Durban Declaration and Programme of Action, the UN Declaration on Human Rights Defenders, the UN Declaration on the Rights of Indigenous Peoples, **the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas**, relevant ILO Conventions, and recalling further the 2030 Agenda for Sustainable Development, as well as all internationally agreed human rights Declarations; **(Bolivia, Panama, South Africa, Palestine, Cuba)**

(PP4) *Reaffirming* the fundamental human rights and the dignity and worth of the human person, in the equal rights of men and women and the need to promote social progress and better standards of life in larger freedom while respecting the obligations arising from treaties and other sources of international law as set out in the Charter of the United Nations;

**(PP4 bis) Stressing the right of every person to be entitled to a social and international order in which their rights and freedoms can be fully realized consistent with the purposes and principles of the United Nations as stated in the Universal Declaration of Human Rights; (Cuba)**

(PP5) *Reaffirming* that all human rights are universal, indivisible, interdependent, inter-related, and inalienable, and should be applied in a non-discriminatory way;

(PP6) *Upholding* the right of every person to have effective and equal access to justice and remedy in case of violations of international human rights law or international humanitarian law, including the rights to non-discrimination, participation and inclusion; **(Panama, Palestine, South Africa)**

**(PP6) Upholding the right of every person to have effective and equal access to justice and remedy in case of violations of international human rights law ~~or international humanitarian law~~, including the rights to non-discrimination, participation and inclusion; (China - withdrawn)**

(PP7) *Stressing* that the primary obligation to respect, protect, fulfill and promote human rights and fundamental freedoms lie with the State, and that States must protect against human rights abuse by third parties, including business enterprises, within their territory, jurisdiction, or otherwise under their control, and ensure respect for and implementation of international human rights law;

**(PP7) Stressing that the primary obligation to respect, protect, fulfill and promote human rights and fundamental freedoms lie with the State, and that States must protect against human rights abuse by third parties, including business enterprises, within their territory, jurisdiction, or otherwise under their control, and ensure respect for and implementation of international human rights law and humanitarian law (Palestine, South Africa, Panama);**

(PP8) *Recalling* the United Nations Charter Articles 55 and 56 on international cooperation, including in particular with regard to universal respect for, and observance of, human rights and fundamental freedoms for all without distinction of race, colour, sex, language or religion;

(PP8) *Recalling* the United Nations Charter Articles 55 and 56 on international cooperation, including in particular with regard to universal respect for, and observance of, human rights and fundamental freedoms for all ~~without distinction of race, colour, sex, language or religion~~ and **stressing that there should be no discrimination on grounds that are prohibited by international human rights law; (Palestine, Panama, Cuba, China, South Africa, Egypt, Iran)**

(PP8) *Recalling* the United Nations Charter Articles 55 and 56 on international cooperation, including in particular with regard to universal respect for, and observance of, human rights and fundamental freedoms for all without distinction of **any kind as to** race, colour, sex, language or religion, **disability, political or other opinion, national or social origin, property, birth or other status; (Panama, Cuba)**

(PP9) *Upholding* the principles of sovereign equality, peaceful settlement of disputes, and maintenance of the territorial integrity and political independence of States as set out in Article 2 of the United Nations Charter;

(PP9) *Upholding* the principles of sovereign equality, peaceful settlement of disputes, and maintenance of the territorial integrity and political independence of States as set out in Article 2 of the United Nations Charter, **as well as the principle of non-intervention in the internal affairs of other States; (Iran)**

**(PP9 bis) Recalling the UN charter in particular the provisions of Articles 1 and 55 thereof, which affirm the right of peoples to self-determination, and the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, adopted by the General Assembly in its resolution 2625 (XXV) of 24 October 1970, (Palestine, Cuba)**

**(PP9 ter) Recalling also the provisions of article 1 of the International Covenant on Economic, Social and Cultural Rights and article 1 of the International Covenant on Civil and Political Rights, which affirm that all peoples have the right to self-determination, (Palestine, Cuba)**

**(PP9 quater) Reaffirming the principles of the Declaration on the Granting of Independence to Colonial Countries and Peoples, also known as the United Nations General Assembly Resolution 1514. (Palestine, Cuba)**

**(PP9 quinquies) Recognizing that in all actions concerning children, including in the context of business activities, the best interests of the child shall be a primary consideration, and shall be respected in pursuing remedies for violations of the rights of the child, and that such remedies should take into account the need for child-sensitive procedures at all levels; (Panama)**

(PP10) *Acknowledging* that all business enterprises have the capacity to foster sustainable development through an increased productivity, inclusive economic growth and job creation that respect internationally recognized human rights, labour rights, health and safety standards, the environment and climate, in accordance with relevant international standards and agreements;

(PP10) *Acknowledging* that all business enterprises have the capacity to foster sustainable development through an increased productivity, inclusive economic growth and job creation that **promote and** respect internationally recognized human rights, labour rights, health and safety standards, the environment and climate, in accordance with relevant international standards and agreements; **(Brazil)**

(PP10) *Acknowledging* that all business enterprises have the ~~capacity~~ **potential** to foster sustainable development through an increased productivity, inclusive economic growth and job creation that respect internationally recognized human rights, labour rights, health and safety standards, the environment and climate, in accordance with relevant international standards and agreements; **(Egypt)**

**(PP10 bis) Emphasizing that transnational corporations and other business enterprises play a crucial role in the social and economic development as well as the implementation of the SDGs and have a responsibility to respect human rights. (China)**

(PP11) *Underlining* that business enterprises, regardless of their size, sector, location, operational context, ownership and structure have the obligation to respect internationally recognized human rights, including by avoiding causing or contributing to human rights abuses through their own activities and addressing such abuses when they occur, as well as by preventing or mitigating human rights abuses that are directly linked to their operations, products or services by their business relationships;

(PP11) *Underlining* that **transnational corporations and other** business enterprises of **transnational character**, regardless of their size, sector, location, operational context, ownership and structure have the obligation to respect **all internationally recognized** human rights, including by **preventing or** avoiding ~~causing or contributing to~~ human rights **violations that are committed all along its global production chain, abuses through their own activities and addressing such abuses when they occur, as well as by preventing or mitigating human rights abuses that are directly and indirectly linked to their operations, products or services by their business relationships; **(Cameroon, South Africa)****

(PP11) *Underlining* that **transnational corporations and other** business enterprises of **transnational character**, regardless of their size, sector, location, operational context, ownership and structure have the obligation to respect internationally recognized human rights, including by avoiding causing or contributing to human rights abuses through their own activities and addressing such abuses when they occur, as well as by preventing or mitigating human rights abuses that are directly to their operations, products or services by their business relationships; **(Iran)**

(PP11) *Underlining* that **transnational corporations and other** business enterprises of **transnational character**, regardless of their size, sector, location, operational context, ownership

and structure have the obligation to respect internationally recognized human rights, including by **preventing or** avoiding ~~causing or contributing to~~ human rights **violations that are committed all along its global production chain, abuses through their own activities and addressing such abuses when they occur, as well as by preventing or mitigating human rights abuses that are** directly **and indirectly linked** to their operations, products or services by their business relationships; **(Egypt)**

(PP11) *Underlining* that business enterprises, regardless of their size, sector, location, operational context, ownership and structure have the ~~responsibility obligation~~ to respect internationally recognized human rights, including by avoiding causing or contributing to human rights abuses through their own activities and addressing such abuses when they occur, as well as by preventing or mitigating human rights abuses that are [**directly linked**] to their operations, products or services by their business relationships; **(China)**

(PP11) *Underlining* that business enterprises, regardless of their size, sector, location, operational context, ownership and structure have the obligation to respect internationally recognized human rights, including by avoiding causing or contributing to human rights abuses **and violations** through their own activities and addressing such abuses when they occur, as well as by preventing or mitigating human rights abuses **and violations** that are directly **and indirectly** linked to their operations, products or services by their business relationships; **(Palestine)**

(PP11) *Underlining* that business enterprises, regardless of their size, sector, location, operational context, ownership and structure have the ~~responsibility obligation~~ to respect internationally recognized human rights, including by avoiding causing or contributing to human rights abuses through their own activities and addressing such abuses when they occur, as well as by preventing ~~or mitigating~~ human rights abuses **or mitigating human rights risks** that are directly linked to their operations, products or services by their business relationships; **(Mexico, Brazil, Chile, Panama)**

**(PP11 bis) To affirm the primacy of human rights obligations in relation to any conflicting provision contained in international trade, investment, finance, taxation, environmental and climate change, development cooperation and security agreements. (Palestine)**

**(Keep out reference to hierarchy: Egypt)**

**(PP11 ter) Emphasizing that States have an obligation to protect, respect and fulfil human rights in the context of all business activities under their jurisdiction both at home and abroad in accordance with the International Covenant on Economic Social and Cultural Rights. (Palestine, Egypt, South Africa)**

(PP12) *Emphasizing* that civil society actors including human rights defenders have an important and legitimate role in promoting the respect of human rights by business enterprises, and in preventing, mitigating and seeking effective remedy for business-related human rights abuses;

(PP12) *Emphasizing* that civil society actors including human rights defenders have an important and legitimate role in promoting **and protecting** the respect of human rights, **the environment,**

**and the climate affected by business enterprises activities, and in preventing, mitigating and seeking effective remedy for business-related human rights abuses and that and that States have the obligation to take all appropriate measures to ensure an enabling and safe environment for the exercise of such role; (Palestine)**

(PP12) *Emphasizing* that civil society actors including **human rights defenders individuals, groups and associations that promote respect for and foster knowledge of human rights and fundamental freedoms** have an important and legitimate role in promoting the respect of human rights by business enterprises, and in preventing, mitigating and seeking effective remedy for business-related human rights abuses; **(Egypt, China, Iran)**

**(Keep reference to “human rights defenders”: Panama, Mexico, France)**

**(PP12 bis) Recognizing that human rights defenders are particularly targeted when challenging business activity, taking into consideration particular vulnerabilities and heightened risks for certain groups of human rights defenders including women and indigenous and environmental human rights defenders, human rights defenders working in isolated and rural areas and human rights defenders engaged in the protection of land, territory and natural resources, and the obligation of States to protect defenders against any harm. (Palestine)**

**(Use “individuals, groups and associations that promote respect for and foster knowledge of human rights and fundamental freedoms”: Egypt)**

(PP13) *Recognizing* the distinctive and disproportionate impact of business-related human rights abuses on women and girls, children, indigenous peoples, persons with disabilities, people of African descent, older persons, migrants and refugees, and other persons in vulnerable situation, as well as the need for a business and human rights perspective that takes into account specific circumstances and vulnerabilities of different rights-holders and the structural obstacles for obtaining remedies for these persons;

(PP13) *Recognizing* the distinctive and disproportionate impact of business-related human rights abuses on women and girls, children, indigenous peoples, persons with disabilities, people of African descent, older persons, migrants and refugees, **those affected by illegal unilateral coercive measures**, and other persons in vulnerable situation, as well as the need for a business and human rights perspective that takes into account specific circumstances and vulnerabilities of different rights-holders and the structural obstacles for obtaining **effective legal and equitable** remedies for these persons; **(Iran)**

**(PP13 bis) Recognizing that the climate emergency is multifaceted and approaches to mitigate warming are also approaches to environmental justice and human rights in line with the Bali Principles of Climate Justice, improvements in labour rights, Indigenous rights, and economic equity; (Palestine)**

(PP14) *Emphasizing* the need for States and business enterprises to integrate a gender perspective in all their measures, in line with the Convention on the Elimination of All Forms of Discrimination against Women, the Beijing Declaration and Platform for Action, the ILO Convention 190 concerning the elimination of violence and harassment in the world of work, the Gender Guidance for the Guiding

Principles on Business and Human Rights, and other relevant international standards; **(South Africa, Namibia, Palestine, Argentina)**

**(Keep references to international instruments: Mexico, Panama, Uruguay)**

**(Keep reference to gender perspective: EU, France, Uruguay)**

(PP14) *Emphasizing* the need for States and business enterprises to integrate gender perspective in all their measures, in line with the Convention on the Elimination of All Forms of Discrimination against Women, the Beijing Declaration and Platform for Action, the ILO Convention 190 concerning the elimination of violence and harassment in the world of work, the Gender Guidance for the Guiding Principles on Business and Human Rights, and other relevant international standards; **including to consider underlying causes and risk factors, eliminate all forms of discrimination, redress historical and current disadvantage, address stereotypes and violence, transform biased institutional structures and practices, and facilitate social inclusion and political participation.** **(Palestine)**

(PP14) *Emphasizing* the need for States and business enterprises to integrate a gender perspective in all their measures, in line with the Convention on the Elimination of All Forms of Discrimination against Women, the Beijing Declaration and Platform for Action, ~~the ILO Convention 190 concerning the elimination of violence and harassment in the world of work,~~ the Gender Guidance for the Guiding Principles on Business and Human Rights, and other relevant international standards; **(Brazil, Chile)**

(PP14) *Emphasizing* the need for States and business enterprises to integrate a gender **and age** perspective in all their measures, in line with the Convention on the Elimination of All Forms of Discrimination against Women, the Beijing Declaration and Platform for Action, the ILO Convention 190 concerning the elimination of violence and harassment in the world of work, the Gender Guidance for the Guiding Principles on Business and Human Rights, and other relevant international standards; **(Panama, South Africa, Palestine, Uruguay)**

