



Mozambique Notes on Preamble and Articles 1 and 2

**6th 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**

26-30 October 2020

Thank you, Mr. Chair – Rapporteur,

We appreciate the Secretariat, for their comprehensive and clear introduction to the Préambule and Articles 1 and 2.

Preamble

Para. 4 - With due respect to the rights of indigenous peoples, we find the reference to the UN Declaration on the subject matter problematic, given its non-universality, for the purposes of this draft. Instead, we would prefer reference to **local communities** which is inclusive and all encompassing.

Right at the end of this para. with suggest addition of **frameworks**, after the word **declarations**.

Para. 9, in the third line, we propose replacement of **including business enterprises** by **inter alia TNC's and OBE's**. The same applies to the first line of **para. 13**

Para. 16 – We suggest amendment in the first line to read as follows: *emphasizing the need for TNC's and OBE's to integrate a gender perspective in their measures, in cooperation with states*. And the rest would flow as it stands.

Para.20 – It should be deleted, for it does not add value, in our view. In fact, we see no need for clarifying the obligations of states on this subject matter.

Article 1- definitions

We are happy with the splitting of *human rights abuses* and *human rights violations* concepts, given their specific meaning. However, the text should define the concept of *human rights violations* as it did with *human rights abuses*. Indeed *human rights* are violated when the rights are not observed, as we understand the notion. And it happens often than not in the conduct of business by TNC’.

Even though the concept of *business enterprise* is a common site in the draft, its definition does not feature in the text. Therefore we propose its addition.

Para. 5 - We note with appreciation the switch from *contractual relationship* to *business relationship*, given its encompassing nature.

Article 2 – statement of the purpose

Para. 1(a) – We replicate our position on the need to its deletion for reasons we have indicated in preambular **para. 20**.

Para 1(b) – We propose an amendment in the first line, after *human rights abuses* to add *human rights violations*. In fact, in line with our proposal for the addition of *human rights violations* in the definitions, all passages in the draft with *human rights abuses* notion should add *human rights violations*.

Para 1 (d) – We suggest the replacement of *business enterprises* by *TNC’s and OBE’s*, in the second line.

We thank you