**IGWG 8th Session - Global Union Comments:**

**Article 6**

Thank you, Chairperson. I speak on behalf of the global trade union organisations I cited in my opening intervention.

As indicated yesterday, we will comment on the third revised draft and share our views on amendments to the text proposed by member States last year and during this session.

Chairperson,

Article 6.2

[We welcome the fact 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 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* due diligence – very much in line with the UNGPs. Therefore, ] we strongly recommend including a non-exhaustive list of *other* legal and policy measures here. 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****.*

In this respect, we welcome new Article 6.1 ter as proposed by the State of Palestine.

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 *reasonabl*e. For this reason, we would recommend the deletion of the term reasonable.

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. – in line with 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**

Chair,

We also welcome the amendments proposed by Cameroon at [6.4] and [6.8 bis and 6.8ter] in relation to financial assistance for companies to conduct appropriate HRDD and the role International Financial Institutions respectively. We also welcome Cameroon’s proposed amendment at 6.4 to ensure that a national competent authority has allocated responsibilities and adequate financial and human resources Similarly, new 6.1bis proposed by Cameroon add value by focusing on the State role relating to public procurement and public contracts.

We would also support the amendment by the State of Palestine t Article 6.3(a) referring to actual or potential **environmental and/or** human rights abuses**, including those that infringe upon workers’ rights. This amendment addresses the fact that** Human and environmental rights due diligence processes will necessarily require enterprises to avoid causing or contributing to adverse rights impacts that specifically affect workers, including internationally recognized human rights that necessarily entail environmental aspects such as those relating to a green transition in a lead firm’s own activities or business relationships. We have indeed argued that workers have a *right* to a just transition protected under international law.

Further, as elements of criminal liability have not been fully developed in the revised draft, we appreciate the State of Palestine’s efforts to address the question of universal jurisdiction over human rights violations that amount to international crimes at new 6.7bis

We also appreciate the efforts made by Argentina at 6.4a(bis) – and now supported by Namibia and others - to highlight fundamental labour rights such as the rights to freedom of association, including the right to strike, and the right to collective bargaining.

**We would also support Uruguay’s proposed Article 6.8 quarter. State parties shall enact norms to ensure that business enterprises respect the rights of human rights defenders. (Uruguay, Panama (potential add to Chair’s proposal), Palestine, Mexico, Brazil)**

We had previously argued that the term “victim” should 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. **A comprehensive definition of victim 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.**

Finally, Chair, we also welcome all amendments relating to the obligation to conducting meaningful consultations with stakeholders, including with communities, in line with principles of free, prior and informed consent and throughout all phases of operations.

Thank you.