

## Draft IOE Statement

### General Statements in the 7<sup>th</sup> session of the Intergovernmental Working Group on Business and Human Rights

25 October 2021

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Chair

Thank you for giving me the floor. I speak on behalf of the International Organisation of Employers, which members represent more than 50 million companies.

This June we celebrated the tenth anniversary of the UN Guiding Principles on Business and Human Rights. The UN Working Group on Business and Human Rights together with the Office of the Higher Commissioner for Human Rights is developing a roadmap for the better uptake of the UN Guiding Principles, which will be soft-launched this week. We fully agree with this. We need more determined efforts by all actors and business has an important role to play in this. The Intergovernmental Working Group should fully take the findings of the fact finding as well as the proposals of the roadmap into account.

Last year, not only business, but also many, many governments have raised grave concerns about the second revised draft treaty, emphasizing that it will not promote the business and human rights agenda. It was much to our surprise to recognize that the third revised draft treaty did introduce only very modest and minor changes to the second revised draft treaty and failed to address the main issues which have been raised. By and large, we are confronted with the same approach and the same content as last year. This is a missed opportunity. How can we expected to make any substantial progress in this meeting of the Intergovernmental Working Group, when key concerns of governments and stakeholders have not been addressed?

The IOE took note of the joint statement by UN human rights experts. In this joint statement, the experts demand that the legally binding instrument and particularly the provisions with regards to due diligence must be in line with the UN Guiding Principles. And exactly this is not the case in the third revised draft treaty, nor has it been the case in any of the previous drafts. As it has been stressed again and again in the past, this treaty diverges in important aspect from the UN

Guiding Principles, particularly in the area of due diligence. It is absolutely disappointing that after seven years of work in the Intergovernmental Working Group we still need to discuss the need to be in line with the UNGPs.

The experts also stress the need for the legally binding instrument to apply to all business enterprises. Yet, in last year's session no agreement on the scope of the instrument was in sight. We are still discussing whether this should apply to all companies or only private sector or only multinational companies. Agreement on the scope is the basis for any negotiations. How can we negotiate a treaty and decide at the end to whom it applies?

The IOE together with Business at OECD and BusinessEurope have submitted a thorough position paper on the third draft treaty. This document emphasizes the common views of the business community on some of the critical issues that continue to pose serious obstacles to the business community's endorsement of the Treaty process. The Treaty in its current form remains an unnecessary and inappropriate response to the ongoing challenges on protection and respect of human rights and access to remedy. We continue to be convinced that States could achieve more by continuing to work within the framework of the UNGPs, jointly with business and other stakeholders.

In last year's session of the Intergovernmental Working Group, many governments and stakeholders demanded to fully reverse direction. In fact, important governments in the room last year emphasized that this text is not fit to be negotiated. What we need now is a proper debate on what kind of instrument we need

- to strongly promote human rights in the field of business activities;
- to ensure that workers and communities have appropriate access to remedy;
- to determinedly deep the implementation of the UN Guiding Principles on business and human rights; and
- to achieve sustainable change on the ground for people, planet and communities.

Important discussions on these questions are taking place outside the Intergovernmental Working Group, as for instance whether a framework convention would be the better approach. If we don't bring these discussions inside the Intergovernmental Working Group, these treaty negotiations will increasingly lose relevance.

A full reboot has the chance to bring relevant countries into the room which have been outside so far and to turn the discussions into real global and inclusive discourse.

Thank you

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