**ACCA’s written submission on the Zero Draft Treaty.**

The following is a written submission, in response to the call to make submissions and comments on the Zero Draft Treaty, launched by Open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights.

The ACCA is a coalition of 123 members CSO organisations from 31 African countries that support African communities and individuals whose human rights are adversely impacted daily by the activities of corporations, both multi-national and domestic.

The ACCA civil society organisations work on issues ranging from mining and other extractive industries, public and private security sector accountability, natural resource rights, including land acquisition, tenure and property rights, financial regulatory policy, as well as accountability mechanisms for human and people’s rights, and environmental rights.

Within the ACCA community, the Zero Draft has received wide support from all its members but made the following written submission in order to strengthen and improve the Draft Legally binding document.

Against this background, the ACCA and its member’s organisation reiterate its support to the UNOHCR and declare that it remains committed to constructively engaging in the work of the Intergovernmental Working Group to adopt a legally binding document for enforceable rights. Within this context, the ACCA provides the following initial observations on the Zero Draft Treaty:

* The ACCA believes that, in order to end corporate abuses and ensure access to remedy for victims, that the Zero draft Treaty should establish direct obligations on companies and include the criminal liability of companies and individuals. In addition, the ACCA suggests that both the UNGPs and the proposed binding Treaty should not be in competition with each other but mutual and complementary.
* On the question to know what types of human rights will be covered by the new Treaty, the ACCA strongly requests the clarification of the scope and suggests that the Darft Zero Treaty covers all human rights under the Universal Declaration of Human rights, namely the Rights of the first generation, second generation and third generation covering Economic, social, cultural rights.
* As for the type of enforcement mechanisms, the ACCA suggests tha the Zero Treaty establishes the one that are not only limited to reporting mechanisms, but those mechanisms that include civil or even criminal sanctions. In order to tackle impunity, the enforcement mechanism should be based both at national level for domestic courts with universal jurisdiction. If not possible, the ACCA suggests then that the enforcement mechanism be allowed established at international level, to have some sort of international courts.
* The ACCA strongly believes that the Legally Binding Document (LBD) or Zero Draft Treaty should avoid imposing direct obligations on companies isolated from the responsibilities of States.
* The ACCA would like to suggest the extension of the scope to all enterprises and such extension of scope should include domestic as well as state-owned companies. It further suggests that the Zero Draft’s definition of transnational should be reviewed, because if the scope has being limited to transnational companies, is seen as a key obstacle to establishing a meaningful instrument.
* Preventing human rights violation to occur is of a paramount importance, in this regard, the ACCA supports the provision on article 9 of the Zero Draft that requires States to make Human rights due diligence compulsory. In doing so, the Zero LBD constitutes a significant development to stop corporates abuses and in the prevention of human rights abuses by MNC.
* The ACCA community suggests that the protection of human rights defenders and activists on the ground should be emphasised in the Zero LBD, namely the protection of women human rights defenders, as key actors for corporate accountability.
* Given the rise of human rights abuses in some countries within the Africa continent, particularly in conflict-affected areas, the ACCA suggests that the Zero Draft would do better to ensure effective protection of civilians and local communities in conflict-affected areas, including those under occupation and the application of humanitarian law in those conflict-affected zones.
* For the ACCA, the need to include a provision on gender-specific risks is of a paramount importance and a clear definition of “victims” under the Treaty is equally of a paramount importance.