**PHILIPPINES**

Sixth Session of the Open-Ended Intergovernmental Working Group for the Elaboration

Of an International Legally Binding Instrument on Transnational Corporations and Other Business Enterprises with respect to human rights

**Wednesday, 28 Oct (PM)**

**15.00 to 18.00**

**Statement**

Thank you, Chair- Rapporteur.

The Philippines has the following comments and proposals on the articles under discussion:

**On Article 9.1 on Adjudicative Jurisdiction**, the Philippines suggests adding " the court of the State where the victim is a national of or domiciled” as one of the courts which may exercise jurisdiction over cases covered by the LBI. This is to ensure victims greater access to courts, considering that by the nature of transactions of transnational corporations (TNC) and other business enterprises (OBE), there is a possibility that the State where acts or omissions constituting a human rights violation occurred or the domicile of the TNC may be different from the State of domicile of the victim. If this is so, it would be challenging for a victim to file a case if he still needs to proceed to a court outside his State of domicile.

**On Article 11.2** regarding claims under the LBI filed before domestic courts, it has to be emphasized that “matters of remedy and procedure must be governed by the *lex fori* or the internal law of the forum”.

In order to safeguard this provision from possible abuse from requests that the case be governed by the law of a State which has no effective connection with the human rights violation in issue, we propose that matters of substance be governed by the following conflict of law rules considering the nature of liability which may arise from the provisions of the subject LBI:

a. For liability and damages for torts in general, the Philippines follows *lex loci delicti commissi* or the law of the place where the delict was committed.

b. For essential elements of the crime and the penalties therefore, PH follows *lex locus regit actum* or the law of the place where the crime is committed.

We highlight that these theories of lex fori, lex loci delicti comissi, and lex locus regit actum are almost universally followed.

**On Article 13.2e** on contribution the International Fund for Victims, the Philippines suggests that this also be constituted by drawing financial contributions from transnational corporations to make them effective contributors to human protection and thereby fulfill their responsibility to protect the human rights of effected individuals.

Thank you, Chair- Rapporteur.