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| Rue Amat 6  CH-1202 Genève  Tel. +41 (0)22 731 59 63  Fax +41 (0)22 731 91 52  E-mail: contact@cetim.ch  Site Web: [www.cetim.ch](http://www.cetim.ch/) | **ASSEMBLÉE GÉNÉRALE**  **CONSEIL DES DROITS DE L'HOMME**  *5ème session du Groupe de travail intergouvernemental chargé d'élaborer un instrument international juridiquement contraignant sur les sociétés transnationales et autres entreprises (14-18 octobre 2019)*  ***Débat sur le préambule et articles 3 et 4*** |

***Déclaration orale***

*Vérifier à l'audition*

Mister President,

I speak on behalf of CETIM, member of Global Campaign.

1. On article 3, It is important for this para, and for the whole text, to be consistent with intention of the LBI, as mandated by resolution 26/9, namely “with transnational character” into definition and scope. This also should applies to the whole text

(2) on Article 4 (: Rights of victims)

Although article 4 contains important elements to ensure justice for affected communities and individuals, it has gaps. We therefore propose the following changes.

* (2.1.) Despite the provision on human rights defenders and the recognition of their role in the draft text, it is important to specify special guarantees in this article concerning them and to recognize their status as vulnerable persons, using the language of the Acuerdo de Escazú (Escazú agreement/Treaty)[[1]](#footnote-2).
* (2.2.) With regard to the right of victims to information, it should include, as matter of important example, access to information on public and private enterprises (i.e. legal persons) that form an economic group and/or are linked in the value chain, etc. Indeed, this information must reveal the links between a given TNC and its supply chain, so that national courts and the future international implementation mechanism can be operational. In this sense, the right to information would complement the reversal of the burden of proof in order to counterbalance the problems caused by the opaque functioning of TNCs (article 4.16).
* (2.3.) With regard to non-judicial mechanisms (Article 4.8), a safeguard clause should be included to ensure that this particular provision does not and shall not compromise the access of rights holders to judicial mechanisms. The exercise of this very article should not be an obstacle to access to justice.
* (2.4.) The references to national legislation in paragraphs 11, 12.b, 14 and 16 limit the scope of article 4. They should therefore be deleted.

1. “Each Party shall take adequate and effective measures to recognize, protect and promote all the rights of human rights defenders in environmental matters, including their right to life, personal integrity, freedom of opinion and expression, peaceful assembly and association, and free movement, as well as their ability to exercise their access rights,...” (Article 9.2 of the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, adopted the 4th March 2018). [↑](#footnote-ref-2)