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**Seventh session of the Intergovernmental Working Group on
transnational corporations and other business enterprises with respect
to human rights**

**Item 4: “Article 6 – Prevention (Thursday AM)”
October 28, 2021**

- Thank you Chair
- With respect to Article 6.3 we support the comments made by the distinguished delegate from the United States
- We too question whether this instrument and its provisions mandating that and how due diligence is conducted constitutes progress and advances our shared goal of promoting human rights in the context of business activities
- So while we agree that due diligence is an essential component of responsible business conduct, we also believe that the nature of respecting human rights through due diligence exercises requires a degree of flexibility to innovate impactful solutions
- Furthermore, we do not agree with delegations that would prescribe a “cut and run” approach where the possibility for capacity building to respect human rights is possible



- On article 6.4, we recommend replacing 6.4 with the text from UNGPs principle 21 regarding accounting for how a business addresses their human rights impacts through external communication.
- We agree with the states who commented on the overly broad text in Article 5, and Article 6.4 is regrettably ambiguous as well. Terms like “potential” and “meaningful” are overly subjective and legally imprecise. They should be clarified or deleted.
- Where States do not have standards on environment and climate change, is it the expectation that any actor – including business - will be able to predict what a State may or will enact at some future date?
- Given the impracticality of such a scenario, given the fact that states are at varying stages of adopting their own national-level standards, and given the fact that the terms “environmental” and “climate change” are not defined in international human rights law,
 - they should be deleted because they add uncertainty as to the scope of rights subject to the treaty, and increase the likelihood even further that the text will not secure the broad and cross-regional consensus that so many governments have called for at this meeting.
- Finally, paragraph 6.8 should be deleted. States parties should always act in a transparent manner, but this is not mutually exclusive from entering into constructive and meaningful dialogue with the business community.



- Businesses are recognized as legitimate actors with an important role to play in the development and implementation of human rights policies. This is a fact illustrated by employers being designated as a formal constituents at the ILO since its founding over 100-years ago in 1919.
- Business is a recognized and valuable participant which is welcomed in an inclusive manner in other UN and multilateral organizations as well.
- Thank you.