



Statement by His Excellency Archbishop Ivan Jurkovič
Permanent Observer of the Holy See to the UN and Other International Organizations in Geneva
at the Open-ended Intergovernmental Working Group on Transnational Corporations and Other
Business Enterprises with Respect to Human Rights
Item 4-General Statement

Geneva, 15 October 2018

Mr. Chair,

At the outset, the Delegation of the Holy See would like to congratulate you on your appointment as Chair of this Intergovernmental Working group in such a significant moment, as we begin our discussion on the zero draft of the text.

Over the last years, we have witnessed a growing interest of States and civil society for shaping an international legally binding instrument, which would be able to address the existing gaps in the global legal framework. As recalled by Pope Francis: *“The twenty-first century, while maintaining systems of governance inherited from the past, is witnessing a weakening of the power of nation states, chiefly because the economic and financial sector, being transnational, tend to prevail over the political”*¹.

The starting point for any discussion surrounding a treaty in this area must be the concern for the protection of fundamental human rights, which “derive from the inherent dignity of the human person”². A binding instrument would raise moral standards, change the way international corporations understand their role and activity and help clarify the extraterritorial obligations of States regarding the acts of their companies in other countries. In this regard, it has been proposed that the synergy between public and private sector corporations could constitute another emerging form of economic enterprise that cares for the common good without surrendering profit.³

The Delegation of the Holy See is aware that the challenges of business and human rights demand a negotiation with a constructive and positive approach. Our ultimate goal is the achievement of a balanced and effective instrument, which could represent an effective tool for all the parties involved.

¹ Pope Francis, Encyclical Letter, *Laudato si*, n. 175.

² Preamble to the International Covenant on Civil and Political Rights (1966) 999 UNTS 171 and 1057 UNTS 407 available at <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>; Preamble to the International Covenant on Economic, Social and Cultural Rights (1966) 993 UNTS 3 available at <http://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>.

³ Pope Benedict XVI, Encyclical Letter, *Caritas in veritate*, n. 46.

The focus on the rights of local communities and individuals might be reinforced with clear references to the internationally agreed language of human rights and its primacy over trade and investment policies. Such a provision could represent an instrument for framing a more stable legal environment. Thus, it could address not only the relationship between human rights and trade and investment agreements, but even represent a criterion for an assessment of its impact on human rights. For this reason, the mention of the environmental element in articles 4.1 and 8.1 is essential. Trade agreements usually contain general exception clauses which allow deviations from the obligations of the agreement, particularly if a State party pursues other legitimate public policy objectives and the respective measure is not more trade-restrictive than necessary.

Mr. Chair,

In the progression of our negotiations, we should never lose sight of the fact that “business is a vocation, and a noble vocation, provided that those engaged in it see themselves challenged by a greater meaning in life”⁴. The international business community can count on many men and women of great personal honesty and integrity, whose work is inspired and guided by high ideals of fairness, generosity and concern for the authentic development of the human family. Economy and finance are dimensions of human activity and can be occasions of encounter, of dialogue, of cooperation, of recognized rights and of dignity affirmed in work.

Our efforts during this week of negotiation should be oriented in elaborating an instrument that could represent a useful tool. In order for this to happen, however, it is necessary to place the human person, with his or her dignity, at the center of our work and to establish the legal liability for the conduct of business enterprises that result in human rights abuses at home or abroad. Such responsibility should, as appropriate, be criminal, civil or administrative.

Thank you, Mr. Chair.

⁴ Pope Francis, Apostolic Exhortation, *Evangelii Gaudium*, 203.