(PP14) *Emphasizing* the need for States and business enterprises to integrate a gender perspective in all their measures, in line with **relevant internationally recognized human rights**~~the Convention on the Elimination of All Forms of Discrimination against Women, the Beijing Declaration and Platform for Action, the ILO Convention 190 concerning the elimination of violence and harassment in the world of work, the Gender Guidance for the Guiding Principles on Business and Human Rights, and other relevant international standards;~~ **(Iran)**

(PP14) *Emphasizing* the need for States and business enterprises to integrate a gender perspective in all their measures, in line with the Convention on the Elimination of All Forms of Discrimination against Women, the Beijing Declaration and Platform for Action, the ILO Convention 190 concerning the elimination of violence and harassment in the world of work,~~the Gender Guidance for the Guiding Principles on Business and Human Rights,~~ and other relevant international standards; **(Egypt)**

**(PP14 bis) Recognizing that businesses have a key role to play in achieving the goals of key environmental treaties including, but not limited to, the UN Framework Convention on Climate Change, the Convention on Biological Diversity, the Convention to Combat Desertification, the Basel, Rotterdam and Stockholm Conventions and the Minamata Convention on Mercury; (Panama)**

(PP15) *Taking* into account the work undertaken by the United Nations Commission on Human Rights and the Human Rights Council on the question of the responsibilities of transnational corporations and other business enterprises with respect to human rights, and all relevant previous Human Rights Council resolutions, including in particular Resolution 26/9; **(Namibia, South Africa, Iran)**

(PP15) *Taking* into account the work undertaken by the United Nations Commission on Human Rights and the Human Rights Council on the question of the responsibilities of transnational corporations and other business enterprises with respect to human rights, ~~and all relevant previous Human Rights Council resolutions, including~~ in particular Resolution 26/9; **(Brazil, South Africa, Namibia, Iran) (agreed)**

(PP16) *Recognizing* the contribution and complementary role that the Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework has played in that regard and to advancing respect for human rights in the business activities;

(PP17) *Noting* the ILO Declaration on Fundamental Principles and Rights at Work and the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy;

(PP18) *Desiring* to clarify and facilitate effective implementation of the obligations of States regarding business-related human rights abuses and the obligations of business enterprises in that regard;

(PP18) *Desiring* to clarify and facilitate effective implementation of the obligations of States regarding business-related human rights abuses and the ~~obligations~~ **responsibilities** of business enterprises in that regard; **(Mexico, Brazil, Chile)**

**(PP18 bis) Reaffirming the primacy of International Human Rights Law over all other legal instruments, especially those related to trade and investment. (Cameroon)**

**(Keep out reference to hierarchy: Egypt)**

**(PP18 ter) Stressing the growing economic might of some business entities, in particular transnational corporations, and their particular responsibility and impact on human, labour and environmental rights. (Cameroon)**

**(PP18 quater) Recalling that transnational corporations and other business enterprises of transnational character have obligations derived from international human rights law and that these obligations are different, exist independently and in addition of the legal framework in force in the host and home States. (Cameroon)**

A/HRC/49/XX

Have agreed as follows:

## Article 1. Definitions

1.1. “**Victim**” shall mean any person or group of persons, irrespective of nationality or place of domicile, who individually or collectively have suffered harm that constitute human rights abuse, through acts or omissions in the context of business activities. The term “victim” may also include the immediate family members or dependents of the direct victim. A person shall be considered a victim regardless of whether the perpetrator of the human rights abuse is identified, apprehended, prosecuted, or convicted. **(Palestine)**

1.1. “**Victim**” shall mean any person or group of persons, irrespective of nationality or place of domicile, who individually or collectively have suffered harm that constitute human rights abuse, through acts or omissions in the context of business activities. The term “victim” ~~may~~ also includes, **where appropriate in accordance with domestic law**, the immediate family members or dependents of the direct victim. A person shall be considered a victim regardless of whether the perpetrator of the human rights abuse is identified, apprehended, prosecuted, or convicted. **(Namibia)**

**(Keep original reference to indirect victims (in 2nd sentence): Mexico)**

1.1. “**Victim**” shall mean any person ~~or group of persons~~, irrespective of nationality or place of domicile, who individually ~~or collectively~~ have suffered harm that constitute human rights abuse, through acts ~~or omissions~~ in the context of business activities. The term “victim” may also include the immediate family members or dependents of the direct victim. A person shall be considered a victim regardless of whether the perpetrator of the human rights abuse is identified, apprehended, prosecuted, or convicted. **(Brazil)**

**(Keep reference to omissions: Namibia)**

1.1. “**Victim**” or “**Affected individuals and communities**” shall mean any person or group of persons, irrespective of nationality or place of domicile, who individually or collectively have suffered harm that constitute human rights abuse, through acts or omissions in the context of business activities. The term “victim” may also include the immediate family members or dependents of the direct victim. A person shall be considered a victim regardless of whether the perpetrator of the human rights abuse is identified, apprehended, prosecuted, or convicted. **(Cameroon, Palestine)**

1.1. “**Victim**” shall mean any person or group of persons, irrespective of nationality or place of domicile, who individually or collectively have suffered harm that constitute human rights abuse, ~~through acts or omissions in the context of business activities. The term “victim” may also include the immediate family members or dependents of the direct victim. A person shall be considered a victim regardless of whether the perpetrator of the human rights abuse is identified, apprehended, prosecuted, or convicted.~~ **(China)**

1.2. “**Human rights abuse**” shall mean any direct or indirect harm in the context of business activities, through acts or omissions, against any person or group of persons, that impedes the full enjoyment of internationally recognized human rights and fundamental freedoms, including the right to a safe, clean, healthy and sustainable environment. **(South Africa, Mexico)**

1.2. **“Human rights abuse violation”** shall mean any direct or indirect harm in the context of business activities, through acts or omissions, against any person or group of persons, that impedes the full enjoyment of internationally recognized human rights and fundamental freedoms, including the right to a safe, clean, healthy and sustainable environment. **(Cameroon)**

1.2. **“Human rights abuse”** shall mean any direct or indirect ~~harm~~ **serious and substantive damages** in the context of business activities, through acts ~~or omissions~~, against any person ~~or group of persons~~, that impedes the full enjoyment of internationally recognized human rights and fundamental freedoms, including the right to a ~~safe~~, clean, healthy and sustainable environment. **(Brazil)**

**(Could agree to “clean, healthy and sustainable environment” formulation: Panama (though preference is to include “safe” as well))**

**(Keep reference to omissions: Palestine, Namibia)**

**(Keep reference to “group of persons”: Palestine)**

1.2. **“Human rights abuse”** shall mean any direct or indirect harm in the context of business activities, through acts or omissions, against any person or group of persons, that impedes the full enjoyment of internationally recognized human rights and fundamental freedoms, ~~including the right to a safe, clean, healthy and sustainable environment~~. **(China)**

**(Keep reference to a safe, clean, healthy and sustainable environment: Panama)**

1.2. **“Human rights abuse or violation”** shall mean any direct or indirect harm in the context of business activities, through acts or omissions, against any person or group of persons, that impedes the full enjoyment of internationally recognized human rights and fundamental freedoms, including the right to a safe, clean, healthy and sustainable environment. **(Palestine, South Africa)**

1.3. **“Business activities”** means any economic or other activity, including but not limited to the manufacturing, production, transportation, distribution, commercialization, marketing and retailing of goods and services, undertaken by a natural or legal person, including State-owned enterprises, financial institutions and investment funds, transnational corporations, other business enterprises, joint ventures, and any other business relationship undertaken by a natural or legal person. This includes activities undertaken by electronic means.

1.3. **“Business activities”** means any economic or other ~~activities~~, including but not limited to the **design, extraction**, manufacturing, production, transportation, distribution, commercialization, marketing and retailing of goods and services, undertaken by a natural or legal person, including, **but not limited to**, State-owned enterprises, financial institutions and investment funds, transnational corporations, other business enterprises, joint ventures, and any other business relationship undertaken by a natural or legal person. This includes activities undertaken by electronic means **and social media platforms**. **(Iran, Palestine)**

1.3. **“Business activities”** means any economic or other activity, including but not limited to the manufacturing, production, transportation, distribution, commercialization, marketing and retailing of goods and services, undertaken by **transnational corporations and other business**

**enterprises of transnational character (natural or legal person), which can be private, public or mix, ~~a natural or legal person, including State-owned enterprises,~~ including financial institutions and investment funds, joint ventures, ~~and any other business relationship undertaken by a natural or legal person.~~ This includes activities undertaken by electronic means. (Cameroon)**

1.3. **“Business activities” means for profit economic activities undertaken by transnational corporations and other business enterprises that have a transnational character in their operational activities ~~any economic or other activity, including but not limited to the manufacturing, production, transportation, distribution, commercialization, marketing and retailing of goods and services, undertaken by a natural or legal person, including State-owned enterprises, financial institutions and investment funds, transnational corporations, other business enterprises, joint ventures, and any other business relationship undertaken by a natural or legal person.~~ This includes activities undertaken by electronic means. (China)**

(Keep out reference to “for profit”: Panama)

1.3. **“Business activities” means any economic or other activity, including but not limited to the manufacturing, production, transportation, distribution, commercialization, marketing and retailing of goods and services, undertaken by a natural or legal person, including ~~State-owned enterprises,~~ financial institutions and investment funds, transnational corporations, other business enterprises, joint ventures, and any other business relationship undertaken by a natural or legal person. This includes activities undertaken by electronic means. (Namibia)**

1.3. **“Business activities” means any economic or other activity, in particular those of transnational character, including but not limited to the manufacturing, production, transportation, distribution, commercialization, marketing and retailing of goods and services, undertaken by a natural or legal person, including State-owned enterprises, financial institutions and investment funds, transnational corporations, other business enterprises, joint ventures, and any other business relationship undertaken by a natural or legal person. This includes activities undertaken by electronic means. (Palestine)**

1.4. **“Business activities of a transnational character” means any business activity described in Article 1.3. above, when:**

- a. It is undertaken in more than one jurisdiction or State; or
- b. It is undertaken in one State but a significant part of its preparation, planning, direction, control, design, processing, manufacturing, storage or distribution, takes place through any business relationship in another State or jurisdiction; or
- c. It is undertaken in one State but has significant effect in another State or jurisdiction.

1.5. **“Business relationship”** refers to any relationship between natural or legal persons, including State and non-State entities, to conduct business activities, including those activities conducted through affiliates, subsidiaries, agents, suppliers, partnerships, joint venture, beneficial proprietorship, or any other structure or relationship as provided under the domestic law of the State, including activities undertaken by electronic means.

1.5. **“Business relationship”** refers to any relationship between natural or legal persons, including State and non-State entities, to conduct business activities, including those activities conducted through affiliates, subsidiaries, agents, suppliers, partnerships, joint venture, beneficial proprietorship, or any other structure or relationship, **including throughout their value chains**, as provided under the domestic law of the State, including activities undertaken by electronic means; **(Panama, Egypt, South Africa)**

1.5. **“Business relationship”** refers to any relationship between natural or legal persons, including State and non-State entities, to conduct business activities, including those activities conducted through affiliates, subsidiaries, agents, suppliers, partnerships, joint venture, beneficial proprietorship, ~~or any other structure or relationship as provided under the domestic law of the State~~, **entities in the value and supply chain, any non-State or State entity linked to a business operation, product, or service even if the relationship is not contractual, as well as including** activities undertaken by electronic means. **(Palestine)**

**1.5 bis. “Other business enterprises” denotes all business enterprises that have a transnational character in their operational activities, and does not apply to local businesses registered in terms of relevant domestic law. (Iran, Egypt, Pakistan, Cuba, Indonesia, China)**  
**(Concern with this provision: Mexico, EU, Panama, Brazil)**

1.6. **“Regional integration organization”** shall mean an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by this (Legally Binding Instrument). Such organizations shall declare, in their instruments of formal confirmation or accession, their level of competence in respect of matters governed by this (Legally Binding Instrument), and they shall subsequently inform the depositary of any substantial modification to such competence. References to “States Parties” in the present (Legally Binding Instrument) shall apply to such organizations within the limits of their competence.

