

Fourth Open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights

Article 1. *Preamble*

Article 14. *Institutional Arrangements*

Article 15. *Final Provisions*

Remarks by Layla Hughes, Center for International Environmental Law, Geneva,  
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Thank you chair for the opportunity to present my views, which will focus on a gender analysis of these articles.

**First, with respect to Article 1: Preamble**

As so clearly and forcefully recognized by the Deputy High Commissioner in her opening remarks, it is crucial that the treaty be rooted in the lived experiences of those who suffer most as a result of business activities. It is essential, therefore, that the treaty takes into account the different, often disproportionate, impacts on women's rights, and the additional barriers women face in seeking access to remedies.

The preamble, because it sets the context of the proposed instrument, should make this point. It should also acknowledge gender equality as a fundamental right, which is also a Sustainable Development Goal. Finally, the preamble should also recall the obligations of State Parties under the Convention on the Elimination of All Forms of Discrimination against Women to protect women from business-related human rights abuses.

## **Article 14. *Institutional Arrangements***

Secondly, on article 14, and in line with the UN's own gender-parity strategy,<sup>[1]</sup> gender balance in the monitoring of the treaty implementation should be achieved, rather than considered. Gender balance among human rights treaty bodies experts is still far from being reality.

Only the CEDAW Committee has more women than men. However, gender balance addresses formal inequality only. We also need the Treaty to require gender expertise as a criterion for the selection of experts, and to ensure that the committee adopts a gender-sensitive approach in discharging its mandate, given the highly gendered dimension of business-related human rights abuses.

## **Article 15. *Final Provisions***

Finally, article 15 of the zero draft contains crucial provisions, which need to be fleshed out in other articles of the treaty to operationalize them. For instance, article 15 paragraph 4 on business-related abuses in conflict-affected areas should have corresponding obligations in article 9 on prevention, by imposing enhanced and mandatory due diligence on businesses in conflict-affected and high-risk areas.

Article 15.3 is fundamental to the successful implementation of the treaty. The undue, persistent influence of corporate interests on law and policy-making has a disproportionate impact on women.

Article 15 paragraph 5, which recognizes the heightened risks of violations of the rights of certain groups, does not sufficiently integrate a gender perspective. This provision looks like an afterthought, and instead, a gender dimension should be adopted throughout the treaty. This is fundamental.

As suggested by many this week, women face specific risks in the context of corporate abuse. Article 9 should require corporations to identify and prevent these abuses.

Article 8 should address the barriers and additional discrimination faced by women and marginalized groups in seeking remedy and accessing justice for corporate abuse and prescribe gender-responsive remedies.

Finally, the zero draft definition of “victim” does not adequately cover the situation of women human rights defenders. The treaty should establish specific measures to protect human rights defenders against any form of criminalization and obstruction to their work, addressing in particular the gender-specific violence against women human rights defenders.

The UNGPs and many other international law instruments consider women and gender at best as an afterthought. This treaty is an opportunity to do better.

Realizing gender equality is not only an obligation in itself but it is an effective strategy to achieving any goal. When women have equal rights, they have an equal opportunity to work, to learn, to teach, and to contribute. The treaty’s success depends on this.

Thank you.