**Amnesty International Intervention**

**Article 5: Jurisdiction**

Amnesty International welcomes the clarification and listing in Article 5 of the jurisdictional basis for national courts to hear claims. Given the difficulties that victims of corporate abuse often face in seeking remedy in their own courts, access to the courts of the home states of transnational companies, or other states where reasonable jurisdictional basis exist, is critical. Amnesty wishes to make two specific suggestions:

Firstly, the article deals only with civil jurisdiction. It is currently unclear who is the state that should act whenever the treaty discusses criminal action and criminal liability. This article should clarify the basis for exercising jurisdiction in relation to cross-border activities that constitute or result in crimes.

Secondly, this article, or alternatively Article 8 on the rights of victims, should also expressly deal with the issue of *forum non conveniens*. Ensuring that courts have jurisdiction to hear claims is essential, but in some states it is only part of the solution. In some states, although courts may have jurisdiction, they may still choose not to exercise it on the basis of the doctrine of *forum non conveniens*. To address this challenge, the treaty could take inspiration from the Council of Europe Recommendation on HR and Business of 2016 that simply states that:

The “doctrine of forum non conveniens should not be applied” in civil claims concerning business-related human rights abuses against business enterprises domiciled within the jurisdiction.

Or from

GC24 of the CESCR that establishes that: *The extent to which an effective remedy is available and realistic in the alternative jurisdiction should be an overriding consideration in judicial decisions relying on forum non conveniens considerations.*