## Article 2. Statement of Purpose

2.1. The purpose of this (Legally Binding Instrument) is:

a. To clarify and facilitate effective implementation of the obligation of States to respect, protect, fulfill and promote human rights in the context of business activities, particularly those of transnational character; **(Mexico)**

a. To clarify and facilitate effective implementation of the obligation of States to respect, protect, fulfill and promote human rights in the context of business activities, ~~particularly those~~ **of transnational character and other business enterprises that have a transnational character in their operational activities.** **(Egypt, China, Cuba, Iran)**

**a bis. To regulate the activities of transnational corporations and other business enterprises with a transnational character within the framework of international human rights law; (Egypt, Cuba, Iran)**

b. To clarify and ensure respect and fulfillment of the human rights obligations of business enterprises;

b. To clarify and ensure respect and fulfillment of the human rights ~~obligations~~ **responsibilities** of business enterprises; **(EU, Brazil)**  
**(Keep “obligations”: Palestine)**

b. To clarify and ensure respect and fulfillment of the human rights obligations of business enterprises **and respect of principles of sovereignty and non-interventions of States in the context of business activities of a transnational character; (Iran)**

b. To clarify and ensure respect and fulfillment of the human rights obligations of **such** business enterprises; **(Cuba)**

c. To prevent and mitigate the occurrence of human rights abuses in the context of business activities by effective mechanisms of monitoring and enforceability;

c. To prevent and mitigate the occurrence of human rights abuses in the context of **such** business activities by effective mechanisms of monitoring and enforceability; **(Cuba)**

c. To prevent ~~and mitigate~~ the occurrence of human rights abuses **and violations** in the context of **such** business activities by **establishing** effective mechanisms ~~of for~~ monitoring and enforceability; **(Egypt)**

**(Remove “establishing”: Brazil)**

c. To prevent and mitigate the occurrence of human rights abuses **and violations as well as environmental harm resulting from in the context of** business activities **in both conflict and non-conflict affected areas by creating and enacting by** effective **and binding** mechanisms of monitoring **and**, enforceability **and accountability; (Palestine)**

- c. To prevent ~~and mitigate~~ the occurrence of human rights abuses in the context of business activities by effective mechanisms of monitoring and enforceability; **(Panama)**
- d. To ensure access to justice and effective, adequate and timely remedy for victims of human rights abuses in the context of business activities; **(Brazil)**
- d. To ensure access to justice and effective, adequate and timely remedy for victims of human rights abuses in the context of **such** business activities; **(Cuba)**
- d. To ensure access to **gender-responsive and victim-centred** justice and effective, adequate and timely remedy for victims of human rights abuses **and violations** in the context of business activities; **(Palestine, South Africa)**
- d. To ensure access to **gender-responsive, child-sensitive and victim-centred** justice and effective, adequate and timely remedy for victims of human rights abuses in the context of business activities; **(Panama, Argentina, Peru, Palestine, South Africa)**
- d. To ensure access to **gender-responsive, child-sensitive and victim-centred** justice and effective, adequate and timely remedy for victims of human rights abuses **and violations** in the context of business activities **of a transnational character**; **(Egypt)**
- d. To ensure access to justice ~~and effective, adequate and timely remedy~~ for victims ~~of human rights abuses in the context of business activities~~; **(China)**
- d. To ensure access to justice and effective, adequate and timely remedy for victims of human rights abuses in the context of business activities **of a transnational character**; **(Iran)**
- e. To facilitate and strengthen mutual legal assistance and international cooperation to prevent and mitigate human rights abuses in the context of business activities, particularly those of transnational character, and provide access to justice and effective, adequate and timely remedy to victims of such abuses.
- e. To facilitate and strengthen mutual legal assistance and international cooperation to prevent and mitigate human rights abuses in the context of business activities, ~~particularly those~~ **particularly those** of transnational character, and provide access to justice and effective, adequate and timely remedy to victims of such abuses. **(Cuba, Iran, Egypt)**
- e. To facilitate and strengthen mutual legal assistance and international cooperation to prevent and mitigate human rights abuses **and violations** in the context of business activities, particularly those of transnational character, and provide access to justice and effective, ~~adequate and timely~~ **adequate and timely** remedy **and reparations** to victims of such abuses **or violations including those affected by conflict**. **(Palestine, Iran)**

e. To facilitate and strengthen mutual legal assistance and international cooperation to prevent and mitigate human rights abuses in the context of business activities, ~~particularly those~~ of transnational character, and provide access to justice ~~and effective, adequate and timely remedy to for~~ victims ~~of such abuses~~. (China)

e. To facilitate and strengthen mutual legal assistance and international cooperation to prevent ~~and mitigate~~ human rights abuses in the context of business activities, particularly those of transnational character, and provide access to justice and effective, adequate and timely remedy to victims of such abuses. (Brazil, Panama)

## Article 3. Scope

3.1. This (Legally Binding Instrument) shall apply to all business activities, including business activities of a transnational character. **(Mexico)**

3.1. This (Legally Binding Instrument) shall apply to **transnational corporations and other business enterprises [fn: “other business enterprises” denotes all business enterprises that have a transnational character in their operational activities, and does not apply to local businesses registered in terms of relevant domestic law.]**~~all business activities, including business activities of a transnational character.~~ **(Cuba, Egypt, China, Iran, Pakistan)**  
**(Keep focus on business activities: Mexico)**

3.1. This (Legally Binding Instrument) shall apply to **transnational corporations and other business enterprises of a transnational character**~~all business activities, including business activities of a transnational character.~~ **(Egypt, Pakistan)**

3.1. This (Legally Binding Instrument) shall apply to all business activities,~~including business activities of a transnational character~~ **with particular focus on transnational corporations and other business enterprises in the value chain that undertake business activities of a transnational character.** **(Palestine, Namibia)**

3.2. Notwithstanding Article 3.1. above, when imposing prevention obligations on business enterprises under this (Legally Binding Instrument), States Parties may establish in their law, a non-discriminatory basis to differentiate how business enterprises discharge these obligations commensurate with their size, sector, operational context or the severity of impacts on human rights.

3.2. Notwithstanding Article 3.1. above, when imposing prevention obligations on business enterprises under this (Legally Binding Instrument), States Parties may establish in their law, a non-discriminatory basis to differentiate how business enterprises discharge these obligations commensurate with their size, sector, operational context ~~or~~ **and** the severity of impacts on human rights. **(Palestine)**

3.2. Notwithstanding Article 3.1. above, when imposing prevention obligations on **such** business enterprises under this (Legally Binding Instrument), States Parties may establish in their law, a non-discriminatory basis to differentiate how business enterprises discharge these obligations commensurate with their size, sector, operational context or the severity of impacts on human rights. **(Cuba)**

3.3. This (Legally Binding Instrument) shall cover all internationally recognized human rights and fundamental freedoms binding on the State Parties of this (Legally Binding Instrument), including those recognized in the Universal Declaration of Human Rights, the ILO Declaration on Fundamental Principles and Rights at Work, all core international human rights treaties and fundamental ILO Conventions to which a State is a Party, and customary international law. **(Namibia)**

3.3. This (Legally Binding Instrument) shall cover all internationally recognized human rights and fundamental freedoms binding on the State Parties of this (Legally Binding Instrument), including those recognized in the Universal Declaration of Human Rights, the ILO Declaration on

Fundamental Principles and Rights at Work, all core international human rights treaties, **and** fundamental ILO Conventions **and other relevant international and regional environmental agreements** to which a State is a Party, and customary international law.  
**(Panama)**

3.3. This (Legally Binding Instrument) shall **be applied according to the international conventions effectively ratified by each State Party**~~cover all internationally recognized human rights and fundamental freedoms binding on the State Parties of this (Legally Binding Instrument), including those recognized in the Universal Declaration of Human Rights, the ILO Declaration on Fundamental Principles and Rights at Work, all core international human rights treaties and fundamental ILO Conventions to which a State is a Party, and customary international law.~~ **(Brazil)**

3.3. This (Legally Binding Instrument) shall cover all internationally recognized human rights and fundamental freedoms binding on the State Parties of this (Legally Binding Instrument), including those recognized in the Universal Declaration of Human Rights, the ILO Declaration on Fundamental Principles and Rights at Work, all core international human rights treaties and fundamental ILO Conventions to which a State is a Party, **international humanitarian law, international criminal law, international environmental law**, and customary international law.  
**(Palestine)**

## Article 4. Rights of Victims

Article 4. Rights of ~~Victims~~ **Affected Individuals and Communities (Cameroon)**

4.1. Victims of human rights abuses in the context of business activities shall enjoy all internationally recognized human rights and fundamental freedoms. **(Namibia)**

4.1. Victims of human rights abuses **and violations** in the context of business activities shall enjoy all internationally recognized human rights and fundamental freedoms. **(Palestine)**

4.1. Victims of human rights abuses in the context of business activities shall enjoy all ~~internationally recognized~~ human rights **conventions effectively ratified by and binding on each State Party and fundamental freedoms (Brazil)**

~~4.1. Victims of human rights abuses in the context of business activities shall enjoy all internationally recognized human rights and fundamental freedoms.~~ Each state party shall, **adopt such legislative and other measures as may be necessary to protect the human rights and fundamental freedoms of the victims. (China)**

~~4.1. Victims of human rights abuses in the context of business activities shall enjoy all internationally recognized human rights and fundamental freedoms.~~ Each state party shall, **adopt such legislative and other measures in accordance with applicable international law to protect the human rights and fundamental freedoms of the victims. (Egypt)**

4.2. Without prejudice to Article 4.1. above, victims shall:

4.2. Without prejudice to Article 4.1. above, victims shall, **in accordance with applicable international law: (Egypt (or similar amendment to each sub-provision))**

a. be treated with humanity and respect for their dignity and human rights, and their safety, physical and psychological well-being and privacy shall be ensured;

a. be treated with humanity and respect for their dignity and human rights, and their safety, physical and psychological well-being and privacy shall be ensured, **taking into consideration factors that affect those in conflict areas; (Palestine)**

b. be guaranteed the right to life, personal integrity, freedom of opinion and expression, peaceful assembly and association, and free movement;

c. be guaranteed the right to fair, adequate, effective, prompt, non-discriminatory, appropriate and gender-sensitive access to justice, individual or collective reparation and effective remedy in accordance with this (Legally Binding Instrument) and international law, such as restitution, compensation, rehabilitation, reparation, satisfaction, guarantees of non-repetition, injunction, environmental remediation, and ecological restoration;

c. be guaranteed the right to fair, adequate, effective, prompt, non-discriminatory, appropriate and gender-sensitive access to justice, individual or collective reparation and effective remedy in accordance with this (Legally Binding Instrument) and international

law, such as restitution, compensation, rehabilitation, reparation, satisfaction, guarantees of non-repetition, injunction, environmental remediation, and 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; (Palestine)**

c. be guaranteed the right to fair, adequate, effective, prompt, non-discriminatory, appropriate, **child-friendly** and gender-sensitive access to justice, individual or collective reparation and effective remedy in accordance with this (Legally Binding Instrument) and international law, such as restitution, compensation, rehabilitation, reparation, satisfaction, guarantees of non-repetition, injunction, environmental remediation, and ecological restoration; **(Panama, South Africa, Palestine)**

d. be guaranteed the right to submit claims, including by a representative or through class action in appropriate cases, to courts and non-judicial grievance mechanisms of the States Parties;

d. be guaranteed the right to submit claims, including by a representative or through class action in appropriate cases, to courts and non-judicial grievance mechanisms of the States Parties **and that the right to submit claims to non-judicial grievance mechanisms shall not infringe upon the right to access judicial mechanisms; (Palestine)**

d. be guaranteed the right to submit claims, ~~including by a representative or through class action in appropriate cases,~~ to courts and non-judicial grievance mechanisms of the States Parties; **(Namibia)**

e. be protected from any unlawful interference against their privacy, and from intimidation, and reprisals, before, during and after any proceedings have been instituted, as well as from re-victimization in the course of proceedings for access to effective, prompt and adequate remedy, including through appropriate protective and support services that are gender and age responsive; and,

f. be guaranteed access to information and legal aid relevant to pursue effective remedy.

f. be guaranteed access to **legal aid and information held by businesses and others** and legal aid relevant to pursue effective remedy, **paying particular attention to greater barriers that at-risk groups face such as Indigenous Peoples, as well as women and girls; the right to access information shall also extend to human rights defenders and includes information relative to all the different legal entities involved in the transnational business activity alleged to harm human rights, such as property titles, contracts, business ownership and control, communications and other relevant documents; (Palestine)**

f. be guaranteed access to information **in relevant languages and accessible formats to adults and children alike, including those with disabilities,** and legal aid relevant to pursue effective remedy. **(Panama)**

f. be guaranteed access to information and legal aid relevant to pursue effective remedy; **This shall include information relative to all the different legal entities involved in the transnational business activity alleged to violate human rights, such as property titles, contracts, communications and other relevant documents. In case of the unavailability of such information, courts shall apply a rebuttable presumption of control of the controlling or parent companies. Such information shall serve for the adjudicator to determine the joint and several liability of the involved companies, according to the findings of the civil or administrative procedure. (Cameroon, Namibia)**

**f bis. be guaranteed access to appropriate diplomatic and consular means to facilitate access to effective remedy, especially in cases of business-related human rights abuses of a transnational character. (Iran)**

**(Has reservations: Panama)**

**(Keep out: Mexico, Namibia)**

**f ter. be guaranteed full participation, transparency and independence in reparation processes, which take into account the differentiated impacts of human rights abuses on specific groups of people and respond adequately to these impacts and their particular needs. (Palestine)**

**f quater. be guaranteed with access to independent technical advisory mechanisms that facilitate access to impartial evidence regarding the harm or risk of harm caused by companies; (Cameroon)**

4.3. Nothing in this provision shall be construed to derogate from any higher level of recognition and protection of any human rights of victims or other individuals under international, regional or national law.

**4.3 bis. Affected individuals and communities shall have the right to request State parties adopt precautionary measures related to serious or urgent situations that present a risk of irreparable harm pending the resolution of a case as, for instance in cases of risks of environmental harm. (Cameroon)**

## Article 5. Protection of Victims

5.1. States Parties shall protect victims, their representatives, families and witnesses from any unlawful interference with their human rights and fundamental freedoms, including prior, during and after they have instituted any proceedings to seek access to effective, prompt and adequate remedy, as well as from re-victimization in the course of these proceedings.

