**IGWG 8th Session – Preamble – Art.3**

**Preamble**

Thank you, Chairperson. I speak on behalf of the ITUC and the Global Union Federations.

Due to time constraints, we will not highlight all the amendments we suggested last year. However, we would emphasise the following:

*Proposed new PP5*

*Recalling that international labour standards provide States with the tools to implement their obligations concerning human rights at work and establish mechanisms for labour inspection and enforcement necessary to realize decent work for all.*

Then, we have a proposal for a new PP5. We strongly recommend the inclusion of a new paragraph to better articulate the scope of labour rights within the context of the Legally Binding Instrument. This paragraph would read as follows:

In relation to the personal scope of the Treaty envisaged in Article 3, we reiterate our support for the present formulation focusing the operational provisions of the LBI on cross-border activities of business enterprises while maintaining a broad scope, which includes transnational and other enterprises. We welcome this hybrid approach, which we believe will prevent that the form of an enterprise can be used to evade accountability in the implementation of the LBI. At the same time, this approach ensures that the LBI is clearly geared towards addressing business activities of a transnational character, which is where the normative gaps in international human rights law lie.

I have a comment regarding Article 3.3.

We had commented last year that any formulation that limits the coverage of *fundamental ILO Core Conventions* to those which a State has ratified would breach the principle of non-regression under international law due to the fact that the Declaration on Fundamental Principles and Rights at Work of 1998 requires ILO Member States to respect and promote the principles and rights contained in the ILO’s Core Conventions – which now include C155 and C187 on OSH - by virtue of its membership in the Organization, regardless of ratification. While we certainly welcome the direct reference to the Declaration on Fundamental Principles and Rights in the 3rd revised draft, the language around Core ILO Conventions *to which a State is a party* still remains. As this formulation still causes some confusion, we would recommend re-ordering Article 3.3. We have some language for this and our proposal would read as follows:

Article 3.3

This Legally Binding Instrument shall cover all internationally recognized human rights and fundamental freedoms which the State Parties of this (Legally Binding Instrument) have ratified, including:

a. those recognized in the Universal Declaration of Human Rights;

b. all core international human rights treaties;

c. ILO Conventions;

as well as those to which they are otherwise bound, including,

d. the ILO Declaration on Fundamental Principles and Rights at Work; and

e. customary international law.

Thank you, Chairperson.

**“Business activities of a transnational character”** means any business activity described in Article 1.3 above, when:

1. It is undertaken in more than one jurisdiction or State; or
2. It is undertaken in one State but a *~~significant~~* part of its preparation, planning, direction, control, design, processing, manufacturing, storage or distribution, takes place through any business relationship in another State or jurisdiction; or
3. It is undertaken in one State but has *a ~~significant~~* effect in another State or jurisdi