

IGWG 7th Session - Global Union Comments:

Article 1

Thank you, Chairperson. I speak on behalf of the global trade union organisations: ITUC, BWI, EI, IndustriAll, ITF, IUF, PSI, and UNI.

“Victim” shall mean any person or group of persons, irrespective of nationality or place of domicile, who individually or collectively have suffered harm through acts or omissions, in the context of business activities, that constitute human rights abuse. The term “victim” may also include the immediate family members or dependents of the direct victim, *and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization*. A person shall be considered a victim regardless of whether the perpetrator of the human rights abuse is identified, apprehended, prosecuted, or convicted.

In relation to the definition of ‘victim’, we believe that a comprehensive definition should include *persons who have suffered harm in intervening to assist victims in distress or to prevent victimization* so that human rights defenders, including trade unionists, are implicitly covered by the term. Therefore, we would recommend that the language from the second revised draft be re-inserted into the body of the definition.

“Business activities of a transnational character” means any business activity described in Article 1.3 above, when:

- a. It is undertaken in more than one jurisdiction or State; or
- b. It is undertaken in one State but a ~~significant~~ part of its preparation, planning, direction, control, design, processing, manufacturing, storage or distribution, takes place through any business relationship in another State or jurisdiction; or
- c. It is undertaken in one State but has a ~~significant~~ effect in another State or jurisdiction.

Regarding the definition of “Business activities of a transnational character”, We strongly recommend the deletion of the undefined and vague qualifying term *significant* (in Article 1.3 (b) and (c)), which could lead to the application arbitrary tests on what constitutes a business activity of a transnational character.

We strongly recommend a re-ordering of Article 3.3 to cover more clearly the internationally recognized humanrights applicable to States by virtue of ratification and those to which they are otherwise bound.