5.1. States Parties shall protect victims, their representatives, families, **communities** and witnesses from any unlawful interference with their human rights and fundamental freedoms, including prior, during and after they have instituted any proceedings to seek access to effective, prompt and adequate remedy, as well as from re-victimization in the course of these proceedings. **(Cameroon, South Africa, Palestine)**

5.1. States Parties shall protect victims, their representatives, families and witnesses from any unlawful interference with their human rights and fundamental freedoms, including ~~prior~~, during and after they have instituted any proceedings to seek access to effective, prompt and adequate remedy, as well as from re-victimization in the course of these proceedings. **(China)**

5.2. States Parties shall take adequate and effective measures to guarantee a safe and enabling environment for persons, groups and organizations that promote and defend human rights and the environment, so that they are able to exercise their human rights free from any threat, intimidation, violence or insecurity.

**(Delete: China)**

5.2. States Parties shall take adequate and effective measures to guarantee a safe and enabling environment for persons, groups and organizations that promote and defend human rights and the environment, so that they are able to exercise their human rights free from any threat, intimidation, violence, ~~or~~ insecurity, **harassment and reprisals**. **(Panama, South Africa)**

5.2. States Parties shall take adequate and effective measures to guarantee **all rights of a safe and enabling environment for** persons, groups and organizations that promote and defend human rights and the environment, so that they are able to exercise their human rights free from any threat, intimidation, violence or insecurity. **This obligation requires taking into account their international obligations in the field of human rights, and their constitutional principles.** **(Cameroon)**

5.2. States Parties shall take adequate and effective measures to guarantee a safe and enabling environment for persons, groups and organizations that promote and defend human rights and the environment, so that they are able to exercise their human rights free from any threat, intimidation, violence or insecurity.

**State Parties shall take adequate and effective measures including, but are not limited to, legislative provisions that prohibit interference, including through use of public or private security forces, with the activities of any persons who seek to exercise their right to peacefully protest against and denounce abuses and violations linked to corporate activity;**

**refraining from restrictive laws and establishing specific measures to protect against any form of criminalization and obstruction to their work. (Palestine)**

5.3. States Parties shall investigate all human rights abuses covered under this (Legally Binding Instrument), effectively, promptly, thoroughly and impartially, and where appropriate, take action against those natural and/or legal persons found responsible, in accordance with domestic and international law.

**(Delete: China)**

5.3. States Parties shall investigate all human rights abuses **and violations** covered under this (Legally Binding Instrument), effectively, promptly, thoroughly and impartially, and where appropriate, take action against those natural and/or legal persons found responsible, in accordance with ~~domestic and~~ international law. **(Palestine)**

5.3. States Parties shall investigate all human rights abuses covered under this (Legally Binding Instrument), effectively, promptly, thoroughly and impartially, **considering the principle of reasonable length of proceedings**, and where appropriate, take action against those natural and/or legal persons found responsible, in accordance with domestic and international law.

**(Brazil)**

**5.3 bis. States parties shall ensure emergency response mechanisms in case of disasters caused by the action of transnational corporations and other business enterprises of transnational character. (Cameroon)**

## Article 6. Prevention

6.1. States Parties shall regulate effectively the activities of all business enterprises within their territory, jurisdiction, or otherwise under their control, including transnational corporations and other business enterprises that undertake activities of a transnational character.

6.1. States Parties shall regulate effectively the activities of **transnational corporations and other business enterprises of transnational character** ~~all business enterprises~~ within their territory, jurisdiction, or otherwise under their control, including transnational corporations and other business enterprises that undertake activities of a transnational character. **(Cameroon, Pakistan, Iran)**

6.1. States Parties shall regulate effectively the activities of **transnational corporations and other business enterprises of transnational character** ~~all business enterprises~~ within their territory, jurisdiction, or otherwise under their control, ~~including transnational corporations and other business enterprises that undertake activities of a transnational character.~~ **(Egypt, Pakistan)**

**6.1 bis. In order to comply with their obligations to respect, protect and fulfill the rights of this instrument, States parties shall adapt their administrative law to prevent the authorization of business activities of transnational character that would not meet the standards of human rights protection provided in this Legally Binding Instrument. States shall adopt higher standards in their own business relationships, in particular but not limited to public contracts, public-private partnership services and not enter into any type of collaboration with transnational corporations and other business enterprises of transnational character condemned for human rights violations. (Cameroon)**

**6.1 ter. State Parties shall take precautionary measures, including the halt of business activities, when such activities can cause imminent human rights abuses or violations causing irreparable harm, independently from the existence or outcome of a legal proceeding relative to the situation. (Palestine)**

6.2. States Parties shall take appropriate legal and policy measures to ensure that business enterprises, including transnational corporations and other business enterprises that undertake activities of a transnational character, within their territory, jurisdiction, or otherwise under their control, respect internationally recognized human rights and prevent and mitigate human rights abuses throughout their business activities and relationships.

6.2. States Parties shall take appropriate legal and policy measures to ensure that business enterprises, including transnational corporations and other business enterprises that undertake activities of a transnational character, within their territory, jurisdiction, or otherwise under their control, respect internationally recognized human rights and prevent and mitigate human rights abuses **and violations** throughout their business activities and relationships. **(Palestine)**

6.2. States Parties shall take appropriate legal and policy measures to ensure that ~~business enterprises, including~~ transnational corporations and other business enterprises **of that**

~~undertake activities of a~~ transnational character, within their territory, jurisdiction, or otherwise under their control, respect internationally recognized human rights and prevent ~~and mitigate~~ human rights abuses **and violations** throughout their business activities and relationships. **(Egypt, Cuba)**

6.2. States Parties shall take appropriate legal and policy measures to ensure that business enterprises, including transnational corporations and other business enterprises that undertake activities of a transnational character, within their territory, jurisdiction, or otherwise under their control, respect internationally recognized human rights and prevent ~~and mitigate~~ human rights abuses throughout their business activities and relationships. **(Panama, Mexico, Brazil)**

**6.2 bis. Transnational corporations and other business enterprises of transnational character shall not take any measures that present a real risk of undermining and violating human rights. They shall identify and prevent human rights violations and risks of violations throughout their operations, including through their business relationships. (Cameroon)**

6.3. For that purpose, States Parties shall require business enterprises to undertake human rights due diligence, proportionate to their size, risk of human rights abuse or the nature and context of their business activities and relationships, as follows:

**(Has reservations: Cuba)**

6.3. ~~For that purpose,~~ States Parties shall require business enterprises **and other actors across the full value chain including State entities**, to undertake **ongoing and frequently updated** human rights due diligence, proportionate to their size, risk of **severe** human rights **impacts abuse or** and the nature and context of their **operations business activities and relationships**, as follows: **(Palestine)**

6.3. For that purpose, States Parties shall require business enterprises to undertake human rights due diligence, proportionate to their size, risk of human rights abuse ~~considering or~~ the nature and context of their business activities and relationships, ~~as follows that may consider impacts on human rights assessment, abuses prevention, monitoring and communication with stakeholder. Human rights due diligence shall consider potential or actual direct impact as well as those potential or actual impacts occurred in the supply chains.~~ **(Brazil)**

6.3. For that purpose, States Parties shall require **transnational corporations and other** business enterprises **of a transnational character** to undertake human rights due diligence, proportionate to their size, risk of human rights abuse or the nature and context of their business activities and relationships, as follows: **(Iran)**

a. Identify, assess and publish any actual or potential human rights abuses that may arise from their own business activities, or from their business relationships;

b. Take appropriate measures to avoid, prevent and mitigate effectively the identified actual or potential human rights abuses which the business enterprise causes or contributes to through its

own activities, or through entities or activities which it controls or manages, and take reasonable and appropriate measures to prevent or mitigate abuses to which it is directly linked through its business relationships;

b. Take appropriate measures to avoid, prevent and mitigate effectively the identified actual or potential human rights abuses which the business enterprise causes or contributes to through its own activities, or through entities or activities which it controls or manages, and take reasonable and appropriate measures to prevent or mitigate abuses to which it is directly linked through its business relationships. **In cases where mitigation is impossible, businesses may be required to terminate their relationship and/or cease activities/operations to fulfill their obligations; (Palestine)**

b. Take appropriate measures to ~~avoid, prevent and mitigate effectively the identified actual or potential~~ human rights abuses **and mitigate effectively actual or potential risks to human rights** which the business enterprise causes or contributes to through its own activities, or through entities or activities which it controls or manages, and take reasonable and appropriate measures to prevent ~~or mitigate~~ abuses to which it is directly linked through its business relationships; **(Panama, Mexico, Brazil)**

c. Monitor the effectiveness of their measures to prevent and mitigate human rights abuses, including in their business relationships;

c. Monitor the effectiveness of their measures to prevent ~~and mitigate~~ human rights abuses, including in their business relationships; **(Panama)**

d. Communicate regularly and in an accessible manner to stakeholders, particularly to affected or potentially affected persons, to account for how they address through their policies and measures any actual or potential human rights abuses that may arise from their activities including in their business relationships.

6.4. States Parties shall ensure that human rights due diligence measures undertaken by business enterprises shall include:

**(Secretariat note: Brazil and Egypt each made proposals for revising the entirety of Article 6.4. Their proposals are reproduced in full at the end of this article, without indications of added/deleted text)**

~~6.4. States Parties shall ensure that human rights due diligence measures undertaken by business enterprises shall include~~ **States parties shall designate a competent authority with allocated responsibilities and adequate financial and human resources to monitor the effectiveness of the due diligence measures undertaken by business enterprises as well as their effective implementation. (Cameroon)**

6.4. States Parties shall ensure that human rights due diligence measures undertaken by business enterprises **and State entities involved in business** shall include: **(Palestine)**

6.4. States Parties shall ensure that human rights due diligence measures undertaken by **transnational corporations and other** business enterprises **of a transnational character** shall include: **(Iran)**

a. Undertaking and publishing regular human rights, labour rights, environmental and climate change impact assessments throughout their operations;

**(Delete: Cuba)**

a. Undertaking and publishing regular human rights, labour rights, environmental and climate change impact assessments **prior and** throughout their operations; **(Panama)**

**a bis. Ensuring freedom of association, the right to strike, collective bargaining, non-discrimination and gender equality - elimination of workplace violence and harassment in the world of work -, occupational safety and health, prohibition of child and forced labour, and social protection, as specific issues. (Argentina)**

**a bis. Ensuring labour rights, promoting non-discrimination, gender equality in work, quality of work life and family-work balance, eliminating workplace violence and harassment, and prohibiting child labour and modern slavery. (Brazil (to replace Argentina's proposal))**

b. Integrating a gender perspective, in consultation with potentially impacted women and women's organizations, in all stages of human rights due diligence processes to identify and address the differentiated risks and impacts experienced by women and girls;

b. Integrating a gender **and age** perspective, in consultation with potentially impacted women and women's organizations, in all stages of human rights due diligence processes to identify and address the differentiated risks and impacts experienced by women and girls; **(Panama)**

c. Conducting meaningful consultations with individuals or communities whose human rights can potentially be affected by business activities, and with other relevant stakeholders, including trade unions, while giving special attention to those facing heightened risks of business-related human rights abuses, such as women, children, persons with disabilities, indigenous peoples, people of African descent, older persons, migrants, refugees, internally displaced persons and protected populations under occupation or conflict areas;

**(Suggests moving 6.4(c) and 6.4(d) to a new provision (6.3 bis.): Cameroon)**

c. Conducting meaningful consultations with individuals or communities whose human rights can potentially be affected by business activities, and with other relevant stakeholders, including trade unions **and civil society organizations**, while giving special attention to those facing heightened risks of business-related human rights abuses, such as women, children, persons with disabilities, indigenous peoples, people of African descent, older persons, migrants, refugees, internally displaced persons and protected populations under occupation or conflict areas; **(Panama, Palestine, South Africa)**

c. Conducting meaningful consultations - **in line with principles of free, prior and informed consent and throughout all phases of operations** - with individuals or communities whose human rights can potentially be affected by business activities, and with other relevant stakeholders, including trade unions, while giving special attention to those facing heightened risks of business-related human rights abuses, such as women, children, persons with disabilities, indigenous peoples, people of African descent, older persons, migrants, refugees, internally displaced persons and protected populations under occupation or conflict areas, **such consultations shall be undertaken by an independent public body and protected from any undue influence from commercial and other vested interests - where it is not possible to conduct meaningful consultations such as in conflict areas, business operations should refrain from operating unless it is for the benefit of the oppressed population;** (Palestine, South Africa)

c. Conducting meaningful consultations with individuals or communities whose human rights can potentially be affected by business activities, and with other relevant stakeholders, including trade unions, while giving special attention to those facing heightened risks of business-related human rights abuses, such as women, children, persons with disabilities, indigenous peoples **and local communities**, people of African descent, older persons, migrants, refugees, internally displaced persons and protected populations under occupation or conflict areas; (Indonesia)

d. Ensuring that consultations with indigenous peoples are undertaken in accordance with the internationally agreed standards of free, prior and informed consent; (Namibia)  
(Suggests moving 6.4(c) and 6.4(d) to a new provision (6.3 bis.): Cameroon)

d. ~~Ensuring that consultations with~~ Considering the rights of indigenous peoples ~~are undertaken in accordance with the internationally agreed standards of~~ to free, prior and informed **consultation and consent in appropriate cases;** (Mexico)

d. Ensuring that consultations with indigenous peoples **and local communities** are undertaken in accordance with the internationally agreed standards of free, prior and informed consent; (Indonesia)

