



The world business organization

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International Chamber of Commerce, Permanent Observer to the United Nations General Assembly

**Third session of the Intergovernmental Working Group on transnational corporations and other business enterprises with respect to human rights
General Statements**

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Mr. Chairman,

I am speaking on behalf of the International Chamber of Commerce. ICC has observer status with the UN General Assembly and represents hundreds of thousands of businesses of all sizes, in all sectors across the world. We have actively and constructively engaged with our business members on this important matter. ICC has endorsed, promoted and disseminated the UN Guiding Principles on Business and Human Rights among our members around the world. We continue to actively assist businesses worldwide to meet their responsibility to respect human rights and we are committed to continuing a constructive dialogue

Together with BIAC, FTA and the IOE, we have provided a detailed response to the "elements" paper prepared by the Chairperson-Rapporteur for this third session of the IGWG. This can be found on the OHCHR website, as well as at the back of the room. In this joint statement, we make it clear that the global business community does not support the "elements" because they undermine the broad consensus achieved by the UN GPs.

Mr. Chairman,

The UNGPs have been a huge success for many reasons that have been until now, with respect, lacking from this process here. They achieved a broad consensus among States on a complex topic that was until now bogged down in political impasse; they clearly delineated the respective duties of States and the responsibilities of business enterprises; they clarified that respecting human rights applies to *all* enterprises regardless of their size and sector; and they gave a practical blueprint for action by companies to respect human rights in a way that reflected the reality of their activities. In short, the UNGPs' pragmatism and endorsement in 2011 showed that the UN is serious and practical about clarifying and incentivizing business action on this important field.

The "elements" that we have received appear to go against this consensus and create confusion by blurring and re-casting the respective duties and responsibilities of States and business enterprises. Our opposition to the "elements" paper does not diminish our commitment to helping to advance the business and human rights agenda.

Mr. Chairman,

We are concerned that the scope of the instrument, as proposed, would not cover the majority of businesses operating in the world today, including purely domestic companies. The text of the elements almost consistently pairs of "TNCs", Transnational Corporations, with "OBs", other business enterprises. However, looking closer at the "elements", it is clear that the scope remains primarily on TNCs. The "Scope of application" explains that the focus is on activities of a company "that has a transnational character." Also, the options presented for "Mechanisms for promotion, implementation and monitoring" have three clear references to TNCs

alone. Focusing largely on TNCs would exclude most companies from the Treaty's ambit, as well as the majority of the world's workforce.

Mr. Chairman,

What are the mechanisms in the process here to take into account the realities and the interests of business? We are very committed to the principle of multi-stakeholder dialogue which has become part of the fabric of business and human rights. Companies are part of the solution to human rights challenges. The success of an initiative as ambitious and complex as this is, in part, determined by the process. Serious negotiations on complicated topics are hampered if stakeholders do not have sufficient time to read, digest and prepare responses.

Mr. Chairman,

In closing, the global business community does not support the "elements" paper. It represents a big step backwards, undermines the broad consensus achieved by the UNGPs, and absorbs attention away from the UNGPs implementation. Many proposals in the elements paper are divorced from a clear understanding of how companies operate in reality. Some proposals encourage the notion that States are powerless and/or unwilling to protect human rights, which risks becoming a self-fulfilling prophecy. The business community is committed to respecting human rights and continuing a constructive dialogue. However, the "elements" paper does not give us confidence that the IGWG can provide a credible solution to such complex human rights issues. Thank you.