



**IOE-USCIB Joint Statement on third grouping (article 15-24) LBI on BHR**

**8th Session OEIGWG**

24-28 October 2022, UN Palais, Room XX, 10:00–13:00 and 15:00-18 :00 CET

Thank you, Chair. I speak on behalf of IOE and USCIB and this intervention is a response to Articles 15 to 24 of the Third Revised Draft Treaty as well as concluding remarks.

Regarding **article 16 on Implementation**, our view concerning the scope remains unchanged. The news proposals from the seventh session from various States want to divert the intended scope of the treaty to be now applicable only to translational companies and keep “local business registered in terms of relevant domestic law” out of it. A differentiated approach should be omitted in this part.

Let me express here again the fact that the corporate responsibility to respect is a standard of conduct for **all enterprises** as expressed in the UNGPs. Keeping domestic business outside the scope of this treaty would create a two-speed approach but most importantly would apply only to a small minority of business activity. Indeed approximately 95 per cent of the world's workers are employed by purely domestic entities and most human rights deficits arise in the domestic economy, which is often part of the “informal” economy, and thus beyond regulatory enforcement.

That being said, for issues of prevention, such as in particular HRDD or reporting requirement, a specific clause would be needed to give State Parties the possibility to exclude micro, **small and medium-sized enterprises (MSMEs)** from legally binding due diligence obligations with the aim of not causing undue additional administrative burdens and respecting their constraints. MSMEs are the heart of our economies but they are also the one with most challenges to survive in these difficult times. As part of the State’s duty to protect, this draft treaty should ensure that States provide the necessary support, capacity-building, guidance and awareness raising to companies, in particular MSMEs to further implement the UNGPs. Despite all business good will, business alone will not be able to make a lasting different, State’s action and support is key.

Turning **to article 20 on the Entry into Force.** What is the threshold for such a treaty to come into force? Given that the treaty would be between multiple States to become operative, this would require a large number of ratifications before coming into force and being effective.

Chair, allow me now to provide some concluding remarks on behalf of the business community:

On Monday afternoon, one panelist eloquently responded that life is complex. Yes, life is complex but it is precisely the role of this working group to provide clear guidelines for national legislators to make sure the treaty provides, when ratified, legal clarity and can be implementable to business, which are with States the main subjects of this treaty. This is currently not the case.

Chair, while we acknowledge that this is an inter-governmental process, we have always insisted on the crucial need for the business representatives **to have the opportunity to take part of the actual drafting.**

IOE, USCIB, Employer Organisations, business and the private sector at large have been since day one strongly committed to advance human rights and responsible business conduct. This commitment has not and will not change.

Let me reaffirm in this Forum that IOE was among the first Organisation to endorse the UNGPs in 2011 and many companies did not wait the UNGPs to act responsibly.

Solid results have been achieved. To name only one, according to the ILO Uzbekistan has succeeded in eradicating systemic forced labour and systemic child labour during the 2021 cotton production cycle thanks to a joint effort between the private sector, civil society and the government. Effective change on the ground is possible when everyone is listened and taken into account.

The business community welcomed the Chair’s proposals as a first step in the good direction, but a lot remains to be done to move the negotiations constructively forward. Unfortunately, both the third draft treaty and the Chair’s proposals continue to raise serious concerns for the business community as they are not yet a suitable basis to reach a balanced outcome based on consensus.

We continue also to see that major contested aspects regarding both the process and the content persist. Also, we continue to see greater States’ disengagement and concern due to great uncertainty, subjective language and open definitions, creating great legal uncertainty that would make the instrument unimplementable.

Most of the text proposals made during this eighth session and the seventh session distance the draft treaty even more from the process-based approach of the UN Guiding Principles, making it less implementable and potentially jeopardizing any possible consensus-building even more.

The Business community remains committed to advancing human rights and responsible business conduct, including in this treaty process. Yet, important changes are necessary to reach a balanced outcome for all.

Thank you.