

Open consultations on the International Legally Binding Instrument On TNCs, OBEs and human rights

Suggested discussion questions for consideration

Rights of Victims:

The discussions in the OEIWG have identified a number of challenges that victims of violation of human rights by business enterprises faced when attempting to access justice and an effective remedy. A number of States and other stakeholders participating in the OEIWG have proposed adopting a victim's approach on the discussion towards a binding international instrument under the mandate of resolution 26/9.

Suggested questions for consideration by delegations:

- a. Does your delegation support a victims-oriented approach to the adoption of a legally binding instrument under the Mandate of Res. 26/9? If so, what does your delegation understand a victims-oriented approach to encompass? Will strengthen the implementation of other substantive provisions, for example preventive measures and international cooperation, in such instrument?
- b. Would your delegation support the inclusion of a section on the right of victims of violations of human rights by business enterprises under a future legally binding Instrument? If so, what does your delegation suggest as main elements under this section? How would such section interact with other international human rights instruments and domestic law?
- c. Should a binding instrument incorporate procedural rights and substantive rights of victims, or only focus on procedural rights?

International Cooperation:

Discussion in the OEIWG has recognised that there is a need to cover jurisdictional gaps in cases of human rights violations by business enterprises conducting transnational activities. In order to cover such gaps, parties to the process have recognized international cooperation as a basis for achieving greater access to remedy for victims of human rights abuses. Suggestions included considering international cooperation at the levels of investigation, prosecution and enforcement of judgments in cases of human rights violations by business enterprises.

Suggested questions for consideration by delegations:

- a. Is your country a Party to any multilateral, regional or bilateral agreement on international cooperation for mutual legal assistance or for recognition and enforcement of judgements or other similar conventions? If so, please provide examples on their implementation and effectiveness?
- b. Does your delegation considers that a future binding instrument resulting from mandate of Resolution 26/9 should encompass a section on international cooperation? If so, please provide suggestions on what should be covered under this section. For example, should a binding instrument encompass international cooperation on preventive measures and mutual legal assistance in judicial proceedings in cases of violations of human rights by business enterprises?