

Thank you Mr. Chair, my name is Erika Mendes from Justiça Ambiental in Mozambique, speaking on behalf of Friends of the Earth International and CETIM, members of the Global Campaign. We would like to present some considerations to Article 7, access to remedies, based on our work on the ground and in the territories for many years.

We gladly note an addition, on Article 7.1, recognizing the obstacles faced by affected communities, women and marginalized groups in accessing remedies. However we propose a few changes:

Amendment 7.1:

*States Parties shall provide their courts and State-based non-judicial mechanisms, with the necessary competence in accordance with this (Legally Binding Instrument) to enable victims **affected individuals and communities**' access to **due process**, adequate, timely and effective remedy and access to justice, and to overcome the specific obstacles which women, vulnerable and marginalized people and groups face in accessing such mechanisms and remedies. **The use and access to non-judicial mechanisms shall not compromise the rights-holders' access to judicial mechanisms.***

We support Palestines' proposal to add a new paragraph 7.1.bis to ensure reparation mechanisms that States should implement in consultation with affected communities, mechanisms that must be transparent and free from the influence of the entities that caused the violation.

We also welcome the inclusion of article 7.3.d preventing the use of the doctrine of forum non conveniens. However, we propose deleting the term "appropriate cases of human rights abuses", which is wrong (as we are talking about human rights violations) and is also vague and open for interpretation as stated by Palestine. The chapeau of this same paragraph should be drafted as *according to the national and the international law, prevailing the more beneficial for the affected.*

We also support Palestine's proposal for 7.3.d, but would just propose at the end to speak about "business activities of transnational character" to be in accordance with the mandate.

We recommend maintaining Article 7.4, which guarantees that court fees and other legal costs do not place an unfair and unreasonable burden on affected peoples.

With regard to paragraph 7.5 on the reversal of the burden of proof, we consider that this should be considered a right of the affected individuals or communities to ensure both access to justice and due legal process. In addition, the term *appropriate cases* should be withdrawn, as well as the expression "and its domestic constitutional law", as proposed by Palestine. We recall that the reversal of the burden of proof is a way of ensuring equality of arms in the judicial process, eliminating the barriers that exist to access justice. We would like to remind Brazil and Russia that the reversal of the burden of proof is already recognized in Brazilian and Russian legislations and case law.

Regarding 7.6, we support Palestine's proposal to add "violations" and delete "domestic law". As stated by Mexico, this kind of reference to domestic legislation could jeopardize the effectiveness of the instrument.

In light of the above, and in order to strengthen this article, we propose **to include an article with the principle of *in dubio pro persona*, namely:**

Proposed new paragraph 7.7:

States shall guarantee that if there is any doubt about the implementation of the LBI, people and communities that have been or are affected or threatened by the activities of transnational corporations and other business enterprises of transnational character will enjoy the widest protection of their rights.

We also propose to include an article on precautionary measures:

Proposed new paragraph 7.8:

States shall make available mechanisms to allow affected communities and persons to demand precautionary measures to prevent harm.

All our text proposals and amendments have been sent to the secretariat.

Thank you