

**Open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights**

**Seventh session (25-29 October 2021)**

**Delivering the statement: Ayushi**

**Article 6 - Prevention**

Thank you Mr. Chair. I speak on behalf of FIAN International, Franciscans International, Indigenous Peoples Rights International, and Tebtebba Foundation....

We support the proposal of Palestine including States obligation to adopt precautionary measures in line with the proposal of Cameroon on article 4.4

In line with the proposals from Mexico and Panama, we suggest deleting reference to 'mitigation' in articles 6.2 and 6.3b and 6.3c. Prevention and not mitigation should be at the core of human rights due diligence. As mitigation can be more convenient than prevention for certain transnational corporations and other business enterprises, there might be preference to mitigate instead of mainly and effectively invest in prevention. Mitigation should be understood as a component of the precautionary measures, which we propose of the remedy and liability processes under articles 4 and 8.

As has already been stated by other delegations with regard to article 6.4, we propose that both impact assessments and consultations in Art 6.4.a and Art 6.4.b **are carried out both ex ante and ex post and undertaken by independent third parties with no conflicts of interests and must be conducted in consultation with, and drawing from input and knowledge of those likely to be impacted.**"

We also support Egypt's proposal to include peasants and other people working in rural areas as a group requiring special attention in Art 6.4.c and add that article 6.3 clarifies that this list of human rights diligence measures is non-exhaustive.

**Concerning human rights due diligence requirements in occupied or conflict-affected areas, we support the proposal of Palestine, to ensure stronger protection of communities in such areas.**

We also support the additions proposed by Cameroon in article 6.8 on corporate capture. Over the sessions, civil society has brought forward numerous cases demonstrating the negative impact of undue influence and corporate capture by business actors, in standard-setting, monitoring and accountability processes. . This for example has been one of the hurdles faced in processes aiming to regulate the marketing of ultra processed edible product, especially when trying to protect the right to food of children and to prevent non communicable diseases as diabetes and obesity.

As it currently stands, this article on prevention only focuses on the due diligence obligations for transnational corporations and other business enterprises and leaves out the prevention for States for instance regarding concessions, policies on public procurement, development cooperation, energy or different international agreements they adhere to. We therefore consider that the proposals by the delegation of Cameroon in Art 6.1 would be a relevant addition to the treaty text.

I thank you Mr. Chair.