

Thank you, Madam Chair.

It's the collective view of over 60 ESCR-Net members across all regions that inconsistent and inadequate regulatory approaches within and across national and regional legal systems continue to expose individuals and communities to human rights abuses, and often undermine the ability to access effective remedies. Corporate operations with a 'transnational character' (TNCs) pose especially difficult regulatory challenges due to their cross-border operations and presence in several jurisdictions, and therefore represent the largest corporate accountability gap in the international human rights legal framework.

While each State is indeed the sovereign authority to regulate conduct within their territory and jurisdiction, a principle justification for establishing new international human rights instruments is to address gaps in the human rights system and to provide clarity to each State on their obligations for realizing human rights – the same is the case for the binding instrument. For example, while there is still great progress to be made in realizing women's human rights in all countries, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) sets out uniform standards as agreed by States, thereby building broad consistency in relation to the legal obligations across all States. Likewise, the Treaty provides the opportunity for States to agree on a binding framework that facilitates a consistent approach to regulate the activities of TNCs and Other Business Enterprises (TNC-OBE). For different reasons than other perspectives expressed in this discussion, we hope the future binding instrument will address TNC-OBE. If the Treaty addresses only some business enterprises, and not those registered and/or operating in only one State (including State-owned enterprises), this would leave gaps in the human rights system, and maintain inconsistencies in the way each State forms and implements laws to regulate TNC-OBE. Moreover, if the Treaty were to leave out some types of corporations this may create perverse incentives for corporate groups to structure their operations in way that would avoid coverage under the Treaty.

Further, it is clear from existing research and broad consultation with civil society that it is of little consequence to those individuals and communities whose human rights are infringed if the entity responsible for violating their human rights operates in more than one country. Therefore, the Treaty offers the opportunity to ensure that the regulation of corporate conduct adequately corresponds to reality and provides a practical response to human rights abuses by TNC and Other Business Enterprises.

As such, we call on the Intergovernmental Working Group to ensure that the future binding instrument aligns with the existing conditions and lived experiences of people everywhere, and requires States to do the three following actions, among other things:

- 1) Address in detail the particularly complex regulatory challenges posed by TNCs, including in relation to subsidiary companies, supply chains, and all other business enterprises otherwise associated with their operations, products or services through their business relationships; and, secondly,**
- 2) Reaffirm that States have obligations to respect, protect and fulfill human rights in connection with the activities of all TNCs and Other Business Enterprises, including those registered and/or operating in one State, while not exposing small corporations to undue or unnecessary compliance requirements, and finally,**
- 3) The future binding instrument should cover all civil, cultural, economic, political and social rights.**

Thank you for the opportunity to provide our input.