

**Oral Statement of FIAN International to the First Session of the Open-Ended  
Intergovernmental Working Group on Transnational Corporations and Other Business  
Enterprises with Respect to Human Rights - Panel V - Geneva, July 8, 2015**

Ana María Suárez Franco

Madame Chairperson:

FIAN International is of the opinion that the states obligations to protect territorially and extraterritorially should be clearly spelled out in the treaty.

Regarding the bases for protection the treaty should stipulate that states must adopt and enforce measures to protect human rights through legal and other means in each of the following circumstances:

- a) When the harm or threat of harm originates or occurs on its territory;
- b) Where the corporation, or its parent or controlling company, has its centre of activity, is registered or domiciled, or has its main place of business or substantial business activities, in the State concerned.
- d) Where there is a reasonable link between the State concerned and the conduct it seeks to regulate, including where relevant aspects of a company's activities are carried out in that State's territory;
- e) Where any conduct impairing human rights constitutes a violation of a peremptory norm of international law. Where such a violation also constitutes a crime under international law, States must exercise universal jurisdiction over the corporations bearing responsibility or lawfully transfer them to appropriate jurisdictions.

The treaty should stipulate for such cases basic principles for the involved states to cooperate – including mutual legal assistance, joint investigative bodies, cooperative adjudication and enforcement.

Moreover, the treaty should reaffirm that all States must refrain from any conduct which: a) impairs the ability of another State or international organisation to comply with that State's or that international organisation's obligations of human rights, including in the areas related to the activities of TNC's and other business enterprises; or b) aids, assists, directs, controls or coerces another State or international organization to breach that State's or that international organisation's obligations as regards economic, social and cultural rights, where the former States do so with knowledge of the circumstances of the act.