**d bis. Respecting that Peoples have a right to self- determination and, therefore, a right to refuse business activity on their land without threats of retaliation. (Palestine)**

e. Reporting publicly and periodically on non-financial matters, including information about group structures and suppliers as well as policies, risks, outcomes and indicators concerning human rights, labour rights, health, environmental and climate change standards throughout their operations, including in their business relationships;

(Delete: Cuba)

f. Integrating human rights due diligence requirements in contracts regarding their business relationships and making provision for capacity building or financial contributions, as appropriate;

**(Delete: Cuba, China)**

**f bis. States parties shall provide mechanism for financial guarantees to communities for activities with a high potential of damage to human rights, to be made immediately available in case of harm (Cameroon)**

**(Has reservations: Namibia)**

g. Adopting and implementing enhanced human rights due diligence measures to prevent human rights abuses in occupied or conflict-affected areas, including situations of occupation.

g. Adopting and implementing enhanced **and ongoing** human rights due diligence measures to prevent human rights abuses in occupied or conflict-affected areas, including situations of occupation – **the enhanced due diligence must take place prior to the commencement of business activities and throughout all phases of operations, corporations and/or State-entities already engaged in business activity in conflict-affected areas, including situations of occupation, shall also adopt and implement urgent and immediate measures, such as divestment and disengagement policies, to avoid corporate involvement in, or contribution to human rights abuses and violations in their activities and relationships. (Palestine)**

**(Egypt proposal to Article 6.4 in full)** 6.4. States Parties shall ensure that human rights due diligence measures undertaken by transnational corporations and other business enterprises of a transnational character shall include:

- a. Regular, publicly available and duly conducted social, environmental, economic and human rights impact assessments prior to and throughout their operations;
- b. Consultations in good faith, taking into consideration existing power imbalances between different parties and ensuring active, free, effective, meaningful and informed participation of individuals and groups in associated decision-making processes, while giving special attention to those facing heightened risks of business-related human rights abuses such as women, children, persons with disabilities, indigenous peoples, people of African descent, older persons, migrants, refugees, internally displaced persons, protected populations under occupation or conflict areas, peasants and other people working in rural areas, people at risk of conditions of water scarcity, water pollution, desertification, land degradation and drought.

**(Brazil proposal to Article 6.4 in full)** 6.4. States Parties shall ensure that human rights due diligence measures undertaken by business enterprises shall include:

- a. publishing impact assessments;
- b. gender and age perspectives;
- c. consultations with those individuals or communities potentially affected by business activities and other relevant stakeholders, considering the internationally agreed standards, when those affected are indigenous peoples;
- d. reporting about governance, suppliers, policies, risks, outcomes and indicators;

- e. integrating human rights due diligence requirements in its contracts; and
- f. prevention of abuses in occupied or conflict-affected areas.

**6.4 bis. States parties shall ensure that parent and outsourcing business enterprises give all the necessary technical and financial means to the legal persons with whom they have business relationships and/or within their global value chain for them to be able to effectively implement the due diligence measures identified in 6.2 and 6.3. Complying with this duty of effective implementation remains the responsibility of the parent or outsourcing company. (Cameroon)**

6.5. States Parties may provide incentives and adopt other measures to facilitate compliance with requirements under this Article by micro, small and medium sized business enterprises.

6.5. States Parties may provide incentives and adopt other measures to facilitate compliance with requirements under this Article by micro, small and medium sized **transnational corporations and other** business enterprises **of a transnational character. (Iran, Egypt)**

6.5. States Parties may provide incentives and adopt other measures to facilitate compliance with requirements under this Article by micro, small and medium sized business enterprises **that undertake activities of a transnational character. (Egypt)**

6.6. States Parties shall ensure that effective national procedures are in place to ensure compliance with the obligations laid down under this Article, taking into consideration the potential human rights abuses resulting from the business enterprises' size, nature, sector, location, operational context and the severity of associated risks associated with the business activities in their territory, jurisdiction, or otherwise under their control, including those of transnational character.

6.6. States Parties shall ensure that effective national procedures are in place to ensure compliance with the obligations laid down under this Article, taking into consideration the potential human rights abuses resulting from the **transnational corporations and other** business enterprises<sup>2</sup> **of a transnational character** size, nature, sector, location, operational context and the severity of associated risks associated with the business activities in their territory, jurisdiction, or otherwise under their control, including those of transnational character. **(Iran)**

6.7. Without prejudice to the provisions on criminal, civil and administrative liability under Article 8, State Parties shall provide for adequate penalties, including appropriate corrective action where suitable, for business enterprises failing to comply with provisions of Articles 6.3 and 6.4.

6.7. Without prejudice to the provisions on criminal, civil and administrative liability under Article 8, State Parties shall provide for adequate penalties, including appropriate corrective action where suitable, for **transnational corporations and other** business enterprises **of a transnational character** failing to comply with provisions of Articles 6.3 and 6.4. **(Iran)**

**6.7 bis. Where applicable under international law, State Parties shall incorporate or otherwise implement within their domestic law appropriate provisions for universal jurisdiction over human rights violations that amount to international crimes. (Palestine)**  
**(Has reservations: Namibia)**

6.8. In setting and implementing their public policies and legislation with respect to the implementation of this (Legally Binding Instrument), States Parties shall act in a transparent manner and protect these policies from the influence of commercial and other vested interests of business enterprises, including those conducting business activities of transnational character.

**(Recommends this is standalone article: Cameroon)**

6.8. In setting and implementing their public policies and legislation with respect to the implementation of this (Legally Binding Instrument), State Parties shall act in a transparent manner and protect these policies, **laws, policymaking processes, government and regulatory bodies, and judicial institutions** from the **undue** influence of commercial and other vested interests of **entities of the private sector including natural or legal persons business enterprises, including those** conducting business activities of transnational character. **Moreover, transnational corporations and other business enterprises of transnational character shall be bound by their obligations under this Treaty and shall refrain from obstructing its implementation by States Parties to this instrument, whether home states, host States or States affected by the activities of TNCs. (Cameroon)**

6.8. In setting and implementing their **legislation and** public policies ~~and legislation~~ with respect to the implementation of this (Legally Binding Instrument), States Parties shall act in a transparent manner ~~and to~~ protect these policies **and legislation** from ~~any the~~ influence of commercial and other vested interests of business enterprises, including those conducting business activities of transnational character.\*\*\* **(Palestine)**

**6.8 bis. International financial institutions shall identify and prevent human rights violations by any entity they support financially. They shall not give any form of financial support (such as loans, subsidies, guarantees) to business enterprises, including through their business relationships, if they know or should have known that the operations of those entities present risks for human rights and the environment. Any conduct of these institutions and their managers that contravenes these duties stands to be corrected by suitable disciplinary, administrative or other measures including the possibility of affected people or communities seeking compensation and reparations from the concerned International Financial Institutions. (Cameroon)**

**6.8 ter. When participating in decision-making processes or any other action as member of International Financial Institutions, States shall do so in accordance with the States Parties' obligations established by the current (Legally Binding Instrument). They shall take all steps at their disposal to ensure that the institutions or the agreement concerned does not contribute to violations of human rights caused by transnational corporations and other business enterprises of transnational character, including in their business relationships. (Cameroon)**

## Article 7. Access to Remedy

7.1. States Parties shall provide their courts and State-based non-judicial mechanisms, with the necessary competence in accordance with this (Legally Binding Instrument) to enable victims' access to adequate, timely and effective remedy and access to justice, and to overcome the specific obstacles which women, vulnerable and marginalized people and groups face in accessing such mechanisms and remedies.

**7.1 bis. State Parties shall ensure that reparations processes and mechanisms established to repair the harm caused by large-scale industrial disasters are designed and implemented, in consultation with, and with the full participation of affected communities, are transparent and independent from the business enterprise that caused or contributed to the harm, ensure independent technical assistance and are sufficiently resourced to offer the prospect of full reparation to all those affected. (Palestine)**

7.2. States Parties shall ensure that their domestic laws facilitate access to information, including through international cooperation, as set out in this (Legally Binding Instrument), and enable courts to allow proceedings in appropriate cases. (Egypt)

**7.2. States Parties to this legally binding instrument shall ensure that their domestic laws and court proceedings facilitate access to information, including through international cooperation, as set out in this (Legally Binding Instrument), in a gender sensitive manner from both States and corporate entities enabling and enable courts to allow proceedings in all appropriate cases, through international cooperation, facilitating requests for disclosure of State or corporate finances or relations and other relevant information, and expanding admissible evidence to include different types of evidence, such as oral and visual, in efforts to prioritize that which is more suitable for communities to remove barriers for community-led data. (Palestine)**

7.3. States Parties shall provide adequate and effective legal assistance to victims throughout the legal process, including by: (Palestine, South Africa)

**7.3. States Parties shall provide adequate and effective legal assistance to victims throughout the legal process, according to national legislation including by: (Brazil, Pakistan, Egypt)  
(Has reservations to "according to national legislation": Mexico)**

7.3. States Parties shall provide adequate and effective legal assistance to victims throughout the legal process, **according to international law**, including by: (Panama)

a. Making information available and accessible to victims of their rights and the status of their claims, in relevant languages and accessible formats to adults and children alike, including those with disabilities;

b. b. Guaranteeing the rights of victims to be heard in all stages of proceedings;

**b. b. Guaranteeing the rights of victims to be heard in all stages of proceedings avoiding gender and age stereotyping; (Peru, Panama, South Africa, Palestine, Mexico)**

b. b. Guaranteeing the rights of victims to be heard in all stages of proceedings **in a gender-sensitive, age-sensitive, and child-sensitive manner; (Egypt)**

c. Avoiding unnecessary costs or delays for bringing a claim and during the disposition of cases and the execution of orders or decrees granting awards; and,

d. Removing legal obstacles, including the doctrine of *forum non conveniens*, to initiate proceedings in the courts of another State Party in appropriate cases of human rights abuses resulting from business activities of a transnational character. **(Egypt)**

**(Reserve position on *forum non conveniens*: Egypt)**

d. Removing legal obstacles, including the doctrine of *forum non conveniens*, to initiate proceedings in the courts of another State Party in **all appropriate** cases of human rights abuses **and violations** resulting from business activities **in particular those** of a transnational character. **(Palestine)**

d. Removing legal obstacles, **including the doctrine of *forum non conveniens*, to initiate proceedings in the courts of another State Party** in appropriate cases of human rights abuses **and violations** resulting from business activities of a transnational character, **including the doctrine of *forum non conveniens* unless an adequate alternative forum exists that will likely provide a timely, fair, and impartial remedy.** **(Egypt)**

7.4. States Parties shall ensure that court fees and rules concerning allocation of legal costs do not place an unfair and unreasonable burden on victims or become a barrier to commencing proceedings in accordance with this (Legally Binding Instrument) and that there is a provision for possible waiving of certain costs in suitable cases.

7.5. States Parties shall enact or amend laws allowing judges to reverse the burden of proof in appropriate cases to fulfill the victims' right to access to remedy, where consistent with international law and its domestic constitutional law. **(Egypt, Namibia)**

**(Has reservations: Russia, Brazil)**

7.5. States Parties shall, **consistent with international human rights, humanitarian, criminal and environmental laws**, enact or amend **domestic laws allowing judges** to reverse the burden of proof in **order appropriate cases** to fulfill the victims' right to access to remedy, **where consistent with international law and its domestic constitutional law requiring corporate and State entities involved in the case to provide sufficient evidence for acquittal.** **(Palestine)**

7.6. State Parties shall provide effective mechanisms for the enforcement of remedies for human rights abuses, including through prompt execution of national or foreign judgments or awards, in accordance with the present (Legally Binding Instrument), domestic law and international legal obligations.

7.6. State Parties shall provide effective mechanisms for the enforcement of remedies for human rights abuses **and violations**, including through prompt execution of national or foreign

judgments or awards, in accordance with the present (Legally Binding Instrument), ~~domestic law~~ and international legal obligations. **(Palestine)**

7.6. State Parties shall provide effective mechanisms for the enforcement of remedies for human rights abuses **and violations**, including through prompt execution of national or foreign judgments or awards, in accordance with the present (Legally Binding Instrument), domestic law and international legal obligations. **(Egypt)**

7.6. State Parties shall provide effective mechanisms for the enforcement of ~~remedies for human rights abuses, including through prompt execution of~~ national or foreign judgments or awards, **related to human rights abuses** in accordance with ~~the present this~~ (Legally Binding Instrument), **their** domestic law and **other relevant** international legal obligations. **(Brazil)**

## Article 8. Legal Liability

(Has reservations regarding criminal liability of legal persons: Panama, Russia)

8.1. States Parties shall ensure that their domestic law provides for a comprehensive and adequate system of legal liability of legal and natural persons conducting business activities, within their territory, jurisdiction, or otherwise under their control, for human rights abuses that may arise from their own business activities, including those of transnational character, or from their business relationships.

8.1. States Parties shall ensure that their domestic law provides for a comprehensive and adequate system of legal liability of legal and natural persons conducting business activities **of a transnational character**, within their territory, jurisdiction, or otherwise under their control, for human rights abuses **and violations** that may arise from their own **said** business activities, **including those of transnational character**, or from their business relationships. **(Egypt, Pakistan)**

8.1. States Parties shall ensure that their domestic law provides for a comprehensive and adequate system of legal liability of legal and natural persons conducting business activities, within their territory, jurisdiction, or otherwise under their control, for human rights abuses **and violations** that may arise from their own business activities, including those of transnational character, or from their business relationships. **(Palestine)**

8.2. State Parties shall ensure that their domestic liability regime provides for liability of legal persons without prejudice to the liability of natural persons, and does not make civil liability contingent upon finding of criminal liability or its equivalent for the same acts.

