

Article 14: Consistency with International Law principles and instruments

The Draft addresses the relationship of the proposed treaty with international law at large and with other treaties, particularly including in the trade and investment realm, under the perspective of consistency between those instruments under Article 14.

In this context, the ICJ would reiterate its comments and proposals made to the Second draft which are still relevant.

In Article 14.5 (b), it would be sensible to clarify that the impact assessments to be carried out in order to ensure the compatibility of other agreements with the treaty:

“should be conducted prior to concluding such agreements and whenever necessary during the time the agreement is in force. Such assessments should evaluate and address any foreseeable effects of such agreements on the enjoyment of human rights and be undertaken through full and public consultation with all stakeholders.”

The ICJ reiterates that the OEWG should seriously consider the option of including a new sub-paragraph Article 14.5 (c) regarding the obligation of States to integrate binding and enforceable human rights, environment and labour clauses in their trade and investment agreements. Moreover, Art. 14 (5) should require the inclusion of investors’ human rights obligations in trade and investment agreements, as of prescribing specific tools as an *ex-ante* impact assessment of trade and investment agreements to achieve compatibility.

I refer to the ICJ’s full comments and recommendations to the Third Revised draft for further details <https://www.icj.org/wp-content/uploads/2021/10/ICJ-Comments-Third-Revised-LBI-2021final.pdf>