

Friends of the Earth Europe Oral Statement

Panel V – Content Wednesday 10-13:00

Thank you Madam Chair.

I am speaking on behalf of Friends of the Earth Europe, SOMO, CIDSE, Brot für die Welt, IBFAN, IBFAN-GIFA and Global Policy Forum, who made a joint submission to this intergovernmental working group. Our organizations are all members of the Treaty Alliance.

We'd like to start by expressing our disappointment that we do not see the EU present here today and only 1 member state. Once again we call on the EU to attend these important panels and participate in a constructive way.

The UN Guiding Principles state that it is the duty of States to clearly set out the expectation that all business enterprises domiciled in their territory and jurisdiction respect human rights throughout their operations. Yet the UNGPs state that there is no legal obligation to regulate the extraterritorial activities of business.

Like Mr Orellana stated in his panel contribution, These formulations have now clearly been overtaken by the evolving nature of international human rights law. The obligation of a State to control the conduct of non-State actors where such conduct might lead to human rights violations outside its territory has been explicitly affirmed by various UN human rights treaty bodies, such as the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Racial Discrimination and the committee on the rights of the child.

The Maastricht principles on the extraterritorial obligations of States in the area of economic, social and cultural rights, endorsed in 2011, clarify the extraterritorial obligations of states on the basis of this developing international understanding. A legally binding instrument should seek inspiration from Principles 24 and 25 of the Maastricht Principles and be explicit about the extraterritorial scope of the state duty to protect.

As stated in the second statement of the Treaty Alliance, the treaty should require States to adopt legislation and other measures requiring TNCs and other business enterprises to adopt policies and procedures aimed at preventing, stopping and redressing adverse human rights impacts wherever they operate. These measures should also cover business operations and relationships in countries other than where the company may be domiciled or headquartered. States should ensure that companies conduct effective human rights due diligence to prevent human rights abuses, are held liable and are sanctioned when failing to do so, and provide remedy to victims when human rights violations occur.

In addition, provisions for international legal and judicial cooperation among countries should facilitate the investigation and trial of cases of transnational nature.

In addition, we urge you to ensure as well that the treaty should contain provisions requiring States to respect, protect and facilitate the work of human rights defenders and whistle-blowers. Environmental activists and the communities we work with often face the threat of injury and death just for standing up for their rights. A new case of corporate violence against environmental rights defenders is reported to us on average once a week. They need our protection.

Madam chair, the discussions here are of crucial importance to human and environmental rights defenders, whistleblowers as well as affected people around the world. We are looking forward to seeing the results of these discussions and will communicate these with our supporters and other NGOs and social movements.

I thank you for your attention.

Paul de Clerck, Friends of the Earth Europe