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للحقوق الاقتصادية
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ESCR-Net language amendment on the text of the 3rd revised draft legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises

21 October 2021

3rd REVISED DRAFT OF PROPOSED TREATY 2021	SUGGESTED LANGUAGE FOR 3 rd DRAFT:
Preamble	Preamble
<p><i>The States Parties To This (Legally Binding Instrument),</i></p> <p><i>(PP1)Reaffirming</i> the principles and purposes of the Charter of the United Nations;</p> <p><i>(PP2)Recalling</i> the nine core International Human Rights Instruments adopted by the United Nations, and the eight fundamental Conventions adopted by the International Labour Organization;</p> <p><i>(PP3)Recalling</i> also the Universal Declaration of Human Rights, as well as the Declaration on the Right to Development, the Vienna Declaration and Programme of Action, the Durban Declaration and Programme of Action, the UN Declaration on Human Rights Defenders, the UN Declaration on the Rights of Indigenous Peoples, relevant</p>	<p><i>The States Parties To This (Legally Binding Instrument),</i></p> <p><i>(PP1)Reaffirming</i> the principles and purposes of the Charter of the United Nations;</p> <p><i>(PP2)Recalling</i> the nine core International Human Rights Instruments adopted by the United Nations, and the eight fundamental Conventions adopted by the International Labour Organization;</p> <p><i>(PP3)Recalling</i> also the Universal Declaration of Human Rights, as well as the Declaration on the Right to Development, the Vienna Declaration and Programme of Action, the Durban Declaration and Programme of Action, the UN Declaration on Human Rights Defenders, the UN Declaration on the Rights of Indigenous Peoples, the <u>UN</u></p>



ILO Conventions, and recalling further the 2030 Agenda for Sustainable Development, as well as all internationally agreed human rights Declarations;

(PP4) Reaffirming the fundamental human rights and the dignity and worth of the human person, in the equal rights of men and women and the need to promote social progress and better standards of life in larger freedom while respecting the obligations arising from treaties and other sources of international law as set out in the Charter of the United Nations;

(PP5) Reaffirming that all human rights are universal, indivisible, interdependent, inter-related, and inalienable, and should be applied in a non-discriminatory way;

(PP6) Upholding the right of every person to have effective, and equal access to justice and remedy in case of violations of international human rights law or international humanitarian law, including the rights to non-discrimination, participation and inclusion;

(PP7) Stressing that the primary obligation to respect, protect, fulfill and promote human rights and fundamental freedoms lie with the State, and that States must protect against human rights abuse by third parties, including business enterprises, within their territory, jurisdiction, or otherwise under their control, and ensure respect for and implementation of international human rights law;

declaration on the Rights of Peasants and other People Working in Rural Areas (UNDROP), relevant ILO

Conventions, and recalling further the 2030 Agenda for Sustainable Development, as well as all internationally agreed human rights Declarations;

(PP4) Reaffirming the fundamental human rights and the dignity and worth of the human person, in the equal rights of men and women and the need to promote social progress and better standards of life in larger freedom while respecting the obligations arising from treaties and other sources of international law as set out in the Charter of the United Nations;

(PP5) Reaffirming that all human rights are universal, indivisible, interdependent, inter-related, and inalienable, and should be applied in a non-discriminatory way;

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(PP7) Stressing that the primary obligation to respect, protect, fulfill and promote human rights and fundamental freedoms lie with the State, and that States must protect against human rights abuse by third parties, including business enterprises, within their territory, jurisdiction, or otherwise under their control, and ensure

(PP8) Recalling the United Nations Charter Articles 55 and 56 on international cooperation, including in particular with regard to universal respect for, and observance of, human rights and fundamental freedoms for all without distinction of race, colour, sex, language or religion;

(PP9) Upholding the principles of sovereign equality, peaceful settlement of disputes, and maintenance of the territorial integrity and political independence of States as set out in Article 2 of the United Nations Charter;

