Oral statement Institute for Policy Studies (TNI)

Art. 10

Oct. 17th Morning

Renata Paschoalin

Thank you Mr. President,

I speak on behalf of the Transnational Institute, and Homa, as member of the Global Campaign

Mutual legal cooperation is one of the key aspects of this Legally Binding Instrument as it contributes to ensure that the access to justice will be more effective from a global perspective. This means that states must cooperate in good faith to ensure that human rights violations committed by transnational corporations are receiving due treatment and victims the most appropriate remedies.

At this point, Draft loses its power and becomes inefficient in Article 10.10 by allowing States to refuse to recognize or reinforce measures by other parties. Here “sovereignty, security, ordre public or other essential interests of the Party” are more important than the Human Rights dispositions, yet it does not specifies what this means, creating an overlap for arbitarity. This disposition is contrary to the objectives of the Treaty and to what the affected people need. Moreover, because it is an extremely vague text, it removes the character of direct obligations and becomes a mechanism with a high probability of falling into disuse and at the same time, the gap opens a possibility to the use of *forum of non conveniens*.

The most appropriate here would be to bring mechanisms that are more consistent with human rights norms and that provide clear mechanisms for judicial cooperation, so that the specificities of each one can be extended to the civil, administrative and criminal spheres, taking into account the necessary time, access to justice and what those affected people consider most important.