

## IGWG 7<sup>th</sup> Session - Global Union Comments:

### Article 6

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

Chairperson,

### Article 6.2

We note that Article 6.2 firmly embeds the requirement of States Parties to take *all* necessary legal and policy measures to ensure that business enterprises respect all internationally recognized human rights and prevent and mitigate rights abuses throughout their operations. While articles 6(3) and (4) bring the focus of prevention back to mandatory human rights due diligence legislation, it is clear that art. 6(2) sets expectations of States to go *beyond* this measure in line with the UNGPs. Therefore, we strongly recommend including a non-exhaustive list of *other* legal and policy measures. Our proposal is to include the following text at the end of Article 6.2:

***Such measures may include injunctive relief, precautionary or protective measures, and strict liability for human rights abuses, as appropriate.***

Regarding Article 6.3(b), we would request that the word 'reasonable' be struck from the second part of this sub-article concerning human rights abuses to which an enterprise is *directly linked*. If we look at the HRDD framework of the UNGPs from which this Article takes inspiration, although they set out a greater number of factors to be considered where an enterprise has a *business relationship* in order to determine what appropriate action may be required, there is *no* suggestion that the action to be decided on as appropriate is lesser or limited to only what is *reasonable*. For this reason, we would recommend the deletion of the term reasonable.

So, the text after the final comma would read

*, and take ~~reasonable and~~ appropriate measures to prevent or mitigate abuses to which it is directly linked through its business relationships;*

In relation to Article 6.4, we think that it would be important to highlight the specific need to consult workers and their representatives – as rights-holders themselves. Our suggestion is to amend the first line of Article 6.4(c) so that it reads as follows:

c. Conducting meaningful consultations **with individuals, communities, workers, and workers' representatives** whose human rights can potentially be affected by business activities...

And finally, regarding the extremely important provision on enhanced HRDD in Article 6.3(g), we think that it would be important to also cover *other situations* that can put a State under a level of stress similar to those in conflict situations. As the UN Working Group on Business and Human Rights' stated in their Guidance on human rights due diligence in conflict situations, genocide and crimes against humanity can occur during peacetime. And instability leading to rights abuses can emanate from serious levels of political volatility.

Therefore, we would recommend an amendment to Article 6.4(g) so that it covers human rights abuses in **situations of instability and national stress**

Thank you, Chair