

Mai Taqueban - Tuesday 27 oct 10am-13pm

Thank you Mr. Chair.

My name is Mai Taqueban, speaking on behalf of Friends of the Earth, member of the Global Campaign and the Treaty Alliance, and of my own national organization, Legal Rights and Natural Resources Center-Friends of the Earth Philippines. My region, the Asia Pacific, plays host to a number of transnational corporations that have not only recorded irreparable damage to our natural resources but have caused numerous human rights violations in the exercise of their businesses. We hope the efforts here will lead to justice for all affected individuals and communities.

I would like to speak and propose amendments on Article 3.

In Article 3.1, the phrasing, “including particularly but not limited to those of a transnational character,” departs from the mandate of the Working Group (Resolution 26/9) and also contradicts the definition in Article 1.3 of the present draft. The terms used when referring to TNCs and other enterprises of transnational character should be harmonized throughout the instrument. To do otherwise would compromise the coherence of Treaty. We propose the following:

Amendment 3.1: Unless stated otherwise, this (Legally Binding Instrument) shall apply to transnational corporations and other business enterprises of transnational character.

[Amendment 3.1: Unless stated otherwise, this (Legally Binding Instrument) shall apply to all business activities, including but not limited to transnational corporation and other business enterprises that undertake business activities of a transnational character to transnational corporations and other business enterprises of transnational character.]

And echoed in paragraph 3.2:

Amendment 3.2: Notwithstanding Art 3.1 above, when imposing obligations on transnational corporations and other business enterprises of transnational character... xxx

[Amendment 3.2: Notwithstanding Art 3.1 above, when imposing ~~prevention~~ obligations on ~~business enterprises~~ transnational corporations and other business enterprises of transnational character under this (Legally Binding Instrument), State Parties may establish in their law, a non-discriminatory basis to differentiate how business enterprises discharge these obligations commensurate with their size, sector, operational context and the severity of impacts on human rights.]

Lastly, Article 3.3 lists international instruments of Human Rights to define the rights covered by the Treaty. The list is restrictive and is inconsistent with the international texts listed in the Preamble. The reference to “customary international law” is vital as this will allow the Treaty to include new rights when they become internationally recognized. The reference to international texts should be broader and include a reference to rights recognized in domestic law. The phrase “to which a state is party” should be removed, as it creates an unequal protection of human rights from one State to another. We propose this amendment:

Amendment 3.3: *This (Legally Binding Instrument) shall cover all human rights and fundamental freedoms, in particular those emanating from the **instruments mentioned in the Preamble**, customary international law or any more protective right as stated in article 14.3.*

*[Amendment 3.3: This (Legally Binding Instrument) shall cover all ~~internationally recognized~~ human rights and fundamental freedoms, in particular those emanating from ~~the Universal Declaration of Human Rights, any core international human rights treaty and fundamental ILO convention to which a state is a party~~ the **instruments mentioned in the Preamble**, customary international law or any more protective right as stated in article 14.3.]*

We will send the concrete textual suggestions by email.

Thank you very much for your attention.