8.3. States Parties shall adopt legal and other measures necessary to ensure that their domestic jurisdiction provides for effective, proportionate, and dissuasive criminal, civil and/or administrative sanctions where legal or natural persons conducting business activities have caused or contributed to human rights abuses.

8.3. States Parties shall adopt legal and other measures necessary to ensure that their domestic jurisdiction provides for effective, proportionate, and dissuasive criminal, civil and/or administrative sanctions where legal or natural persons conducting business activities have caused or contributed to human rights abuses **and violations - such as withdrawal of licenses, termination of contracts for company projects, or inclusion on a prohibited list of companies for business**. **(Palestine)**

8.3. States Parties shall adopt legal and other measures necessary to ensure that their domestic jurisdiction provides for effective, proportionate, and dissuasive criminal, civil ~~and/or~~ administrative sanctions where legal or natural persons conducting business activities have caused or contributed to human rights abuses. **(Brazil)**

8.3. States Parties shall adopt legal and other measures necessary to ensure that their domestic jurisdiction provides for effective, proportionate, and dissuasive criminal, civil ~~and/or~~ administrative sanctions where legal or natural persons conducting business activities **of a**

**transnational character** have caused or contributed to human rights abuses **or violations**.  
(Egypt)

8.4. States Parties shall adopt measures necessary to ensure that their domestic law provides for adequate, prompt, effective, gender and age responsive reparations to the victims of human rights abuses in the context of business activities, including those of a transnational character, in line with applicable international standards for reparations to the victims of human rights violations.

Where a legal or natural person conducting business activities is found liable for reparation to a victim of a human rights abuse, such person shall provide reparation to the victim or compensate the State, if that State has already provided reparation to the victim for the human rights abuse resulting from acts or omissions for which that legal or natural person conducting business activities is responsible.

**(Para 1 should be part of article 7: Mexico, Brazil, Panama, Egypt)**

**(Delete para 1: China)**

**(Oppose deletion of para 1: Palestine)**

**(Has reservations regarding para 2: Mexico, Panama)**

**(Delete para 2: Brazil, China)**

**(Oppose deletion of para 2: Palestine)**

8.4. States Parties shall adopt measures necessary to ensure that their domestic law provides for adequate, prompt, effective, gender and age responsive reparations to the victims of human rights abuses **and violations** in the context of business activities, ~~including those~~ of a transnational character, in line with applicable international standards for reparations to the victims of human rights violations.

Where a legal or natural person conducting business activities **of a transnational character** is found liable for reparation to a victim of a human rights abuse **or violation**, such person shall provide reparation to the victim or compensate the State, if that State has already provided reparation to the victim for the human rights abuse **or violation** resulting from acts or omissions for which that legal or natural person conducting **said** business activities is responsible. **(Egypt)**

8.4. States Parties shall adopt measures necessary to ensure that their domestic law provides for adequate, prompt, effective, gender and age responsive reparations to the victims of human rights abuses **and violations** in the context of business activities, including those of a transnational character, in line with applicable international standards for reparations to the victims of human rights violations.

Where a legal or natural person conducting business activities is found liable for reparation to a victim of a human rights abuse **or violation**, such person shall provide reparation to the victim or compensate the State, if that State has already provided reparation to the victim for the human rights abuse **or violation** resulting from acts or omissions for which that legal or natural person conducting business activities is responsible. **(Palestine)**

8.5. States Parties shall require legal or natural persons conducting business activities in their territory or jurisdiction, including those of a transnational character, to establish and maintain financial security, such as insurance bonds or other financial guarantees, to cover potential claims of compensation. **(Palestine)**

**(Delete: Brazil)**

**(Has reservations: China)**

8.6. States Parties shall ensure that their domestic law provides for the liability of legal and/or natural persons conducting business activities, including those of transnational character, for their failure to prevent another legal or natural person with whom they have had a business relationship, from causing or contributing to human rights abuses, when the former controls, manages or supervises such person or the relevant activity that caused or contributed to the human rights abuse, or should have foreseen risks of human rights abuses in the conduct of their business activities, including those of transnational character, or in their business relationships, but failed to take adequate measures to prevent the abuse.

**(Has reservations: China)**

8.6. States Parties shall ensure that their domestic law provides for **civil the** liability of legal and/or natural persons conducting business activities, ~~including those of transnational character,~~ for their failure to prevent another legal or natural person with whom they have ~~had a~~ business relationship, from causing or contributing to human rights abuses, **provided that**

**a. There is a situation of ~~when the former~~ controls, managements or supervisiones over the legal or natural ~~such~~ person or the relevant activity that caused or contributed to the ~~human rights~~ abuse at the time it happened;; and**

**b. The human rights abuse was foreseeable ~~or should have foreseen risks of human rights abuses in the conduct of their business activities, including those of transnational character, or in their business relationships,~~ but ~~failed to take~~ adequate preventive measures were not adopted ~~to prevent the abuse.~~ (Mexico, Brazil (as a starting point))**

**(Has reservations: Egypt)**

8.7. Human rights due diligence shall not automatically absolve a legal or natural person conducting business activities from liability for causing or contributing to human rights abuses or failing to prevent such abuses by a natural or legal person as laid down in Article 8.6. The court or other competent authority will decide the liability of such legal or natural persons after an examination of compliance with applicable human rights due diligence standards.

**(Has reservations: China)**

8.7. Human rights due diligence shall not automatically absolve a legal or natural person conducting business activities from liability for causing or contributing to human rights abuses **or violations** or failing to prevent such abuses **and violations** by a natural or legal person as laid down in Article 8.6. ~~The court or other competent authority will decide the liability of such legal or natural persons after an examination of compliance with applicable human rights due diligence standards.~~ **(Palestine)**

8.8. Subject to their legal principles, States Parties shall ensure that their domestic law provides for the criminal or functionally equivalent liability of legal persons for human rights abuses that amount to criminal offenses under international human rights law binding on the State Party or customary international law, or their domestic law. Regardless of the nature of the liability, States Parties shall ensure that the applicable penalties are proportionate with the gravity of the offense. This Article shall apply without prejudice to any other international instrument which requires or establishes the criminal or administrative liability of legal persons for other offenses. **(Namibia)**

8.8. ~~Subject to their legal principles,~~ States Parties shall ensure that their domestic law provides for the criminal ~~or functionally equivalent~~ liability of legal persons for human rights abuses ~~or violations~~ that amount to criminal offenses under international ~~human rights law binding on the State Party or,~~ including but not limited to customary international law, ~~and humanitarian law or their domestic law.~~ Regardless of the nature of the liability, States Parties shall ensure that the applicable penalties are proportionate with the gravity of the offense. This Article shall apply without prejudice to any other international instrument which requires or establishes the criminal or administrative liability of legal persons for other offenses. **(Palestine)**

8.8. Subject to their **domestic law and** legal principles, **in line with applicable international human rights law and customary international law,** States Parties shall ensure that their domestic law provides for the criminal ~~or functionally equivalent~~ liability of legal persons for human rights abuses that amount to criminal offenses ~~under international human rights law binding on the State Party or customary international law, or their domestic law.~~ Regardless of the nature of the liability, States Parties shall ensure that the applicable penalties are proportionate with the gravity of the offense. This Article shall apply without prejudice to any other international instrument which requires or establishes the criminal or administrative liability of legal persons for other offenses. **(China)**

8.9. The liability of legal persons under Article 8.9. shall be without prejudice to the criminal liability of the natural person who have committed the offenses under the applicable domestic law.

8.10. States Parties shall provide measures under domestic law to establish the criminal or functionally equivalent legal liability for legal or natural persons conducting business activities, including those of a transnational character, for acts or omissions that constitute attempt, participation or complicity in a criminal offense in accordance with this Article and criminal offenses as defined by their domestic law.

**8.10 bis. All companies involved in human rights abuse or violation, whether a subsidiary, a parent company, or any other business along the value chain, shall be jointly and several responsibility for human rights abuses in which they are involved. (Palestine)**

**(Has reservations: Egypt)**

**8.10 ter. State Parties shall ensure that their domestic law provides for the criminal liability of legal or natural persons for acts that directly or indirectly contribute, cause or are linked to human rights abuses or violations. (Palestine)**

**(Oppose: Brazil)**

A/HRC/49/XX

**(Has reservations: Egypt)**

## **Article 8 bis.**

**Before bringing a claim arising from acts or omissions that result in human rights abuses covered under this (legally binding instrument), the victim shall exhaust all legal instances of the domestic law where the human rights abuse occurred and/or produced effects. (Brazil)**

**(Has reservations: Egypt, South Africa)**

**(Oppose: Namibia, Palestine)**

## Article 9. Adjudicative Jurisdiction

9.1. Jurisdiction with respect to claims brought by victims, irrespectively of their nationality or place of domicile, arising from acts or omissions that result or may result in human rights abuses covered under this (Legally Binding Instrument), shall vest in the courts of the State where:

9.1. Jurisdiction with respect to claims brought by victims, irrespectively of their nationality or place of domicile, arising from acts or omissions that result or may result in human rights abuses **or violations** covered under this (Legally Binding Instrument), shall **upon the victims and their family's choice**, vest in the courts of the State where: **(Palestine, South Africa)**

9.1. Jurisdiction with respect to claims brought by victims, irrespectively of their nationality or place of domicile, arising from acts or omissions that result or may result in human rights abuses **or violations** covered under this (Legally Binding Instrument), shall vest in the courts of the State where: **(Egypt)**

a. the human rights abuse occurred and/or produced effects; or

b. an act or omission contributing to the human rights abuse occurred;  
**(Has reservations: Brazil)**

b. an act or omission contributing to the human rights abuse **or violation** occurred;  
**(Palestine)**

c. the legal or natural persons alleged to have committed an act or omission causing or contributing to such human rights abuse in the context of business activities, including those of a transnational character, are domiciled; or

c. the legal or natural persons alleged to have committed **including in their business relationships and global production chain** an act or omission causing or contributing to such human rights abuse in the context of business activities, including those of a transnational character, are domiciled; or **(Palestine)**

d. the victim is a national of or is domiciled.

This provision does not exclude the exercise of civil jurisdiction on additional grounds provided for by international treaties or domestic laws.

9.2. Without prejudice to any broader definition of domicile provided for in any international instrument or domestic law, a legal person conducting business activities of a transnational character, including through their business relationships, is considered domiciled at the place where it has its:

9.2. Without prejudice to any broader definition of domicile provided for in any international instrument ~~or domestic law~~, a legal **or natural** person conducting business activities of a transnational character, ~~including through their business relationships~~, is considered domiciled **including through their business relationships and global production chain** at the place where it has its: **(Palestine)**

- a. place of incorporation or registration; or
- b. place where the principal assets or operations are located; or
- c. central administration or management is located; or
- d. principal place of business or activity on a regular basis.

**d bis. substantial assets are held. (Palestine)**

9.3. Courts vested with jurisdiction on the basis of Article 9.1 and 9.2 shall avoid imposing any legal obstacles, including the doctrine of *forum non conveniens*, to initiate proceedings in line with Article 7.5 of this (legally binding instrument). **(South Africa)**

9.3. Courts vested with jurisdiction on the basis of Article 9.1 and 9.2 shall avoid imposing any legal obstacles, ~~including the doctrine of *forum non conveniens*~~, to initiate proceedings in line with Article 7.5 of this (legally binding instrument). **(China)**

**(Keep reference to *forum non conveniens*: Palestine, Namibia)**

9.3. Courts vested with jurisdiction on the basis of Article 9.1 and 9.2 shall avoid imposing any legal obstacles, ~~including the doctrine of *forum non conveniens*~~, to initiate proceedings in line with Article 7.5 of this (legally binding instrument), **including the doctrine of *forum non conveniens* unless an adequate alternative forum exists that would likely provide a timely, fair, and impartial remedy. (Egypt)**

9.4. Courts shall have jurisdiction over claims against legal or natural persons not domiciled in the territory of the forum State, if the claim is connected with a claim against a legal or natural person domiciled in the territory of the forum State.

9.4. Courts shall have jurisdiction over claims against legal or natural persons not domiciled in the territory of the forum State, if the claim is **directly** connected with a claim against a legal or natural person domiciled in the territory of the forum State. **(Brazil)**

9.5. Courts shall have jurisdiction over claims against legal or natural persons not domiciled in the territory of the forum State if no other effective forum guaranteeing a fair judicial process is available and there is a connection to the State Party concerned as follows: **(Palestine (regarding entire article))**

**(Has reservations regarding entire article: Brazil, China)**

- a. the presence of the claimant on the territory of the forum;
- b. the presence of assets of the defendant; or
- c. a substantial activity of the defendant.

## Article 10. Statute of limitations

10.1. The States Parties to the present (Legally Binding Instrument) shall adopt any legislative or other measures necessary to ensure that statutory or other limitations shall not apply for the commencement of legal proceedings in relation to human rights abuses resulting in violations of international law which constitute the most serious crimes of concern to the international community as a whole.

