

**11th Session of the
open-ended intergovernmental working group on transnational corporations and other business
enterprises with respect to human rights**

20 October - 24 October 2025

Statements for Chair proposals – Article 4 to 11

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General comments on the Chair proposals

Thank you Chair.

This statement is made on behalf of the Feminists for a Binding Treaty, of which ActionAid International is part of, with the support of FIDH and Franciscans International.

We acknowledge the Chair's efforts to advance the negotiations process by incorporating the inputs provided during the intersessionals and providing textual propositions from articles 4 to 11.

As expressed by some delegations, we note that the proposals do not refer to the entirety of each article and refer to specific sections of some of them. We would appreciate clarifications on the choice and rationale behind the selection of specific subsections of these articles and the implications for the negotiations, and how these proposals are expected to be incorporated in the next draft. Such clarifications should be included in the Conclusions of the 11th session.

Since the proposals were shared a few days before the session, all of our comments on the suggestions will be preliminary. We thank the extension of the period to submit impressions until 1st February 2026, which should include CSO contributions as well. The updated draft should in any case include the comments of the 11th session and the written submissions, and retain the language that is most protective of human rights, the environment and the rights of women and sexually and gender diverse people.

We would like to reiterate that, despite the efforts by some delegations to dilute those proposals, we, women, LGBT and gender diverse persons continue to be in the room. We refuse to be invisibilized and silenced in this process and will continue fighting to ensure that the text of the Treaty reflects our lived realities.

1st proposal on Articles 4.2.e & 5.1:
Franciscans International on behalf F4BT

Thank you Chair.

This statement is made on behalf of the Feminists for a Binding Treaty, of which Franciscans International is part of.

The re-worked 4.2 and 5.1 do not mention “affected communities” or “human rights defenders”, which was suggested by States during the 10th session and during the First Inter-sessional meeting this year. It would be important to have both concepts “communities” and “human rights defenders” because of issues related to collective punishment and reprisals that are collective by businesses and/or governments that target HRDs and victims.

As mentioned by some of our members, the number of cases of attacks, criminalization, judicial harassment, intimidation against HRDs who raise business concerns is increasing.

As for Article 4(2)(e), both the original article and proposal link protection to legal proceedings. We would recommend separating it by adding “including” after reprisals in the original article or “offline” in the proposal. It would read “be protected from [...] including, before, during and after [...]”

Thank you.

3rd proposal on Article 5.3
ESCR-net

Thank you Chair,

This statement is made on behalf of the Feminists for a Binding Treaty, of which ESCR-Net is part of.

We thank the Chair for the proposal on article 5.3.

We note that the additional sentence of 5.3 limits it to domestic law or the "State's international human rights law obligations"—which may be problematic, as States may give reservations to specific articles of treaties, etc.

In that regard, we echo Mexico's concerns on the last sentence of the proposal can be edited to read: "*Such investigations and actions shall be carried out in accordance with ~~the State's domestic and legal framework, in a manner consistent with the State's international human rights law obligations.~~*", removing references to domestic legal framework.

Thank you.

4th proposal on Article 6.1 & 6.2:
Franciscans International for F4BT

Thank you Chair.

This is a statement made on behalf of the Feminist for the Binding Treaty, of which Franciscans International is a part of.

In Article 6.1 of the Chair's proposal should be edited to read: *"States Parties shall regulate, in accordance with international human rights law, and international humanitarian law (where applicable), the activities of all transnational corporations and other business enterprises within their territory, jurisdiction, or otherwise under their control [...]"*

In the proposal in Article 6.2 c), we support replacing "ensure" with "require".

We can note the positive re-addition as it was included in the previous draft of the environment, but suggest that climate is also added. We also suggest adding "ongoing" before human rights due diligence, and that "enhanced human rights due diligence is required in conflict-affected areas"

In Article 6.2. d), we support replacing "promote" with "ensure", and we would edit the chair proposal to add safe to before participation, and we note that state's obligation on informed consent for indigenous peoples should be considered. Therefore, we suggest to add at the end of art. 6.2.d): *States should also ensure that the principle of free, prior and informed consent is upheld when business operations or activities impact Indigenous Peoples."*

Thank you.

4th proposal on Article 6.1 & 6.2:
CIEL statement co-sponsored by Franciscans International

Thank you Chair.

This statement is made on behalf of CIEL, ISHR, AIPP, IITC, the International Commission of Jurists, FIDH, FIAN International and Franciscans International. We would like to thank you for the work you have put into these textual suggestions.

Regarding Article 6.2(c), we would like to commend the inclusion of “the protection of the environment” as one of the elements that human rights due diligence must include. This is very much in line with the comments made by many States and observers on the importance to mainstream environmental considerations and the right to a healthy environment across the text.

As has been highlighted by the EU and Vanuatu, while Article 6.2(c) provides an important opening, we would urge States to ensure that the environment is featured consistently in the LBI, as appropriate, and that the treaty acknowledges the recognition of the right to a healthy environment, as has been recognized by the HRC, GA and most recently, the advisory opinions on climate change by the ICJ and the Inter-American Court on Human Rights.

