

**Oral statement delivered by Franciscans International, FIAN International, CCFD-Terre Solidaire and Society for International Development, Plataforma Internacional Contra la Impunidad -  
PANEL III - Determining Legal Liability**

Sandra Ratjen

Thank you Madam Chairperson,

This statement is based on the joint written submission made by Franciscans International, FIAN International, CCFD, SID, Plataforma internacional contra la Impunidad. All organisations are members of the Treaty Alliance.

In our written submission, in the previous panels, notably by Susan George on Monday, and in our side-events, we have given a large number and variety of illustrations of the difficulties that the complex nature of global supply chains and of networks of business actors pose to establish the liability of the diverse legal entities that may be involved in abuses of human rights.

And it goes without saying that the determination of legal liability is a prerequisite against impunity and for another issue and debate that we will have on Friday, and that is access to justice and to effective remedies.

In the interest of time, we will not repeat these obstacles and issues that the lack of transparency and the complexity of business structures or the corporate veil pose. Rather, we would like to call on States to address these issues and to ensure that the future legally binding instrument entail provisions to set clear standards to establish national and international legal liability of TNCs and OBEs, as well as to create the liability mechanisms under domestic civil, administrative and criminal laws. The latter is required under the obligation of States to protect human rights.

In our joint written submission, we give a series of examples of standards that should be provided for by the future treaty. These include:

- the clear definition of conducts by TNCs and OBEs impairing rights for which they will be held liable under national law;
- the requirement for States to oblige groups of enterprises to declare their existence, to make public the enterprises composing the groups and/or the supply chains;
- the recognition that due diligence procedures, while being an element of prevention of abuses, cannot be the sole basis to establish liability;
- the establishment of clear norms defining complicity in order to determine the criminal liability of parent or controlling companies when involved in crimes and offences affecting human rights and committed by their subsidiaries or contractually related legal entities.