**United States’ Interventions on the 3rd Draft Rev. Text**

**Article 15 Institutional Arrangements**

The United States supports multilateral action to promote business respect for human rights, as it has through the UNGPs. However, any proposal to establish a new treaty body of 12 independent experts may entail significant additional outlays in the UN budget, and other implications and consequences would need to be considered carefully. Moreover, before deciding to establish a Committee, it would be important to identify more clearly its substantive duties and responsibilities. We could see the benefit of intersessional technical consultations with experts to explore potential synergies with existing mechanisms such as the UN BHR Working Group and the BHR Forum, to build on the UNGPs. We would also like to note that National Action Plans on Business and Human Rights serve as a useful tool to publicly communicate State progress on implementing the UNGPs, which relates to the objectives of this article.

**Article 16. Implementation**

In regard to Article 16, we question whether Article 16.5 as drafted might be overly broad, internally inconsistent, and inconsistent with other provisions in the proposed text. If the objective is to state that parties should interpret and apply the LBI in accordance with international law, such a provision is unnecessary. Furthermore, to say that “application and interpretation of these Articles . . . shall be without any discrimination of any kind or on any ground, without exception” is vague. Given its literal meaning, it could be at odds with Article 3, which allows States to differentiate how it applies measures taken to implement the LBI with respect to different sizes and types of businesses, or could require states to provide equal access to remedies to victims of abuses in other countries as to those within their countries. To be clearer, **we propose that “without any discrimination of any kind or on any ground, without exception” be replaced with “without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status” to mirror the language of Common Article 2 of the ICESCR and ICCPR.** Furthermore, we propose **adding “applicable” before “international law, including international human rights law and international humanitarian law,** as the applicability of either body of law would depend on the circumstances. We look forward to studying Article 16 further intersessionally, especially considering the implementation of provisions that potentially do not allow for domestic court systems to discriminate between victims located within the United States and subject to its jurisdiction and those that are not.

**Article 17. Relations with Protocols**

As has been recommended previously by the United States, we would encourage the exploration of an approach that allows for more detailed issues to be addressed in protocols. Notably, this would involve having a core text with optional protocols in which issue or industry specific areas could be negotiated separately and signed onto by interested parties. Therefore, we appreciate that the text provides for the negotiation of protocols.

**Article 18. Settlement of Disputes**

The United States is still reviewing this provision, especially as it does not identify any rules that would be used even if a single organization and procedure were identified. Furthermore, the United States believes arbitration is an area that would benefit from an examination of best practices for dispute settlement in other treaties.