Translation for Reference

General Comment by Delegation of China

At the Fourth Session of the OEIGWG on TNCs and OBEs

Mr. Chairperson,

The Chinese delegation thanks the current and previous chairpersons of the Working Group and the Government of Equator and its permanent mission for the huge amount of efforts and contribution they have made to promote deliberations within the Working Group. The current session of the WG will focus on discussing the zero draft, the Chinese delegation wishes to make the following preliminary general observations in this regard.

I. Human rights and development should be promoted. Human Rights Council resolution 26/9 mandated this Working Group to regulate the activities of TNCs from the perspective of international human rights law. The same resolution also acknowledges that “TNCs have the capacity to foster economic well-being, development, technological improvement and wealth”. The UN 2030 Agenda for sustainable development also recognizes businesses as a driver for development. As pointed out in the outcome document, i.e. resoluation A/RES/60/1, of the 2005 World Summit, development and human rights are both among pillars of the United Nations system which are “interlinked and mutually reinforcing". We are of the view that the proposed legal instrument give equal treatment to the considerations from perspectives of both human rights and development and the pursuit to strengthen the human rights protection and remedy mechanism shall not affect the positive roles businesses could play in promoting development among all countries.

II. Legality should serve as a guiding principle. As introduced by the Chairperson, the current zero draft is victims-oriented and aims to establishing a legal mechanism to provide effective remedy to victims of alleged human rights abuses by TNCs. Meanwhile, under the general principle of law, such an accountability mechanism should be guided by the principle of legality to ensure, inter alia, clarity, certainty and predictability of relevant rules and to embody justice. It includes the need to define the scope of relevant obligations and legal liabilities in accordance with universally accepted international treaties and customary international laws and in conformity with the principle of reasonableness and proportionality. This will also be conducive to the goal of promoting human rights and development at the same time mentioned in the first point above.

III. Maximum consensus should be sought. The process of consultation over the previous three years or more has been conducted in a transparent and inclusive manner. In addition to member states, many other stakeholders, including civil society representatives, have provided valuable and professional opinions and recommendations which we warmly welcome and to which we attach great importance. Meanwhile, the resolution 26/9 has clearly defined the ‘inter-governmental’ nature of this Working Group, hence consensus by all States holds key to securing universal acceptance for the future legal instrument and its genuine effectiveness. We note with appreciation the huge amount of work that chairpersons, current and previous, have put into seeking consensus among member states. We encourage the chairperson to continue this endeavour. We also encourage countries to take a cooperative and constructive approach to the quest for consensus. The Chinese delegation is ready to work with other parties in our joint effort for the success of the Working Group.

Thank you, Mr. Chairperson.