10.1. ~~The States Parties to the present (Legally Binding Instrument)~~ shall adopt any legislative or other measures ~~necessary~~ to ensure that statutory or other limitations shall not apply for the commencement of legal proceedings ~~regarding the in relation to~~ human rights abuses ~~covered by the present (Legally Binding Instrument) resulting in violations of international law~~ which, ~~in accordance with international law~~, constitute the most serious crimes of concern ~~of to~~ the international community as a whole. **(Brazil)**

10.2. The States Parties to the present (Legally Binding Instrument) shall adopt any legislative or other measures necessary to ensure that statutory or other limitations applicable to civil claims or violations that do not constitute the most serious crimes of concern to the international community as a whole allow a reasonable period of time for the commencement of legal proceedings in relation to human rights abuses, particularly in cases where the abuses occurred in another State or when the harm may be identifiable only after a long period of time.

10.2. The States Parties to the present (Legally Binding Instrument) shall adopt any legislative or other measures necessary to ensure that statutory or other limitations applicable to civil claims or violations that do not constitute the most serious crimes of concern to the international community as a whole allow a reasonable **gender-responsive** period of time for the commencement of legal proceedings in relation to human rights abuses, particularly in cases where the abuses occurred in another State or when the harm may be identifiable only after a long period of time, **or where the victim is delayed in commencing a proceeding in respect of the claim because of their age, physical, mental or psychological condition.** **(Palestine)**

10.2. The States Parties to the present (Legally Binding Instrument) shall ~~adopt any legislative or other measures necessary to ensure that statutory or other limitations applicable to civil claims or violations that do not constitute the most serious crimes of concern to the international community as a whole~~ allow a reasonable period of time for the commencement of legal proceedings in relation to human rights abuses, particularly in cases where the abuses occurred in another State or when the harm may be identifiable only after a long period of time. **(Brazil)**

## Article 11. Applicable Law

11.1. All matters of procedure regarding claims before the competent court which are not specifically regulated in the (Legally Binding Instrument) shall be governed by the law of that court seized on the matter.

11.2. All matters of substance which are not specifically regulated under this [international legally binding instrument] may, upon the request of the victim, be governed by the law of another State where:

**(Has reservations: Brazil (particularly regarding “upon the request of the victim”))**

- a. the acts or omissions have occurred or produced effects; or
- b. the natural or legal person alleged to have committed the acts or omissions is domiciled.

## Article 12. Mutual Legal Assistance and International Judicial Cooperation

12.1. States Parties shall carry out their obligations under this Article in conformity with any treaties or other arrangements on mutual legal assistance or international judicial cooperation that may exist between them. In the absence of such treaties or arrangements, States Parties shall make available to one another, mutual legal assistance and international judicial cooperation to the fullest extent possible under domestic and international law.

12.2. States Parties may invite any State not party to this (Legally Binding Instrument) to provide mutual legal assistance and international judicial cooperation under this Article on the basis of an *ad hoc* arrangement, an agreement with such State or any other appropriate basis.

12.3. States Parties shall make available to one another the widest measure of mutual legal assistance and international judicial cooperation in initiating and carrying out effective, prompt, thorough and impartial investigations, prosecutions, judicial and other criminal, civil or administrative proceedings in relation to all claims covered by this (Legally Binding Instrument), including access to information and supply of all evidence at their disposal that is relevant for the proceedings.

12.4. The requested State Party shall inform the requesting State Party, as soon as possible, of any additional information or documents needed to support the request for assistance and, where requested, of the status and outcome of the request for assistance. The requesting State Party may require that the requested State Party keep confidential the fact and substance of the request, except to the extent necessary to execute the request.

12.5. Mutual legal assistance and international judicial cooperation under this (Legally Binding Instrument) will be determined by the concerned Parties on a case-by-case basis.

a. Mutual legal assistance under this (Legally Binding Instrument) is understood to include, *inter alia*:

- i. Taking evidence or statements from persons;
- ii. Executing searches and seizures;
- iii. Examining objects and sites;
- iv. Providing information, evidentiary items and expert evaluations;
- v. Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records;
- vi. Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes;

- vii. Facilitating the voluntary appearance of persons in the requesting State Party;
- viii. Facilitating the freezing and recovery of assets;
- ix. Assisting and protecting victims, their families, representatives and witnesses, consistent with international human rights legal standards and subject to international legal requirements, including those relating to the prohibition of torture and other forms of cruel, inhuman or degrading treatment or punishment;
- x. Assisting in regard to the application of domestic law;
- xi. Any other type of assistance that is not contrary to the domestic law of the requested State Party.

b. International judicial cooperation under this (Legally Binding Instrument) is understood to include, *inter alia*: effective service of judicial documents; and, provision of judicial comity consistent with domestic law.

12.6. In criminal cases covered under this (Legally Binding Instrument), and without prejudice to the domestic law of the involved States Parties,

a. With respect to criminal offenses covered under this (Legally Binding Instrument), mutual legal assistance shall be provided to the fullest extent possible, in a manner consistent with the law of the requested Party and its commitments under treaties on mutual assistance in criminal matters to which it is Party;

b. In cases where such mutual assistance is related to the question of extradition, Parties agree to cooperate in accordance with this (Legally Binding Instrument), their national law and any treaties that exist between the concerned State Parties.

12.7. The competent authorities of a State Party may, without prior request, transmit and exchange information relating to criminal offenses covered under this (Legally Binding Instrument) to a competent authority in another State Party where they believe that such information could assist the authority in undertaking or successfully concluding inquiries and criminal proceedings or could result in a request formulated by the latter State Party pursuant to this (Legally Binding Instrument). The transmission and exchange of information shall be without prejudice to inquiries and criminal proceedings in the State of the competent authorities providing the information, to guarantee the widest protection of human rights.

12.8. States Parties may consider concluding bilateral or multilateral agreements or arrangements whereby, in relation to matters that are subject of investigations, prosecutions or judicial proceedings under this (Legally Binding Instrument), the competent authorities concerned may establish joint investigative bodies. In the absence of such agreements or arrangements, joint investigations may be

undertaken by agreement on a case-by-case basis. The States Parties involved shall ensure that the sovereignty of the State Party in whose territory such investigation is to take place, is fully respected.

12.9. States Parties shall designate a central authority that shall have the responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution, in accordance with their domestic laws.

12.10. Any judgment of a court having jurisdiction in accordance with this (Legally Binding Instrument) which is enforceable in the State of origin of the judgment and is not subject to any appeal or review shall be recognized and enforced in any State Party as soon as the formalities required in that State Party have been completed, provided that such formalities are not more onerous and fees and charges are not higher than those required for the enforcement of domestic judgments and shall not permit the re-opening of the merits of the case. The enforcement in the requested State of criminal judgments shall be to the extent permitted by the law of that State.

12.10. Any judgment of a court having jurisdiction in accordance with this (Legally Binding Instrument) which is enforceable in the State of origin of the judgment and is not subject to any appeal or review shall be recognized and enforced in any State Party as soon as the formalities required in that State Party have been completed, ~~provided that such formalities are not more onerous and fees and charges are not higher than those required for the enforcement of domestic judgments~~ and shall not permit the re-opening of the merits of the case. The enforcement in the requested State of criminal judgments shall be to the extent permitted by the law of that State. **(Brazil)**

12.11. Recognition and enforcement may be refused, only where:

- a. the defendant furnishes to the competent authority or court where the recognition and enforcement is sought, proof that the defendant was not given reasonable notice and a fair opportunity to present his or her case; or
- b. where the judgment is irreconcilable with an earlier judgment validly pronounced in the State Party where its recognition is sought with regard to the same cause of action and the same parties; or
- c. where the judgment is manifestly contrary to the *ordre public* of the State Party in which its recognition is sought.

12.12. Mutual legal assistance or international legal cooperation under this article may be refused by a State Party if it is contrary to the applicable laws of the requested State Party.

**(Delete: Palestine)**

12.12. Mutual legal assistance or international legal cooperation under this article may be refused by a State Party if it is contrary to the *ordre public* ~~applicable laws~~ of the requested State Party. **(Brazil)**

12.13. States Parties shall not decline to render mutual legal assistance or international judicial cooperation in a claim involving liability for harms or criminal offenses, falling within the scope of this (Legally Binding Instrument) on the sole ground that the request is considered to involve fiscal matters or bank secrecy.

## Article 13. International Cooperation

13.1. States Parties shall cooperate in good faith to enable the implementation of their obligations recognized under this (Legally Binding Instrument) and the fulfillment of the purposes of this (Legally Binding Instrument).

13.2. States Parties recognize the importance of international cooperation, including financial and technical assistance and capacity building, for the realization of the purpose of the present (Legally Binding Instrument) and will undertake appropriate and effective measures in this regard, between and among States and, as appropriate, in partnership with relevant international and regional organizations and civil society. Such measures include, but are not limited to: **(Palestine)**

13.2. States Parties recognize the importance of international cooperation, including financial and technical assistance and capacity building, for the realization of the purpose of the present (Legally Binding Instrument) and will undertake appropriate and effective measures in this regard, between and among States and, as appropriate, in partnership with relevant international and regional organizations and civil society. ~~Such measures include, but are not limited to:~~ **(Brazil (and delete all sub-provisions))**

- a. Promoting effective technical cooperation and capacity-building among policy makers, parliaments, judiciary, national human rights institutions, business enterprises and operators, as well as users of domestic, regional and international grievance mechanisms;
- b. Sharing experiences, good practices, challenges, information and training programs on the implementation of the present (Legally Binding Instrument);
- c. Raising awareness about the rights of victims of business-related human rights abuses and the obligations of States under this (Legally Binding Instrument);
- d. Facilitating cooperation in research and studies on the challenges, good practices and experiences in preventing human rights abuses in the context of business activities, including those of a transnational character;
- e. Contribute, within their available resources, to the International Fund for Victims referred to in Article 15.7 of this (Legally Binding Instrument).

## Article 14. Consistency with International Law principles and instruments

14.1. States Parties shall carry out their obligations under this (Legally Binding Instrument) in a manner consistent with, and fully respecting, the principles of sovereign equality and territorial integrity of States.

14.1. States Parties shall carry out their obligations under this (Legally Binding Instrument) in a manner consistent with, and fully respecting, the principles of sovereign equality and territorial integrity of States **and that of non-intervention in the domestic affairs of other States.**  
**(China, Brazil)**

14.2. Notwithstanding Article 9, nothing in this (Legally Binding Instrument) entitles a State Party to undertake in the territory of another State the exercise of jurisdiction and performance of functions that are reserved exclusively for the authorities of that other State's jurisdiction.

14.3. Nothing in the present (Legally Binding Instrument) shall affect any provisions in the domestic legislation of a State Party or in any regional or international treaty or agreement that is more conducive to the respect, protection, fulfillment and promotion of human rights in the context of business activities and to guaranteeing the access to justice and effective remedy to victims of human rights abuses in the context of business activities, including those of a transnational character.

14.3. ~~Nothing in the present~~ The present (Legally Binding Instrument) shall ~~affect~~ **be interpreted in consonance with, and without limiting**, any provisions in the domestic legislation of a State Party or in any regional or international treaty or agreement **or customary international law** that is more conducive to the respect, protection, fulfillment and promotion of human rights in the context of business activities and to guaranteeing the access to justice and effective remedy **and reparations** to victims of human rights abuses **and violations** in the context of business activities, including those of a transnational character. **(Palestine)**

14.3. Nothing in the present (Legally Binding Instrument) shall affect any provisions in the domestic legislation of a State Party or in any regional or international treaty or agreement that is more conducive to the respect, protection, fulfillment and promotion of human rights in the context of business activities and to guaranteeing the access to justice and effective remedy to victims of human rights abuses **and violations** in the context of business activities, ~~including those~~ **including those** of a transnational character. **(Egypt, Pakistan, Iran)**

14.4. This (Legally Binding Instrument) shall not affect the rights and obligations of the States Parties under the rules of general international law with respect to State immunity and the international responsibility of States. Earlier treaties relating to the same subject matter as this (Legally Binding Instrument) shall apply only to the extent that their provisions are compatible with this (Legally Binding Instrument), in accordance with Article 30 of the Vienna Convention on the Law of Treaties.