(PP10) Acknowledging that all business enterprises have the capacity to foster-sustainable development through an increased productivity, inclusive economic growth and job creation, that respect internationally recognized human rights, labour rights, health and safety standards, the environment and climate, in accordance with relevant international standards and agreements

(PP11) Underlining that business enterprises, regardless of their size, sector, location, operational context, ownership and structure have the obligation to respect internationally recognized human rights, including by avoiding causing or contributing to human rights abuses through their own activities and addressing such abuses when they occur, as well as by preventing or mitigating human rights abuses that are directly linked to their operations, products or services by their business relationships;

(PP12) Emphasizing that civil society actors including human rights defenders have an important and legitimate role in promoting the respect of human rights by business

respect for and implementation of international human rights **and humanitarian** law;

(PP8) Recalling the United Nations Charter Articles 55 and 56 on international cooperation, including in particular with regard to universal respect for, and observance of, human rights and fundamental freedoms for all, **and stressing that there should be no** ~~without distinction of race, sex, language or religion;~~ **discrimination on grounds that are prohibited by international human rights law.**”

(PP9) Upholding the principles of sovereign equality, peaceful settlement of disputes, and maintenance of the territorial integrity and political independence of States as set out in Article 2 of the United Nations Charter;

*(PP9bis): **Recalling the UN Charter and one of the fundamental purposes of the United Nations being the respect for the right to self-determination of peoples, recalling also, the confirmation of the right of all peoples to self-determination according to the UN General Assembly (GA) Declaration of Friendly Relations, unanimously adopted in 1970 and considered an authoritative indication of customary international law, recalling finally that Article 1, common to the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR), reaffirms the right of all peoples to self-determination, and lays upon state parties the obligation to promote and to respect it.***

*(PP9ter): **Reaffirming the principles of the Declaration on the Granting of Independence to Colonial***



enterprises, and in preventing, mitigating and seeking effective remedy for business-related human rights abuses;

(PP13) Recognizing the distinctive and disproportionate impact of business-related human rights abuses on women and girls, children, indigenous peoples, persons with disabilities, people of African descent, older persons, migrants and refugees, and other persons in vulnerable situation, as well as the need for a business and human rights perspective that takes into account specific circumstances and vulnerabilities of different rights-holders and the structural obstacles for obtaining remedies for these persons;

(PP14) Emphasizing the need for States and business enterprises to integrate a gender perspective in all their measures, in line with the Convention on the Elimination of All Forms of Discrimination against Women, the Beijing Declaration and Platform for Action, the ILO Convention 190 concerning the elimination of violence and harassment in the world of work, the Gender Guidance for the Guiding Principles on Business and Human Rights, and other relevant international standards;

(PP15) Taking into account the work undertaken by the United Nations Commission on Human Rights and the Human Rights Council on the question of the responsibilities of transnational corporations and other business enterprises with respect to human rights, and all relevant previous Human Rights Council resolutions, including in particular Resolution 26/9;

Countries and Peoples, also known as the United Nations General Assembly Resolution 1514.

(PP10) Acknowledging that all business enterprises have the capacity to foster-sustainable development through an increased productivity, inclusive economic growth and job creation, that respect internationally recognized human rights, labour rights, health and safety standards, the environment and climate **justice**, in accordance with relevant international standards and agreements.

*(PP10bis) **Confirming that the principle of non-regression requires that human rights norms which have already been adopted by State not be revised if this implies going backwards on the subject of standards of protection of collective and individual rights.***

(PP 11) Underlining that business enterprises, regardless of their size, sector, location, operational context, ownership and structure have the obligation to respect internationally recognized human rights, including by avoiding causing or contributing to human rights abuses through their own activities and addressing such abuses when they occur, as well as by preventing or mitigating human rights abuses that are directly linked to their operations, products or services by their business relationships;

*(PP11bis) **To affirm the primacy of human rights obligations in relation to any conflicting provision contained in international trade, investment, finance,***



(PP16) Recognizing the contribution and complementary role that the Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework has played in that regard and to advancing respect for human rights in the business activities;

(PP17) Noting the ILO Declaration on Fundamental Principles and Rights at Work and the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy;

(PP18) Desiring to clarify and facilitate effective implementation of the obligations of States regarding business-related human rights abuses and the obligations of business enterprises in that regard;

Have agreed as follows:

taxation, environmental and climate change, development cooperation and security agreements.

