## **Artículo 5**

Thank you, Mr. Chair. My name is Jill McArdle from Friends of the Earth Europe, and I am speaking on behalf of Friends of the Earth International, member of the Global Campaign

Article 5 is on protection of witnesses from any unlawful interference prior, during and after they have instituted proceedings.

There is a court case ongoing under the French duty of vigilance law against the European TNC Total for land grabbing in Uganda.

Affected people faced harassment and threats after they traveled to France for a court hearing on that case, and continue to face threats three years later.

No person bringing a case against a European transnational corporation should face such threats.

So, We reaffirm that Article 5 is of crucial importance for the people and communities affected by human rights violations committed by transnational corporations and that it is essential that these articles use language that reflect reality - therefore we support Cameroon, South Africa and Palestine to include the word "communities", in the first paragraph of Article 5, as well as the term "violations".

With respect to **article 5.2,** we would like to reiterate our concrete textual proposals from last year:

*States Parties shall take adequate and effective measures to guarantee all rights, including a safe and enabling environment, for persons, groups and organizations that promote and defend human rights and the environment, so that they are able to exercise their human rights free from any threat, intimidation, violence or insecurity. This obligation requires taking into account their international obligations in the field of human rights.*

*State Parties shall take adequate and effective measures including, but are not limited to, legislative provisions that prohibit interference, including through use of public or private security forces, with the activities of any persons who seek to exercise their right to peacefully protest against and denounce abuses and violations linked to corporate activity; refraining from restrictive laws and establishing specific measures to protect against any form of criminalization and obstruction to their work*.

We also consider important the changes proposed by Palestine to **5.3,** which adds the word violations and eliminates the reference to domestic law. In the same sense, the addition by Cameroon is appropriate:

*5.3 bis. States parties shall ensure emergency response mechanisms in case of disasters caused by the action of transnational corporations and other business enterprises of transnational character. (Cameroon)*

In conclusion we reiterate that the protection of victims and affected communities, as defined in Article 5, is vital to ensure that victims and affected communities can secure access to redress and justice for the abuses and violations committed against them, in light of the intensification of attacks against victims and affected communities seeking accountability and justice.

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Gracias, sr. Presidente. Me llamo Jill y hablo en nombre

Como ya hemos reiterado, consideramos que el Borrador 3 es el único documento representativo de las negociaciones entre Estados y legítimo para servir de base en esta 8ª sesión. El documento presentado por el Presidente no debe ser considerado y por tanto rechazamos la propuesta de México de su inclusión. En este sentido me voy a referir en exclusiva al Borrador 3

Reafirmamos que los artículos 4 y 5 son de una importancia crucial para las personas y comunidades afectadas por las violaciones de derechos humanos cometidas por las empresas transnacionales y que es esencial que en estos artículos se utilice un lenguaje adecuado a la realidad e incluyendo la palabra “comunidades”, como han indicado Camerún, Sudáfrica y Palestina en sus consideraciones al párrafo primero del art. 5 y el término “violaciones”.

Con respecto al artículo 5.2 desde la campaña sostenemos nuestra propuesta, cuyo contenido es el siguiente

*States Parties shall take adequate and effective measures to guarantee all rights, including a safe and enabling environment, for persons, groups and organizations that promote and defend human rights and the environment, so that they are able to exercise their human rights free from any threat, intimidation, violence or insecurity. This obligation requires taking into account their international obligations in the field of human rights.*

*State Parties shall take adequate and effective measures including, but are not limited to, legislative provisions that prohibit interference, including through use of public or private security forces, with the activities of any persons who seek to exercise their right to peacefully protest against and denounce abuses and violations linked to corporate activity; refraining from restrictive laws and establishing specific measures to protect against any form of criminalization and obstruction to their work*.

También consideramos importantes los cambios propuestos por Palestina al 5.3, que agrega la palabra *violations* y elimina la referencia al derecho doméstico. En el mismo sentido, es adecuada la adición de Camerún:

*5.3 bis. States parties shall ensure emergency response mechanisms in case of disasters caused by the action of transnational corporations and other business enterprises of transnational character. (Cameroon)*

Además, remarcamos que la protection of victims and affected communities as defined in Article 5 is vital in order to ensure that victims and affected communities are able to secure access to remedy and justice for abuses and violations committed against them in light of the re-victimization, and the intensifying attacks against victims and affected communities seeking accountability and justice.