**Oral statement**

**Fifth session of the Open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights (OEIGWG)**

Tuesday, 15 October 2019

Article 3: Scope - OEIGWG

Delivered by Ulises Quero

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FI as a member of ESCR-Net supports the collective statement made on behalf of our network, especially in relation to the article 4 and the rights of victims.

We would like to highlight two specific points here concerning article 3 of the revised draft.

On article 3.2 b, FI joins others who consider that the concept of "contractual relationship" is too restricted and would miss a number of situations in which business relationships may not be of a contractual nature but would still give rise to shared responsibilities and to liability of a business enterprise within a supply chain or similar setting.

On article 3.3 - namely: "The instrument shall cover all human rights."

FI had the opportunity to make comments both on the panel of experts of the corresponding session at the Fourth session last year, and in our written submission from February 2019. In that regard, while we would not want to restrict the scope of the future LBI as to the rights covered, we hear the concerns expressed by a number of States as to the uncertainty still implied by the current wording.

We can only support the proposal made by some of the experts, to find some language to specify at the minimum that we are talking about human rights as guaranteed in IHRL. A language along the lines of what the UNGPs, which as we heard are considered by many States as being the entry point or a main reference, have anchored could be followed. That is to say the International Bill of Human Rights (consisting of the Universal Declaration of Human Rights and the main instruments through which it has been codified: the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights), coupled with the principles concerning fundamental rights in the eight ILO core conventions as set out in the Declaration on Fundamental Principles and Rights at Work.

As we already submitted: This should be the minimum. Most States have additional obligations under IHRL. And so whatever solution may be retained at the end, nothing in the future instrument should undermine these obligations.

Thank you, Mister Chairperson-Rapporteur