

**8th session of the
Open-ended intergovernmental working group on
transnational corporations and other business enterprises
with respect to human rights**

Geneva, 24 October 2022

Statement by Portugal

Mr. Chair-Rapporteur,

Portugal aligns with the EU statement.

Let me start by thanking you and your colleagues at the Permanent Mission of Ecuador for the commitment to this important subject over the last years. As members of the Group of Friends of the Chair, Portugal supports your efforts.

I also would like to thank the Office of the High Commissioner for organizing this session.

Mr. Chair-Rapporteur,

More than ever, the link between business activities and human rights seems an inescapable area, requiring the attention of States and resolute action.

Indeed, in a globalized world, the role and responsibilities of corporations cannot be neglected by decision-makers. Especially at a time when our economies are undergoing deep and structural transformations towards greener and more digital societies and when new ways of work are an increasing trend.

If anything, COVID-19 showed us how intertwined our economies and our societies have become and how complex supply chains are. Now, at a moment of global inflation, energy shortages and food insecurity, it is also clear how interdependent our economic systems came to be.

At the same time, the perception of the rise of transnational corporations and of the ways their operations affect every day live around the world demands attention.

Furthermore, we live in times of conflict. According to the UN Working Group on Business and Human Rights, the number of civil wars has tripled over the last decade. Even for corporations with the most robust policies, conflict always create human rights challenges.

Finally, digitalization, though by and large a positive development, has also brought additional challenges, namely regarding misinformation, hate speech or abuse.

Mr. Chair-Rapporteur,

While companies, large and small, are essential and irreplaceable contributors to the economic and social wellbeing of societies and thus to the realization of human rights, their activities can also have a negative impact on their enjoyment. We can understand that when we think, for example, in the impact of certain business activities on the environment, the use of child labour or undignified work.

It is the duty of States to prevent such business-related human rights abuses. It is also a responsibility of companies to do so.

When prevention is not effective, accountability must be ensured. Our priority must be to guarantee access to justice and ensure effective remedy while fostering international cooperation in this domain.

In Portugal, we are already working with companies to ensure respect for human rights. We are currently finalizing our first National Action Plan in this area but even if we already developed several initiatives. On women's rights, for example, we launched, jointly with companies, a "Pact Against Violence" and an "Alliance for Gender Equality in Digital Technologies".

As a testimony of the importance we attach to this issue, we have a dedicated working group of the National Human Rights Committee on Business and Human Rights.

We are also negotiating, at the level of the Council of the EU, the Corporate Sustainability Due Diligence Directive and, at the level of the OECD, we are following very closely all developments related to corporate governance and responsible business conduct.

Mr. Chair-Rapporteur,

More than 10 years have passed since the UN Guiding Principles on business and human rights were published. We fully support them. Indeed, they played a very important role in setting standards and raising global awareness. They should remain the basis of our efforts and of future steps to be taken. They can also inspire us to achieve consensus.

However, we recognize there are gaps in the global normative framework for human rights protection regarding business-related challenges. These gaps require a smart mix of policies which include ‘soft’ aspects such as the UNGPs but also ‘harder’ commitments, for which the form of a legally binding instrument could be the most adequate.

Therefore, Portugal supports the process that brings us here today. We see merits on having a balanced, mature, encompassing legally sound treaty on business and human rights. An instrument which allows us to promote corporate responsibility with provisions that can be enforced in domestic courts. But also, an instrument that builds on cooperation between States, in a constructive and global approach, and that does not neglect the current *acquis*: the UN Guiding Principles, but also the relevant ILO International Conventions.

This instrument should be the result of a participatory and inclusive process integrating voices from civil society, trade unions and business organizations and adopting an incremental approach under the general rule that ‘nothing is agreed until everything is agreed’. In this regard, we thank Ecuador once again for its efforts in promoting the participation of all States and all other relevant stakeholders.

Mr. Chair-Rapporteur,

The standards we agree here need to be drafted in such a way that they can be implemented in practice. Additionally, due diligence obligations need to be proportionate to companies' size: in Portugal, for example, 96% of companies are considered ‘micro’, that is, they have fewer than 10 employees.

We believe that this process is going in the right direction. In particular, we welcome the Chair’s efforts and strategy to focus on and to suggest amendments to some key provisions.

We also wish to support those provisions that follow the UNGPs. The requirement of companies to formulate a human rights policy and to establish a complaint mechanism are laudable. And so is the integration of a gender perspective. We also need to ensure that a global level playing field is created.

As my colleague from the EU said, we are still working out amongst ourselves the issue of competence. In any case, Portugal stands ready to listen attentively to the discussions of this session and to provide a few comments. Rest assured of our commitment to make this process advance towards a consensual and strong outcome.

You can count on Portugal to continue its constructive engagement in the framework of the Group of Friends of the Chair.