This wording is also consistent with state practice that requires companies to exercise environmental and human rights due diligence, as reflected for instance in the French Duty of Vigilance Law, the EU Corporate Sustainability Due Diligence Directive, and the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct.

5th proposal on Article 7.2:
F4BT

Thank you Chair.

This statement is made on behalf of the Feminists for a Binding Treaty, of which ActionAid is a part of.

In the proposal for Article 7.2, we regret that “consistent with its domestic legal” was not removed. We suggest removal of this mention,

We further suggest to edit article 7.2(a) to change “not judicial” to “non-judicial”, include “human rights abuses and violations”, and change to “interests of those victims who are or may be at risk of vulnerability or marginalization”, therefore retaining the term “marginalization”.

In Article 7.2 b), although the substitution of “reduce” with “remove” must be supported, “progressively” must also be removed.

We are moreover concerned about the lack of inclusion in the articulation of article 7.2 of a provision on the facilitation of access to information of State and corporate finances, or other relevant information. Corporations of transnational character often operate under complex ownership structures and value chains that hinder victims and affected communities from identifying the ultimate legal beneficiary. Access to remedy by victims is rendered impossible without the due cooperation of states on identifying the relevant actors for claims.

Thank you.

11th proposal on Article 9.4:
ESCR-net

Thank you Mr. Chair Rapporteur,

I speak on behalf of ESCR Net and SLDP.

We welcome the Chair's proposals to clarify that jurisdiction covers both *acts and omissions*, to refine the definition of *domicile*, and to reintroduce *co-defendant jurisdiction*. These are important improvements that reflect how corporate violations and abuses often result from failures to act as much as direct misconduct, but further expansion of jurisdiction is necessary to strengthen Article 9.

We agree with positions by states and other civil society organizations to include both legal and natural persons within the context of the article.

We would like to address some arguments advanced in the room by corporate representatives.

We have heard claims that certain elements of this draft text constitute a "blatant attack on international law" - and yet, we hear arguments from these same representatives that brazenly seek to undermine well established international legal norms. We affirm that any objection to incorporation of **universal jurisdiction** does not align with established international legal practice.

Universal jurisdiction applies to international crimes such as war crimes, crimes against humanity, genocide, and torture as a stand-alone crime. Under international criminal law, individuals can be held liable for their role in international crimes, whether they are business actors or armed combatants.

On claims of '**forum shopping**', we note that this is a practice primarily employed by companies, particularly in relation to investment arbitration. Victims seldom enjoy a real choice of jurisdiction. Access to the most protective forum is not abuse—it is justice. The updated Article 9 bases jurisdiction on clear, accepted links—these are not "exorbitant" as has been claimed, but rather essential to close gaps in access to remedy.

Lastly, claims that Article 9 enables "excessive **extraterritorial jurisdiction**" are misleading and aimed at shielding companies from accountability. The jurisdictional bases listed in Article 9.1 are standard in international law and domestic law. These are neither novel nor extreme - rather, they are necessary and reflect the global nature of business operations and the need to close accountability gaps. Far from undermining sovereignty, they reinforce States' duty to ensure access to remedy and prevent impunity for cross-border violations and abuses.

We further reiterate that jurisdiction should also apply to where fiscal assets of a company are being held.

We note that business representatives have a conflict of interest with the ongoing negotiations. We see this manifesting clearly through unconstructive statements aiming to undermine the treaty text and asking for a complete redraft of articles such as this one. This is disrespectful to all the legal analysis brought forward by many states and civil society in this room in the past 11 years.

The treaty cannot be limited in jurisdiction or liability, as this would contradict the very purpose of why we are here today. Accordingly, we repeat our view and recommendation that the participation of corporate actors be prohibited in this process - similar to the well established and agreed upon Framework Convention on Tobacco Control process.

I thank you, Chair.

12th proposal on Article 10:
ESCR-Net

Consideramos fundamental que no se aplique ningún período de prescripción para los abusos y violaciones de derechos humanos, en especial cuando los impactos se manifiestan de manera diferida en el tiempo. Muchos de los efectos sobre el ambiente, los ecosistemas y la vida de las personas no aparecen de forma inmediata, sino paulatina o incluso décadas después.

Por ejemplo, en contextos de conflictos socioambientales, las prácticas extractivas como la explotación petrolera mediante métodos no convencionales, entre ellos el *fracking*, pueden generar contaminación de las fuentes hídricas y afectar el nivel freático de las aguas subterráneas. Asimismo, las enfermedades respiratorias por material particulado, o la pérdida de viviendas provocadas por detonaciones para la fractura de rocas en contexto de proyectos extractivos, suelen evidenciarse con el paso de los años, incluso cuando las empresas responsables ya se encuentran en otra fase de sus operaciones o han abandonado el territorio.

Por estas razones, establecer la imprescriptibilidad de los delitos y abusos vinculados a actividades empresariales con impactos humanos y ambientales constituye una medida esencial para garantizar la justicia intergeneracional, la reparación integral y la no repetición.

Gracias.