



Permanent Mission of the Republic of Indonesia to the UN,
WTO, and Other International Organizations
in Geneva

**General Statement of the Delegation of the Republic of Indonesia
7th Session of the Open Ended Intergovernmental Working Group on
Transnational Corporations and Other Business Enterprises
25 October 2021**

Thank you, Mr. Chair Rapporteur,

- We congratulate you for your re-election as Chair Rapporteur for this 7th session of the Open Ended Intergovernmental Working Group (on transnational corporations and other business enterprises with respect to human rights). We trust that you will continue to provide leadership to guide the deliberation of this Working Group in an inclusive, comprehensive and efficient manner.
- The need for business to respect and conduct their activities with due regard to human rights is indisputable. As well as the duty of state to regulate and monitor these business activities in compliance with national laws and regulations including human rights standards and provide access to justice and remedy for case of human rights violations including those that may arise in the framework of business activity.
- Indonesia is committed to the promotion and protection of human rights in the framework of business activities. Therefore, we continue to promote the dissemination and inclusion of human rights principles to business practices in the country. Ten years after the endorsement of the UNGP by the Human Rights Council, Indonesia continues to take important steps in its business and human rights policy development. These includes establishment of the National Task

Force on Business and Human Rights and the launch of an online human rights' due diligence tool for business entities, or PRISMA.

- With respect to access to remedies, Indonesia also continues to improve access through both judicial and non-judicial mechanisms, under the Ministry of Law and Human Rights.
- More recently, the Government is in the process of developing the National Strategy on Business and Human Rights to improve the implementation of the UNGP at the national level. The drafting of the National Strategy will be an inclusive process that involves all relevant stakeholders, including government agencies, civil society organizations and business associations.

Mr. Chair Rapporteur,

- Indonesia's commitment is also shown in this process based on the understanding that this exercise aimed to elaborate an instrument that will provide a stronger foundation to guide our efforts to achieve sustainable development and socio-economic progress while continue upholding human rights.
- We appreciate the efforts by the team in preparing the third revised draft to serve as a basis for this session's deliberation. We take note some amendments that have been introduced to the text to continue improving coherence and consistency of the draft.
- Nevertheless, the text remains broad, while at the same time overly prescriptive and, at times, problematic, such with the inclusion of customary international law to establish criminal liability as can be found in Article 8 as well as provision on adjudicative jurisdiction and applicable law which need to be cautiously considered. We reaffirm our position that this legally binding

instrument should be able to provide certainty for all relevant stakeholders. Therefore, it still requires further clarity.

- We also would like to once again recall the importance to remain faithful to the mandate of the Working Group as stipulated in Resolution 26/9, which expressly mentioned that the legally binding instrument is to regulate activities of transnational corporations, and in regard to other business enterprises, that it does not apply to local business registered in terms of domestic law. This stipulation is unambiguous and therefore presented clear ambit to the exercise. This is also a position shared by many states; however, this message continues to be overlooked .
- Lastly, the draft need to strike a balance between creating an international regulation to respect and protect rights and ensuring access to justice and remedies, and the challenges of creating a workable and implementable document taking into account the legal and technical constraints posed by the differences in national legal systems.
- Therefore, the exercise shall aim to arrive at a legally sound, applicable and enforceable instrument which thoroughly consider divergences between legal systems and traditions particularly in jurisdiction and legal proceedings. In this context, a legally binding instrument should aim at strengthening measures exists at the domestic level, and strengthening international cooperation to ensure respect for human rights and access to justice and reparation for victims in transnational business activities.
- **(Finally,** our delegation will participate and contribute constructively to this Session of Working Group.)

I thank you.