**Oral statement  
Corporate Accountability International  
Oct 28, 2020 - Wednesday afternoon session, Article 9.3 and 9.5 - Adjudicative Jurisdiction**

Thank you Mr. Chair-Rapporteur,

I speak on behalf of Corporate Accountability International and the Global Campaign. Please allow me to speak on Article 9.3 and Article 9.5.

We welcome the introduction of articles 9.3 as regards the **prohibition** of **forum non conveniens** and Article 9.5 about forum necessitatis. We believe that they could be improved to ensure their effectiveness.

**On Article 9.3:** This paragraph introduces the **prohibition of forum non conveniens**, which was one of the demands of the Global Campaign. This provision is more useful than the phrase "forum non conveniens" in article 7.5, in which it is not clear with respect to the recourse of the victims should a court refuse to acquire jurisdiction over a case and/or the parties thereto. However, the current provision in Article 9.3 needs to be improved: it is important that it refers to all the provisions in Article 9 (covering the definition of the domicile of a transnational corporatation, as well as the provisions on **connected claims** and forum necessitatis), and not only confine itself to Article 9.1, otherwise there will be important loopholes.

***Amendement 9.3:*** *Where victims choose to bring a claim in a court as per any* ***this*** *Article [ ~~9.1~~ ] jurisdiction shall be obligatory and therefore that courts shall not decline it on the basis of forum non conveniens.*

**With respect to Art 9.5:** Although it is not explicitly mentionned, this paragraph introduces the principle of **forum necessitatis** which is also one of our demands, and is thus very welcome. However, the wording needs to be improved to better define this notion and ensure this provision become more effective. Here again we can seek inspiration in the Sofia guidelines from the International Law Association (ILA). ***We propose to amend Art. 9.5 as follows:***

***a. In order to avert a denial of justice****, courts shall have jurisdiction over claims against [****~~legal or natural persons]~~  transnational corporations or other business enterprises of transnational character*** *not domiciled in the territory of the forum State if no other effective forum guaranteeing a fair trial is available and there is a sufficiently close connection to the State Party concerned*

Due to time constraints in this intervention we would like to put on record that with respect to the concept of "denial of justice" and the criteria to be used to determine the existence of "close connection" we would like to mention that these are already included in the written submission of our group, the Global Campaign.

Thank you for your attention, Mr. Chair-Rapporteur.