**Article 8**

Thank you, Chairperson. I speak on behalf of the over 200 million members of the global trade union organisations: ITUC, BWI, EI, IndustriAll, ITF, IUF, PSI, and UNI.

***Article 8 on Legal Liability*** is a critical component of the Legally Binding Instrument and must provide a sound basis for effectively addressing existing accountability and liability gaps arising from the complex structures of transnational companies and their supply chains dominating the global economy. A key priority for trade unions is that the Legally Binding Instrument ensures that transnational companies can be held liable for human rights violations throughout their operations and activities, including those by supply chain entities, irrespective of the mode of creation, ownership or control. Art.8.1 provides a solid foundation in that regard requiring states to put in place “a comprehensive and adequate system” of legal liability for “human rights abuses”.

We welcome that art.8.8 explicitly states that “human rights due diligence shall not automatically absolve a legal or natural person conducting business activities from liability for causing or contributing to human rights abuses or failing to prevent such abuses by a natural or legal person as laid down in art. 8.7.” The requirement to implement human rights due diligence is critical in ensuring that companies take a proactive and hands-on approach to ensure human rights are fully complied with in the supply chain or the corporate group. However, it cannot become a substitute for ensuring a right to remedy for victims of corporate negligence.

While this important distinction seems to be reflected in the text, there are aspects of the text that raise confusion. For example, art. 8.8 indicates that “the court or other competent authority will decide the liability of such entities after an examination of compliance with applicable human rights due diligence standards.” This sentence seems to suggest that the implementation of human rights due diligence standards does determine the liability of business entity, which seems to be in conflict with art.6.6 and the previous sentence in art. 8.8. The text should therefore be clarified in this regard.

The inclusion of the requirement to ensure “gender responsive reparations to the victims of human rights abuses” under art.8.5 is welcome.

Art. 8.6 maintains the requirement that was already included in 2019 for businesses to establish and maintain financial security. The behaviour of transnational companies during the recent pandemic has once again demonstrated how critical this provision is. Even the largest companies are undercapitalized and abandoned their commitments towards suppliers overnight, which meant that workers lost their jobs and wages without notice.

Thank you