**(Has reservations regarding second sentence: China, Egypt, Pakistan)**

**(Has reservations: Iran)**

**(Merge second sentence with 14.5: Brazil)**

14.5. States Parties shall ensure that:

**(Has reservations to whole provision: Brazil, Panama, Egypt, Pakistan, Iran)**

a. All existing bilateral or multilateral agreements, including regional or sub-regional agreements, on issues relevant to this (Legally Binding Instrument) and its protocols, including trade and investment agreements, shall be interpreted and implemented in a manner that does not undermine or restrict their capacity to fulfill their obligations under this (Legally Binding Instrument) and its protocols, if any, as well as other relevant human rights conventions and instruments.

a. All existing bilateral or multilateral agreements, including regional or sub-regional agreements, on issues relevant to this (Legally Binding Instrument) and its protocols, including trade and investment agreements, shall be ~~interpreted and implemented in a manner that does not undermine or restrict their capacity to fulfill~~ reviewed, adapted and implemented in compliance with and in a manner that does not undermine their obligations under this (Legally Binding Instrument) and its protocols, if any, as well as other relevant human rights **and humanitarian law** conventions and instruments. **(Palestine)**

b. All new bilateral or multilateral trade and investment agreements shall be compatible with the States Parties' human rights obligations under this (Legally Binding Instrument) and its protocols, as well as other relevant human rights conventions and instruments.

b. All ~~new~~-bilateral or multilateral trade and investment agreements shall be compatible with the States Parties' human rights obligations under this (Legally Binding Instrument) and its protocols, as well as other relevant human rights **and humanitarian law** conventions and instruments. **(Palestine)**

## Article 15. Institutional Arrangements

### *Committee*

**(Delete 15.1-15.4: Brazil)**

**(Oppose deletion: Palestine, Egypt, Namibia)**

**(Has reservations regarding 15.1-15.4: China)**

15.1. There shall be a Committee established in accordance with the following procedures:

a. The Committee shall consist of, at the time of entry into force of the present (Legally Binding Instrument), (12) experts. After an additional sixty ratifications or accessions to the (Legally Binding Instrument), the membership of the Committee shall increase by six members, attaining a maximum number of (18) members. The members of the Committee shall serve in their personal capacity and shall be of high moral standing and recognized competence in the field of human rights, public international law or other relevant fields.

b. The experts shall be elected by the States Parties, consideration being given to equitable geographical distribution, the differences among legal systems, gender and age balanced representation and ensuring that elected experts are not engaged, directly or indirectly, in any activity which might adversely affect the purpose of this (Legally Binding Instrument).

b. The experts shall be elected by the States Parties, consideration being given to equitable geographical distribution, the differences among legal systems, gender and [age balanced] representation and ensuring that elected experts are not engaged, directly or indirectly, in any activity which might adversely affect the purpose of this (Legally Binding Instrument). **(Panama (seeking clarification))**

c. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. They shall be elected for a term of 4 years and can be re-elected for another term. Each State Party may nominate one person from among its own nationals.

Elections of the members of the Committee shall be held at the Conference of States Parties by majority present and voting. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the State Party which has nominated them, and shall submit it to the States Parties.

d. The initial election shall be held no later than six months after the date of the entry into force of this (Legally Binding Instrument). The term of six of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these six members shall be chosen by lot by the chairperson of the meeting referred to in this Article.

e. If a member of the Committee dies or resigns or for any other cause can no longer perform his or her Committee duties, the State Party which nominated him or her shall appoint another expert from among its nationals to serve for the remainder of his or her term, subject to the approval of the majority of the States Parties.

f. The Committee shall establish its own rules of procedure and elect its officers for a term of two years. They may be re-elected.

g. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under this (Legally Binding Instrument). The Secretary-General of the United Nations shall convene the initial meeting of the Committee. After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.

h. With the approval of the General Assembly, the members of the Committee established under the present (Legally Binding Instrument) shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide through the established procedures.

15.2. States Parties shall submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have taken to give effect to their undertakings under this (Legally Binding Instrument), within one year after the entry into force of the (Legally Binding Instrument) for the State Party concerned. Thereafter the States Parties shall submit supplementary reports every four years on any new measures taken and such other reports as the Committee may request.

15.3. The Secretary-General of the United Nations shall transmit the reports to all States Parties.

15.4. The Committee shall have the following functions:

a. Make general comments and normative recommendations on the understanding and implementation of the (Legally Binding Instrument) based on the examination of reports and information received from the States Parties and other stakeholders;

b. Consider and provide concluding observations and recommendations on reports submitted by States Parties as it may consider appropriate and forward these to the State Party concerned that may respond with any observations it chooses to the Committee. The Committee may, at its discretion, decide to include these suggestions and general recommendations in the report of the Committee together with comments, if any, from States Parties;

c. Provide support to the States Parties in the compilation and communication of information required for the implementation of the provisions of the (Legally Binding Instrument);

d. Submit an annual report on its activities under this (Legally Binding Instrument) to the States Parties and to the General Assembly of the United Nations;

e. [The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the present (Legally Binding Instrument)].

*Conference of States Parties*

15.5. The States Parties shall meet regularly in a Conference of States Parties in order to consider any matter with regard to the implementation of the (Legally Binding Instrument), including any further development needed towards fulfilling its purposes.

15.5. The States Parties shall meet regularly in a Conference of States Parties in order to consider any matter with regard to the implementation of the (Legally Binding Instrument), including any further development, **such as the establishment of the Committee**, needed towards fulfilling its purposes. **(China)**

15.6. No later than six months after the entry into force of the present (Legally Binding Instrument), the Conference of the States Parties shall be convened by the Secretary- General of the United Nations. The subsequent meetings shall be convened by the Secretary-General of the United Nations biennially or upon the decision of the Conference of States Parties.

*International Fund for Victims*

15.7. States Parties shall establish an International Fund for Victims covered under this (Legally Binding Instrument), to provide legal and financial aid to victims, taking into account the additional barriers faced by women, children, persons with disabilities, Indigenous peoples, migrants, refugees, internally displaced persons, and other vulnerable or marginalized persons or groups in seeking access to remedies. This Fund shall be established at most after (X) years of the entry into force of this (Legally Binding Instrument). The Conference of States Parties shall define and establish the relevant provisions for the functioning of the Fund.

## Article 16. Implementation

16.1. States Parties shall take all necessary legislative, administrative or other action including the establishment of adequate monitoring mechanisms to ensure effective implementation of this (Legally Binding Instrument).

16.2. Each State Party shall furnish copies (including in electronic form or online links) of its laws and regulations that give effect to this (Legally Binding Instrument) and of any subsequent changes to such laws and regulations or a description thereof, within [6 months] of their enactment, to the Secretary-General of the United Nations, which shall be made publicly available.

16.3. Special attention shall be undertaken in the cases of business activities in conflict- affected areas including taking action to identify, prevent and mitigate the human rights- related risks of these activities and business relationships and to assess and address the heightened risks of abuses, paying special attention to both gender-based and sexual violence, the use of child soldiers and the worst forms of child labour, including forced and hazardous child labour.

16.3. Special attention shall be undertaken in the cases of business activities in conflict- affected areas including taking action to identify, prevent and mitigate the human rights- related risks of these activities and business relationships and to assess and address the heightened risks of abuses, paying special attention to both gender-based and sexual violence, the use of child soldiers and ~~the worst forms of~~ child labour, **including especially** forced and hazardous child labour. **(Brazil)**

16.3. Special attention shall be undertaken in the cases of business activities **of a transnational character** in conflict- affected areas including taking action to identify, prevent and mitigate the human rights- related risks of these activities and business relationships and to assess and address the heightened risks of abuses, paying special attention to both gender-based and sexual violence, the use of child soldiers and the worst forms of child labour, including forced and hazardous child labour. **(Egypt)**

16.3. Special attention shall be undertaken in the cases of business activities in conflict- affected areas including taking action to identify, prevent and mitigate the human rights-related risks of these activities and business relationships and to assess and address the heightened risks of abuses **and violations including the termination of their activities all together in the area**, paying special attention to both gender-based and sexual violence, the use of child soldiers and the worst forms of child labour, including forced and hazardous child labour. **(Palestine)**

16.3. Special attention shall be undertaken in the cases of business activities in conflict- affected areas including taking action to identify, prevent and mitigate the human rights- related risks of these activities and business relationships and to assess and address the heightened risks of abuses, paying special attention to both gender-based and sexual violence, the use of child soldiers and the worst forms of child labour, including forced and hazardous child labour **and other contemporary forms of slavery**. **(Peru, South Africa, Panama, Palestine)**

16.4. In implementing this (Legally Binding Instrument), States Parties shall address the specific impacts of business activities on while giving special attention to those facing heightened risks of human rights abuse within the context of business activities, such as, but not limited to, women, children, persons with disabilities, indigenous peoples, people of African descent, older persons, migrants, refugees and internal displaced persons.

16.4. In implementing this (Legally Binding Instrument), States Parties shall address the specific impacts of business activities **of a transnational character** on while giving special attention to those facing heightened risks of human rights abuse within the context of business activities, such as, but not limited to, women, children, persons with disabilities, indigenous peoples, people of African descent, older persons, migrants, refugees and internal displaced persons. **(Egypt)**

16.4. In implementing this (Legally Binding Instrument), States Parties shall address the specific impacts of business activities on while giving special attention to those facing heightened risks of human rights abuse **or violations** within the context of business activities, such as, but not limited to, women, children, persons with disabilities, indigenous peoples, people of African descent, older persons, migrants, refugees and internal displaced persons **and protected persons in conflict-affected areas including situations of occupation. (Palestine)**

16.5. The application and interpretation of these Articles shall be consistent with international law, including international human rights law and international humanitarian law, and shall be without any discrimination of any kind or on any ground, without exception.

16.5. The application and interpretation of these Articles shall be consistent with international law, including international human rights law and international humanitarian law, **international criminal law and international environmental law** and shall be without any discrimination of any kind or on any ground, without exception. **(Palestine)**

**16.5 bis. In implementing this Legally Binding Instrument, State Parties shall protect public policies and decision making spaces from the interference and influence of commercial and other vested interests. (Palestine)**

## **Article 17. Relations with Protocols**

**(Has reservations: Brazil)**

17.1. This (Legally Binding Instrument) may be supplemented by one or more protocols.

17.2. In order to become a Party to a protocol, a State or a regional integration organization must also be a Party to this (Legally Binding Instrument).

17.3. A State Party to this (Legally Binding Instrument) is not bound by a protocol unless it becomes a Party to the protocol in accordance with the provisions thereof.

17.4. Any protocol to this (Legally Binding Instrument) shall be interpreted together with this (Legally Binding Instrument), taking into account the purpose of that protocol.

## Article 18. Settlement of Disputes

18.1. If a dispute arises between two or more States Parties about the interpretation or application of this (Legally Binding Instrument), they shall seek a solution by negotiation or by any other means of dispute settlement acceptable to the parties to the dispute.

18.2. When signing, ratifying, accepting, approving or acceding to this (Legally Binding Instrument), or at any time thereafter, a State Party may declare in writing to the Depositary that, for a dispute not resolved in accordance with paragraph 1 of this article, it accepts one or both of the following means of dispute settlement as compulsory in relation to any State Party accepting the same obligation:

- a. Submission of the dispute to the International Court of Justice;
- b. Arbitration in accordance with the procedure and organization mutually agreed by both States Parties.

18.3. If the States Parties to the dispute have accepted both means of dispute settlement referred to in paragraph 2 of this article, the dispute may be submitted only to the International Court of Justice, unless the States Parties agree otherwise.

**(Delete: Brazil)**

## **Article 19. Signature, Ratification, Acceptance, Approval and Accession**

19.1. The present (Legally Binding Instrument) shall be open for signature by all States and by regional integration organizations at United Nations Headquarters in New York as of (date).

19.2. The present (Legally Binding Instrument) shall be subject to ratification, acceptance or approval by signatory States and to formal confirmation by signatory regional integration organizations. It shall be open for accession by any State or regional integration organization which has not signed the (Legally Binding Instrument).

19.3. This (Legally Binding Instrument) shall apply to regional integration organizations within the limits of their competence; subsequently they shall inform the depositary of any substantial modification in the extent of their competence. Such organizations may exercise their right to vote in the Conference of States Parties with a number of votes equal to the number of their member States that are Parties to this (Legally Binding Instrument). Such right to vote shall not be exercised if any of its member States exercises its right, and vice versa.

## **Article 20. Entry into Force**

20.1. The present (Legally Binding Instrument) shall enter into force on the thirtieth day after the deposit of the [---] instrument of ratification or accession.

20.2. For each State or regional integration organization ratifying, formally confirming or acceding to the (Legally Binding Instrument) after the deposit of the [---] such instrument, the (Legally Binding Instrument) shall enter into force on the thirtieth day after the deposit of its own such instrument.

## **Article 21. Amendments**

21.1. Any State Party may propose an amendment to the present (Legally Binding Instrument) and submit it to the Secretary-General of the United Nations. The Secretary-General shall communicate any proposed amendments to States Parties, with a request to be notified whether they favour a conference of States Parties for the purpose of considering and deciding upon the proposals. In the event that, within four months from the date of such communication, at least one-third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of two-thirds of the States Parties present and voting in the Conference of the States Parties shall be submitted by the Secretary-General to all States Parties for acceptance.

21.2. An amendment adopted and approved in accordance with this Article shall enter into force on the thirtieth day after the number of instruments of acceptance deposited reaches two-thirds of the number of States Parties at the date of adoption of the amendment. Thereafter, the amendment shall enter into force for any State Party on the thirtieth day following the deposit of its own instrument of acceptance. An amendment shall be binding only on those States Parties which have accepted it.

21.3. If so decided by the Conference of States Parties by consensus, an amendment adopted and approved in accordance with this Article which relates exclusively to the establishment of the Committee or its functions, and the Conference of States Parties shall enter into force for all States Parties on the thirtieth day after the number of instruments of acceptance deposited reaches two-thirds of the number of States Parties at the date of adoption of the amendment.

## **Article 22. Reservations**

22.1. Reservations incompatible with the object and purpose of the present (Legally Binding Instrument) shall not be permitted.

22.2. Reservations may be withdrawn at any time.

## **Article 23. Denunciation**

23.1. A State Party may denounce the present (Legally Binding Instrument) by written notification to the Secretary-General of the United Nations. The denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

## **Article 24. Depositary and Languages**

24.1. The Secretary-General of the United Nations shall be the depositary of the present (Legally Binding Instrument).

24.2. The Arabic, Chinese, English, French, Russian and Spanish texts of the present (Legally Binding Instrument) shall be equally authentic.

In witness thereof the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present (Legally Binding Instrument).