



EMBASSY AND PERMANENT MISSION OF THE REPUBLIC OF MAURITIUS TO THE UNITED NATIONS  
AND OTHER INTERNATIONAL ORGANISATIONS

AMBASSADE ET MISSION PERMANENTE DE LA REPUBLIQUE DE MAURICE AUPRES DES NATIONS  
UNIES ET DES AUTRES ORGANISATIONS INTERNATIONALES

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The Permanent Mission of the Republic of Mauritius to the United Nations Office and other International Organisations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights, and has the honour to refer to the invitation for comments on the draft legally binding instrument by the Open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights.

In this regard, the Permanent Mission has the honour to attach herewith the replies of the Government of Mauritius on the legally binding instrument.

The Permanent Mission of the Republic of Mauritius to the United Nations Office and other International Organization in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 2 April 2019

Office of the High Commissioner for Human Rights  
Geneva



## Inputs from Mauritius :

- (a) there are no specific laws which explicitly regulate business related human rights abuses and neither is there any specific law dealing with the prosecution of legal persons accused of committing or participating in human rights violations related expressly to the conduct of business activities;
- (b) there is no laws that deal specifically with the right to remedy and reparation of victims of violations of international human rights;
- (c) there is a need to ensure complementarity of the draft instrument with already existing instruments and mechanisms
- (d) The document/instrument should clearly indicate whether State-owned enterprises are also targeted;
- (e) the meaning of "economic activity" should be explicitly defined;
- (f) the scope of the draft instrument covers economic activities conducted either by a natural or legal person. This scope may appear limited considering the fact that business operations can take diverse forms such as partnerships, joint ventures etc.
- (g) Questions arise as to the issue of jurisdiction. Which Court shall be competent to hear a case involving a company with a transnational character? There may be concerns with regard to access to justice by victims including costs of legal proceedings. There are also questions of extraterritorial jurisdiction that may arise – should national Courts be allowed to hear claims about situations that have occurred abroad?
- (h) There are also questions of applicable law that arise:
  - (i) How shall there be the monitoring and enforcement of the draft instrument? Will there be an effective international remedial mechanism with powers of sanction?
  - (j) There is also the need for specific crimes to be defined and provided for in the national jurisdiction- the draft refers to human rights violations that amount to a criminal offence. For the purposes of mutual legal assistance, we need to know exactly what are the offences being targeted.