

**Oral Statement delivered by FIAN, Franciscans International, CCFD-Terre Solidaire, La Plataforma Internacional Contra la Impunidad and the Society for International Development – Panel IV:  
Open debate on different approaches and criteria for the future definition of the scope of the  
international legally binding instrument**

Angela Zarro

Thank you Madame Chair,

My name is Angela Zarro and I am speaking on behalf of FIAN International, Franciscan International, CCFD-Terre Solidaire, La Plataforma Internacional Contra la Impunidad and the Society for International Development - Who are all members of the Treaty Alliance

First of all we would like to reiterate that the resolution 26/9 is very clear about the mandate of the OEWG that is '***elaborating an international legally binding instrument to regulate, in international human rights law, the activities of TNCs and other business enterprise***' and we urge the discussion does not deviate from this mandate.

Furthermore, the cases presented in our submission clearly show the need to focus on TNCs as:

- They drive most of the global economy and control many domestic businesses;
- Their parent or controlling companies easily escape liability thanks to their complex structures and internal flexibility.
- They operate in a different jurisdiction as those communities and individuals they affect and thus can easily escape any remedy for the affected communities
- They involve a web of different actors and it is almost impossible to prove the interdependency between the national *company and international, global business groups and networks*.

Therefore we demand that the scope is focused primarily on ***TNCs and other businesses enterprises***, interpreted in a way that: cover all those business enterprises involved in transnational operations, linked to TNCs through cross cutting investments, participating in TNCs supply chain or having a contractual relationship with TNCs and other business enterprises.

This interpretation includes ***state-owned enterprises*** and does not exclude state's obligations to protect within their territory.

Because of the flexibility, complex structures, and interlinkages between national and global enterprises (mentioned above), the treaty could stipulate in specific clauses the need for national regulations for national companies and reaffirm the obligation to implement existing national laws that provide for human rights protections and to ensure their observance by all business enterprises.

We call for an instrument that cover all human rights, building on the principles of interdependency, indivisibility and interrelation of human rights, by which one human right cannot be taken in consideration without all the others.

We welcome the recent decision of the International Criminal Court to give particular attention to crimes involving environmental destruction, land grabbing and illegal exploitation of natural resources.

Finally, we would like to take the opportunity of this statement to address a question raised by two delegations yesterday during the panel on liability of TNCs and OBEs in relation to positive obligations. In that regard, we would like to reiterate that States have the obligation to fulfil rights territorially and extraterritorially, not TNCs and OBEs directly. However, to ensure their compliance with positive obligations and in particular their obligation to fulfil rights, States have to mobilize resources and this implies among others to effectively combat corporate tax evasion. The future treaty could include useful provisions in that perspective.

Thank you very much, MC