



European Union

**UNITED NATIONS
HUMAN RIGHTS COUNCIL**

**Open-ended intergovernmental working group on transnational
corporations**

and other business enterprises with respect to human rights

3rd session (23-27 October 2017)

Interventions by the European Union under Item 3:

"Adoption of the agenda and program of work"

Geneva, 23 October 2017

- CHECK AGAINST DELIVERY -

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Mr. Chairperson-Rapporteur,

I have the honour to speak on behalf of the European Union.

The European Union would like first to congratulate H.E. Ambassador Guillaume Long on his election today, and to thank the outgoing Chairperson-Rapporteur, H.E. Maria Fernanda Espinosa, Minister of Foreign Affairs of Ecuador, for her leadership over the past two sessions of this Intergovernmental Working Group. We express our appreciation to the Secretariat for its work in preparation of this third session in an almost impossible situation due to the uncertainty on the Program of Work.

It is a common practice in the UN Human Rights Council for the Chairmanship to convene a meeting of all regional coordinators and other coordinators several weeks before a session of an Intergovernmental Working Group starts. In this case, the Chairmanship of this process convened the first meeting on 18 October less than three working days before the start of this session.

Despite the short notice, the European Union and all attendees worked hard to find a compromise and we praised the Permanent Mission of Ecuador for the outcome. It was therefore a surprise to learn on the afternoon of Friday 20 October, at the last hour before the start of this session, that the Chairmanship of this process decided against the compromise proposal.

As a sign of our willingness to allow a smooth start of this session, we would like to reiterate our appeal to the Chairmanship to stick to the compromise and amend the Program of Work

accordingly. For the sake of transparency, we would like to recall that the compromise proposal included two elements:

- A debate on Day 1: "Debate: reflection on the implementation of the UN Guiding Principles on Business and Human Rights and other international, regional and national frameworks"
- To keep the footnote agreed for the Program of Work of the second session: "Pursuant to resolution A/HRC/26/9, this Program of Work does not limit the discussions of this Intergovernmental Working Group, which can include TNCs as well as all other business enterprises.

We take note that the first element of the compromise proposal was accepted. We are however concerned that the footnote is not accommodated. We would be grateful if the Chairperson-Rapporteur could turn to the room and ask if there is any objection for this footnote to be inserted. Otherwise, we would urge that the draft be amended with the abovementioned footnote so that it can be adopted without delay.

This is not a procedural issue, but an issue of substance with wide implications for our discussions and their possible outcome. The EU believes that discussion cannot be limited to transnational corporations as many abuses are committed by enterprises at the domestic level. In today's globalized world, there are complex business networks and many different modes of operation between transnational corporations and a vast number of other enterprises operating at the domestic level. Over the past two years, States, National Human Rights Institutions and civil society organisations – including proponents of a legally binding instrument - have clearly stated that the discussion should cover all enterprises.

Other intervention at a later stage of the proceedings

We remain truly puzzled that some seem to be against looking at the actions of all business enterprises and insist in only looking at the actions of transnational corporations. We think that victims of human rights abuses resulting from companies' actions would not understand why this distinction might afford them a different level of protection or even no protection at all. If States really want to put the victims first in this discussion, the only logical position is to support a broad scope of discussion.

We could have formally objected to the adoption of the Program of Work, but we understand the expectation from civil society organisation and human rights defenders that the discussion should not be delayed. This unfortunate situation however raises serious questions. If the Chairmanship does not build on past agreements, how can we trust that any agreement on basic principles, let alone language, can be forged in the future?

I thank you Mr. Chairperson-Rapporteur.