direct obligations in “Statement of purpose” – article 2/3

Thank you, Mr. Chairman.

I deliver this statement on behalf of CCFD-Terre Solidaire, the French coalition for a binding UN Treaty, Entraide & Fraternité Belgium.

We welcome this new draft, and look forward to the adoption of a legally binding instrument that will effectively regulate the conduct of transnational corporations and other business enterprises in international law.

In the preamble, we welcome the fact that you mention that

“all business enterprises, regardless of their size, operational context, ownership and structure, have the responsibility to respect all human rights, including by avoiding causing or contributing to adverse human rights impacts through their own activities and addressing such impacts when they occur, as well as by preventing or mitigating adverse human rights impacts that are directly linked to their operations, products or services by their business relationships”

Yet, this element of the preamble only goes halfway through.

The commentary to the Principle 11 of the UNGPs states clearly that

“The responsibility to respect human rights is a global standard of expected conduct for all business enterprises wherever they operate. It exists independently of States’ abilities and/or willingness to fulfil their own human rights obligations, and does not diminish those obligations”

Based on that element, we recommend that the preamble states clearly that

“all business enterprises **shall** respect all human rights, including by avoiding or contributing, etc. etc. […] as well as by preventing or mitigating adverse human rights impacts **that are linked** to their operations, products or services by their business relationships”

Then, building on the expertise of numerous academics and several experts who participated in last years’ panels, we suggest that this element is taken as a foundational element in the article 2, building on the preamble as follows:

“Transnational corporations and other business enterprises have obligations derived from International Human Rights Law that exist regardless of local legal frameworks. Transnational corporations and other business enterprises shall therefore respect all human rights, including by avoiding causing or contributing to adverse human rights impacts through their own activities and addressing such impacts when they occur, as well as by preventing or mitigating adverse human rights impacts that are linked to their operations, products or services by their business relationships”.

Thank you, Mr. Chairman.

Obligations directes dans le “Statement of purpose” – article 2/3

Merci, Monsieur le Président.

Je prononce cette déclaration au nom du CCFD-Terre Solidaire et de la coalition française pour un traité ONU et Entraide & Fraternité Belgique.

Nous nous félicitons de ce nouveau projet de traité et espérons que nous parviendrons prochainement à adopter un instrument juridiquement contraignant qui encadrera effectivement la conduite des multinationales et des autres entreprises en droit international.

Dans le préambule, nous nous félicitons du paragraphe qui affirme que

“all business enterprises, regardless of their size, operational context, ownership and structure, have the responsibility to respect all human rights, including by avoiding causing or contributing to adverse human rights impacts through their own activities and addressing such impacts when they occur, as well as by preventing or mitigating adverse human rights impacts that are directly linked to their operations, products or services by their business relationships”

Cependant, cet élément du préambule n’accomplit que la moitié du chemin.

Le commentaire du principe 11 des Principes directeurs de l’ONU souligne clairement que

« La responsabilité de respecter les droits de l’homme est une norme de conduite générale que l’on attend de toutes les entreprises où qu’elles opèrent. Elle existe indépendamment des capacités et/ou de la détermination des États de remplir leurs propres obligations en matière de droits de l’homme et ne restreint pas ces dernières »

Sur ces fondements, nous proposons une formulation plus claire :

“all business enterprises **shall** respect all human rights, including by avoiding or contributing, etc. etc. […] as well as by preventing or mitigating adverse human rights impacts **that are linked** to their operations, products or services by their business relationships”

Ensuite, en s'appuyant sur l'expertise de nombreux universitaires et de plusieurs experts qui ont participé aux panels lors de la session de négociations de l’an dernier, nous suggérons que cet élément soit intégré dans l'article 2, pour préciser le préambule comme suit :

“Transnational corporations and other business enterprises have obligations derived from International Human Rights Law that exist regardless of local legal frameworks. Transnational corporations and other business enterprises shall therefore respect all human rights, including by avoiding causing or contributing to adverse human rights impacts through their own activities and addressing such impacts when they occur, as well as by preventing or mitigating adverse human rights impacts that are linked to their operations, products or services by their business relationships”.

Merci, Monsieur le Président.