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Joint Statement

Conselho Indigenista Missionário CIMI

Red Iglesias y Minería

Articulação dos Povos Indígenas no Brasil - APIB

We join their peers to support the 3rd Revised Draft, as it is based on a participative, open and transparent manner and we call on States to work on this very document.

We support Article 6 on prevention measures. This is all the more important in the context of the disproportionate impact business activities on indigenous peoples and traditional communities. We particularly support language on Article 6.4 (d) on free, prior and informed consent. We also strongly support the proposals made by Palestine(6.1ter) and Cameroon (6.2 bis). Article 6 can be strengthened and capture the whole existing international legal framework. For instance, the well-established principle of precaution should be fully represented under Article 6. This issue gains relevance in the aftermath of the recognition of a clean, healthy and sustainable environment as a human right, as the UNGA approved last July. Moreover, many jurisdictions recognize this principle in their constitutions, laws and norms, which forms state practice, in the context of Art. 31 of the Vienna Convention on Law of Treaties.

Besides the need to listen to the views of indigenous peoples and traditional communities on matters that influence their rights, through the FPIC standard, there is a need for the future treaty to provide for a stronger legal principle by which no plan, project or action is allowed, unless there is evidence such they do not interfere with human rights, particularly this specific sector of society.

We respectfully propose the following complementary formulation:

*States Parties shall apply the principle of precaution and refrain from applying laws, policies and regulations and from carrying out plans, projects or activities relating to business activities, and enforce this principle on business enterprises, which pose risks of violation of human rights, in particular indigenous peoples and traditional communities, or risks of environmental degradation or climate change.*

I thank you.

6.9 - Os Estados Partes aplicarão o princípio da precaução e abster-se-ão de aplicar leis, políticas e regulamentos e de realizar planos, projetos ou atividades relativas às atividades empresariais, e aplicar este princípio sobre as empresas, que representam riscos de violação dos direitos humanos, em particular os povos indígenas e comunidades tradicionais, ou riscos de degradação ambiental ou mudanças climáticas.