**OEIGWG on TNCs and OBEs - 6th session**

**(ITEM 4) Part V - ARTICLE 8 (28/10/2020)**

**Brazil, national capacity**

**Thank you, Chair-rapporteur,**

**Under this agenda item, concerning the article 8 of the second revised draft, the Brazilian delegation would like to comment on the following issues:**

**2. The expression "contributed to" has been included in paragraphs 8.4, 8.7 and 9.1-c, with apparently similar effects, to make reference on the need to sanction not only the legal and natural persons that directly caused the harm to the victim, but also to the ones that alleged contributed to it. We would appreciate further clarifications on the rationale for those amendments.**

**3. In article 8.5, there is a call to provide reparations of victims of human rights abuses in line with international standards of reparation of victims of human rights violations. We would welcome to receive more information on examples of such international standards for reparations of human rights violations and how it could serve as benchmark for the provision of remedy to human rights abuses.**

**4. The intent and purpose of articles 8.7 and 8.8, read together, is also unclear. We would like to inquire, for the consideration of other parties, on how high should the LBI raise the bar, taking into account the limited room of maneuver from States and enterprises to handle new burdens while maintaining the minimum baseline for an enabling environment for entrepreneurship and business enterprise.**

**5. Also relevant in this reflection is the fact that many countries are still in the process of adopting, preparing to implement or launching new phases of their existing National Action Plans of business and human rights, and companies are still struggling to include in their institutional culture the elements of the UNGPs.**

**6. The contents in the revised text of article 8.9 deserve once again a close attention to its implications. We thank the inclusion of the "legal principles of State Parties" as the reference for dealing with criminal liability of legal persons, which partially respond to the concerns from Brazil. However, we reiterate our firm belief that this article should limit its application on matters of civil and administrative liability of legal persons. We also seek clarification on why the term "human rights abuses" has given place to "criminal offences" in articles 8.10 and 8.11.**

**Thank you. (355 words)**