Dear secretariat,

Please see below the joint statement Corporate Accountability International and Institute for Policy Studies delivered in person by Dominic Brown.

Thank you!

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thank you Chair

My name is Dominic Brown. I am from South Africa where I am based at the Alternative Information & Development Centre. AIDC is a member of the Global Campaign which includes Corporate Accountability and the Transnational Institute among others.

We remain consistent that the 3rd draft is the only legitimate basis for engagement toward developing a legally binding treaty on business and human rights. A legally binding treaty is important to us as we have many experiences of injustices at the hands of the corporate and political elite in our country and other parts of the global South.

Included in this we strongly propose the inclusion of affected communities' demand for free, prior, and informed consent to enshrine communities' right to say no to potential corporate violations that undermine human rights and destroy our natural environment.

The need for section 12 in the 3rd draft of the legally binding treaty is especially relevant in instances where it is found that corporate violations have taken place. Violations that could potentially have been prevented if communities were guaranteed free, prior and informed consent and the right to say no.

In South Africa an example of this is the case of Lonmin mining. On the 16 of August, 10 years almost 50 mineworkers were gunned down and killed in an event now known as the Marikana Massacre. The reason behind their untimely deaths was the demand for improved working conditions - in line with the conditions required for a decent human existence. 10 years later and there has been no justice for the workers' families.

From the global campaign we want to underline that this article is key to guaranteeing the effectiveness of the future treaty, it is the provision that must ensure that the access of individuals and communities to justice is not frustrated by the element of transnationality.

When corporations with activities in many different countries (and the true beneficiaries of these activities) have been tried and found to be guilty of human rights abuses and violations, they ought to be held accountable for their actions in order to ensure justice for the victims of the deleterious practices of these corporations.

Regarding the content of article 12, we propose to eliminate references to national legislation in some paragraphs, since this type of reference may reduce the scope of this article.

We also propose to remove the mention of "public order" in 12.11.c. This type of vague concept opens room for the countries to arbitrarily reject a judgment and to be captured by private interests, endangering the primacy of human rights.

The concept of public order can no longer be widely used in international law, as it has proven to be inadequate in preventing once it has become a carte blanche for authorities from to violating human rights and criminalizing human rights defenders and activists.

Finally, we want to support Palestine in excluding paragraph 12.12, since it is a contradiction to subdue an international treaty to national legislation, especially human rights treaties considering the erga omnes (or legally binding responsibility) of all countries to ensure reparation whether or not the activity occurred in its territory.
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