

Thank you Madam Chair

I am reading this statement on behalf of the Global Campaign to Dismantle Corporate Power and Stop Impunity, an international network comprising over 200 organizations, social movements, trade unions and representatives of victims and affected communities from all around the world

Madam Chair,

Today we have a historic opportunity to close a major gap in international human right law that allows transnational corporations to violate human rights with nearly complete impunity.

TNCs have become major and powerful actors, and their activities have a huge negative impact on human rights. TNCs benefit from various binding international agreements, such as free trade agreements (FTAs) and bilateral investment treaties, with strong enforcement mechanisms such as investor-to-state arbitration tribunals, to protect their interests. They can even sue states at the international level when their interests have been threatened.

However no mechanisms exist in parallel at the international level to deal with their human rights violations and to ensure access to justice for the victims of their activities. We have only voluntary norms and guidelines. But how can one seriously expect TNCs to self-regulate? The reality is that in the absence of international legally binding mechanism, impunity typically prevails, especially when victims are in developing countries.

Most states are indeed not able to hold TNCs accountable. TNCs command an unprecedented economic, financial and political power. Many TNCs are richer and more powerful than the states that seek to regulate them. And TNCs operate accross borders. Their headquarter is based far away from where their activities can negatively impact human rights. The activities are generally carried out by affiliates, sub-contractors, licensees or local business enterprises de jure independent but de facto under their control. International cooperation is needed for countries to hold TNCs accountable. That is precisely why we need a treaty.

Victims, affected communities, trade unions and social movements have been demanding such a binding instrument for many years. In June last year the Human Rights Council has taken a historic decision after years of failed attempts and discussions at the United Nations. We would like to command in particular Ecuador and South Africa, but also all the other countries that voted in favour of the resolution despite the strong pressures received.

The Human rights Council has now a huge responsibility. It must develop an effective instrument

that can bring to an end the impunity of TNCs and respond to the needs and realities of victims and affected communities.

But we think that these Negotiations must be protected from corporate capture. For several years now the United Nations has opened its doors to transnational corporations, presented under the name of "stakeholders". In so doing, the United Nations is following a general global trend that consists of involving giant economic and financial conglomerates in decision making to the detriment of states, governments and civil society in general. Allowing such "stakeholders" into the United Nations became official on 25 July 2000 at the New York headquarters when the Secretary-General launched the Global Compact in which 44 major TNCs and other "representatives of civil society" participated.

This alliance between the United Nations and major TNCs has created a dangerous confusion between, on the one hand, a public international political institution which, according to its charter, represents "the peoples of the United Nations" and, on the other hand, a group of entities that embody the private interests of an international economic elite. Such an alliance is completely contrary to the process necessary for the democratization of the United Nations and the ending of corporate capture.

It is therefore essential to take all necessary measures against the influence of TNCs during the whole process of preparing and negotiating a new binding international instrument in order to prevent and sanction human rights violations they commit. By definition, TNCs are entities that defend private interests (above all those of a handful of majority shareholders) as opposed to the general interest. They must not be allowed to participate directly in the process where they would be both the accused and the judges. Negotiations would take place on an unequal footing, given that civil society organizations, and even many countries of the Global South, have limited financial resources and would be directly confronted with TNCs with an annual turnover of tens – even hundreds – of billions of US\$.

The Global Campaign to Dismantle Corporate Power and Stop Impunity is prepared to contribute to this effort. It has submitted a written contribution with eight proposals for the future legally binding international instrument. These proposals have been built from the grass roots, from the recommendations of victims, affected communities and social movements and other civil society organizations in Africa, Asia, Latin America, Europe, the USA and Canada.

Our submission has been formally endorsed by over 100 organizations, including social movements, peasant organizations, trade unions, representatives of victims and affected communities and other civil society organizations. We will be presenting these proposals all along the week and participating actively to the discussion. We already invite you to our side event on Tuesday from 1 to 3 pm in Room VIII.

Thank you madam Chair

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