**Open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights**

***Fourth session (15-19 October 2018)***

**General Discussion under item 4**

Thank you, Mr. Chair.

I speak on behalf of APWLD and AWID.

On Article 1

To restore the primacy of human rights, we suggest the preamble refers to **Article 13 of the UN Charter**. Any incompatible law or obligations with the *Instrument* must be severed according to the doctrine of severability.

The *Instrument* should embrace the **principle of international solidarity** to provide coherence and conceptual operational framework for the implementation of this *Instrument* based on the primacy of human rights.

We recommend the *Instrument* be explicit on **direct obligations of TNCs**.  This will include TNCs’ obligation not to undermine states’ human rights obligation through their business activities.

We recommend the Preamble to make specific reference to the **multiple, intersecting and historically accumulated forms of discrimination women experience**.  The next *Draft* should recognise the right to **free, prior and informed consent (FPIC)** ​as​ ​a​ ​corollary​ ​of​ the ​internationally-recognised​ **​right to​ ​self-determination​ ​and​ the right to development**.

On Article 15

We are concerned over the **convergence of conflicts over resources, use of militarism to facilitate corporate profits and systematic oppressions on democratic civil resistance**.  This directly links to access to justice of victims, and the protection of women, environmental and human rights defenders in the context of resisting corporate abuse and exercising their freedom of expression and right to democratic participation.  **Ex-ante, periodic and ex-post human rights, gender and environmental impact assessment** particularly of existing and future trade and investment agreements can serve as a fundamental preventive measure. We recommend Article 15 paragraphs 4 and 5 to be moved under Article 9 and clearly be linked to Article 2.

Economic integration policies of regional integration organisations conflict with States’ human rights obligations and undermine policy coherence.   We recommend Paragraphs 10 and 11 be removed from the *Zero Draft*.

Article 14

We recommend the *next Draft* to re-insert and elaborate the possibility of the **International​ ​Court​ ​on​ ​Transnational Corporations​ ​and​ ​Human​ ​Rights** as was raised in the *Draft Elements*.

We are at a critical juncture where Member States’ political will and power are called to close the accountability gap and reverse power inequalities.

Thank you.