The 10th session of the Expert Mechanism on the Right to Development

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Implementation of the mandate and programme of work –
Focused thematic discussion and interactive dialogue
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Business and the Right to Development

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Transcript of the statement by H.E. Mr. Gustavo Gallón,
Permanent Representative of Colombia

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Excellencies,

Panelists,

Delegates,

Ladies and Gentlemen, Friends, all of you,

I'm grateful to you for inviting me to be involved in this panel, which explores how legally binding instruments on international, on transnational corporations, businesses, human rights can achieve a balance between business and human rights and the rights of development. As you know, our government has been actively involved in negotiations on the instrument to regulate the activities of multinationals when human rights are violated.

This instrument seeks to reestablish inter alia reclamation mechanisms and appropriate mechanisms to go and see the rights of victims and their access to reparation. To achieve this, they need to be able to avail themselves of the appropriate courts in the countries wherein the headquarters of the companies are located. We need to ensure that resources can be used safely to have access, evidence and victims being able to meet the costs of these expensive procedures, which is why they need to be supported. Judicial cooperation mechanisms between states will be indispensable to achieve that. Very often the victims are part of indigenous communities or are in remote areas a long way and belong to very vulnerable groups.

RTD, as enshrined in the 1986 Declaration, is the rights of all human beings to participate in development as a whole, and I am quoting here so that all the human rights and freedoms can be realized to contribute to their own development and enjoy the fruits thereof. The Rapporteur in his report speaks of how these human rights can be enjoyed in fundamental freedoms as well. In his report, the Rapporteur describes the key components of the RTD and its practice in international human rights law. He also analyzes what the businesses do when making reality economic, social, cultural, and political aspects of human rights in accordance with relevance standards. It's a great start and it should be considered by the international community and by the business community, the principles of 2023, especially Principle 5 on the human rights of future generations, established that these generations have the right to all individual collective human rights, including the rights of development, which should be considered as a right which

corresponds to the environmental, current and future rights. The principle of intergeneration equity establishes that RTD affects the aspirations of future generations. States must cooperate to make RTD a reality.

International corporation solidarity are key to realize all human rights and to overcome the challenges that humanity face such as climate change, migration, pandemics, peace, regulation of new technologies, food security, conservation of biodiversity, which is why we in COP 16 in Kali is focusing on changing the paradigm with regards to fossil fuels.

The Declaration on the Right to Development refers to rights and responsibilities of state bodies. It does not, but the vast, rapid change of our societies and our TNCs have shown us that there are other stakeholders that should be focused on under international human rights law, which is a discipline which is evolution in nature, which are, for example, the IFIs international financial institutions as the public development banks and multinational companies who have duties and responsibilities in connection with human rights, including the right to development. Many international instruments and declarations refer to the role and responsibility of these businesses, all of which are not binding. The Global Compact, For example, in adopted in 2000, the Business Sustainability Initiative, the ILO Declaration on the Principles and Fundamental Rights in the Workplace, the Rio Declaration on Environment and Development, the UN Convention on Corruption, the guidelines for TNCs adopted in 1936 originally and updated in 2023. To promote the positive contribution which TNCs can have to environmental, economic and social, development domain, stakeholders unanimously adopted the rights and duties of the states and TNCs to protect and respect human rights and to provide reparation for human rights violations in connection with TNCs. All these instruments are international references which we must bear in mind and use their potential so that human rights can be protected and the sustainable development to be promoted by TNCs. However, we must also ensure, as the Rapporteur says, that we go beyond the no harm principle, assuming this is an obligation which is regulated by an international, legally binding instrument.

This is needed to prevent human right violations by businesses, and especially to combat impunity. The establishment of a legally bound instrument on TNCs and human rights should not be interpreted as an action that seeks to prevent the business development, which is sustainable energy, nor to hamper the right to development, to adopt on a consensus the standards which establish responsibility and in the case of violation of human rights and the the harm of … of the rabbit, will create confidence and a legal framework, which strengthens legal security for states, businesses and investors. It will give a strong sign which will drive responsible investment and new business agreements based on human rights and the environment. This instrument will contribute to establishing new paradigms such as those listed by the UN, not to leave anybody behind, including not only individuals but also the planet itself.

We agree with the Rapporteur when he says that time is running out to, just make minor adjustments. What we need now is a fundamental change in the role played by businesses in society in relation to investors to face the current economic challenges, for example, like the GDP. We should focus on the environment and the business (The interpreters do not have this

text. The speaking is reading far too fast to provide for accurate interpretation). The Rapporteur report says that we need negotiation models and once again that place persons on the planet at the heart to improve considerably the enjoyment of human rights by all, end of quote.

As the Rapporteur says, and I'm quoting again, businesses also will have to protect and make effective human rights, at least in some circumstances and situations. For example, a pharmaceutical business, which must take reasonable … to ensure that all peoples have access to vaccines or medicines that save lives without discrimination or not putting anyone at a disadvantage, also quoting him as still an effective response to climate change will call for businesses to make available to states, financial resources, technical and technological knowledge in order to guarantee fair transition towards green economy, and that's the end of my quotes of him. The process underway does not seek to affect businesses or prevent their growth or development. Businesses are necessary to inclusive development and their contribution to this purpose is indispensable. The new instrument and the ownership by industrialized states to this process will provide greater confidence for the public and consumers and civil society in businesses and states at a time when the confidence crisis in the institutions worldwide have afflicted many in our societies.

Thank you very much, Mr. Chairman.

Thank you very much to the Rapporteur for his valuable and extremely enlightening recommendations.