**United States’ Interventions on the Suggested Chair’s Proposals**

**Article 6 Prevention**

The United States appreciates that the Chair’s proposals on Article 6 are less prescriptive and more concise than the those in the 3rd revision of the text, and that they provide more flexibility for implementation, reflecting the diversity of legal systems. As noted yesterday, we believe these are a promising first step in the right direction of developing a workable text. In light of this, the United States will be focusing its comments on Articles 6-13 on the Chair’s proposals.

While we believe that it is important for any BHR instrument to further purposes of the UNGPs by encouraging states to take steps within their domestic legal frameworks to help prevent human rights abuses from occurring, in order for the provisions on prevention to be implementable and garner the necessary support, we propose that rather than mandating that measures be adopted in full immediately, the chapeau of 6.1 should be edited to say that **Consistent with domestic legal and judicial systems, each State party should take steps to adopt legislative, regulatory, and other measures, as appropriate, to:…**

With respect to Article 6.3 of the Chair’s proposal, the United States appreciates the importance of addressing human rights due diligence as a means of furthering the goals of the UNGPs. We do think that language in the 3rd revised draft that drew from the UNGPs’ recognition that due diligence will vary depending on the business was useful. To that end, in the Chair’s text we suggest replacing 6.3 with the following language: **To achieve the ends identified in 6.1 (a)-(d), States Parties shall take steps to encourage business enterprises to undertake human rights due diligence, proportionate to their size, risk of human rights abuse and the nature and context of their operations and their business activities and relationships.**

We recommend **deletion of the subparts under 6.3** in the Chair’s proposal**,** as this level of detail may be better suited for an optional protocol to a Framework Agreement, guidance on best practices in conducting human rights due diligence, and/or framed as factors for businesses to consider. We would also note that the development of optional protocols could be pursued simultaneously with development of a framework agreement.

With regard to Article 6.4, the United States notes that the proposed text has shifted from a prescriptive approach to the content of due diligence requirements to a focus on the extent to which a business would be required to conduct due diligence. Because agency relationships can be complicated and addressed differently under domestic legal systems, the United States believes that this topic could also benefit from additional technical consultations, perhaps intersessionally, to determine how third-party actions could be most effectively and practically addressed in the context of an LBI.