

IOE Comments on the Preamble of the third revised draft treaty

Thank you very much Chair for giving us the floor.

Let me start by expressing our deep concern around the prevailing divergent views and understanding of substantial elements in the preamble.

We regret to observe that various proposals tend to deviate from the UNGPs, and various countries have also expressed their concern in this respect.

We risk not only getting apart from a consensual outcome, but we risk also undermining the UNGPs.

Just to mention 3 substantial deviations.

1) language in PP11 referring to “... Obligation to respect” -for example- in fact UNGP’s refer to the “Responsibility to respect”, drawn from item 13 of the UNGP’s. This was also raised by various governments. If I remember well, Mexico also made this precision.

2) Also, language that reads “as well as by preventing” should read “**as well as to seek to prevent** or **mitigate adverse human rights impacts**”, we normally refer to “impacts” not to “abuses”.

3)proposals to change the reference to “abuses that are directly linked”, so to include indirect actions, are inappropriate. Actually, the UNGPs refer to “**human rights impacts that are directly linked to their operations**”.

On a second issue, in **PP2** there is a need to be clear about the so referred **relevant UN instruments**, where it would be inappropriate to insert the reference to “all” instruments.

Not all instruments are binding to member States. We have to acknowledge this fact, and if we are working on a binding instrument, it would be absolutely inappropriate to have references to another instruments that are not binding to all member states, this was also raised by various countries.

In the same lines, the reference to relevant ILO conventions could turn inappropriate.

First, because not all ILO instruments are Human Rights. Second, because these are only binding to those member states that have ratified such conventions.