

Open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights - 8th Session (2022)

Joint Statement by

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Mr President,

We believe the 3rd Revised Draft is the sole text for negotiation, as it is based on a participative, open and transparent process and we call on States to incorporate their proposals into this document.

On Article 6, we support the language on Article 6.4 (d) on free, prior and informed consent, as a minimum prevention standard. We also support the proposals made by Palestine (under Article 6.1ter) and Cameroon (and under Article 6.2 bis). Article 6 can be strengthened and capture the entire existing international legal framework, particularly the well-established principle of precaution that should be fully represented under this article. This principle gains elevated relevance in the aftermath of the recognition of a clean, healthy and sustainable environment as a human right, by the UNGA last July.

Many jurisdictions recognize the principle of precaution in their constitutions, laws and regulation, forming a clear state practice, in the context of Art. 31 of the Vienna Convention on the Law of Treaties.

To conclude:

We respectfully propose the following new paragraph Article 6.9:

States Parties shall apply the principle of precaution and refrain from applying laws, policies and regulations and from carrying out plans, projects or activities relating to business activities, and enforce this principle on business enterprises actions, which may pose risks of violation of human rights, particularly relating to indigenous peoples, traditional communities, and peasants, or risks of environmental degradation or climate change.

I thank you.