(PP11ter) Emphasizing that States have an obligation to protect, respect and fulfil human rights in the context of all business activities under their jurisdiction both at home and abroad in accordance with the International Covenant on Economic Social and Cultural Rights.

(PP12) Emphasizing that civil society actors including human rights defenders have an important and legitimate role in promoting **and protecting** the respect of human rights, **the environment, and the climate affected** by business enterprises **activities**, and in preventing, mitigating and seeking effective remedy for business-related human rights abuses and that **and that States have the obligation to take all appropriate measures to ensure an enabling and safe environment for the exercise of such role.;**

*(PP12bis) Recognizing that human rights defenders are **particularly targeted when challenging business activity, taking into consideration particular vulnerabilities and heightened risks for certain groups of human rights defenders including women and LGBTI+ human rights defenders, indigenous and environmental human rights defenders, human rights defenders working in isolated and rural areas and human rights defenders engaged in the protection of land, territory and natural resources, and the***



obligation of States to protect defenders against any harm.

(PP13) *Recognizing* the distinctive and disproportionate impact of business-related human rights abuses on women and girls, children, indigenous peoples, persons with disabilities, people of African descent, older persons, migrants and refugees, and **communities most affected by the impacts of climate change**, ~~other persons in vulnerable situation~~, as well as the need for a business and human rights perspective that takes into account specific circumstances and vulnerabilities of different rights-holders and the structural obstacles for obtaining remedies for these persons;

(PP13bis) *Acknowledging* the climate emergency and the short time window available to protect human rights affected by climate change, and the urgent need of limiting global warming to 1.5 degrees C by 2030, in order to avoid the worst impacts of climate warming, and that developed countries and multinational corporations must take the lead in combating climate change as recognized by Article 3 of the United Nations Framework Convention on Climate Change;

(PP13ter) *Recognizing* that the climate emergency is multifaceted and approaches to mitigate warming are also approaches to environmental justice and human rights in line with the Bali Principles of Climate Justice, improvements in labour rights, Indigenous rights, and economic equity;



(PP14) *Emphasizing* the need for States and business enterprises to integrate **an inclusive, integrated, and gender-responsive perspectives** in all their measures, in line with the Convention on the Elimination of All Forms of Discrimination against Women, the Beijing Declaration and Platform for Action, the ILO Convention 190 concerning the elimination of violence and harassment in the world of work, the Gender Guidance for the Guiding Principles on Business and Human Rights, and other relevant international standards; **including to consider underlying causes and risk factors, eliminate all forms of discrimination, redress historical and current disadvantage, address stereotypes and violence, transform biased institutional structures and practices, and facilitate social inclusion and political participation.**

(PP15) *Taking* into account the work undertaken by the United Nations Commission on Human Rights and the Human Rights Council on the question of the responsibilities of transnational corporations and other business enterprises with respect to human rights, and all relevant previous Human Rights Council resolutions, including in particular Resolution 26/9;

(PP16) *Recognizing* the contribution and complementary role that the Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework has played in that



	<p>regard and to advancing respect for human rights in the business activities;</p> <p><i>(PP17) Noting</i> the ILO Declaration on Fundamental Principles and Rights at Work and the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy;</p> <p><i>(PP18) Desiring</i> to clarify and facilitate effective implementation of the obligations of States regarding business-related human rights abuses and the obligations of business enterprises in that regard;</p> <p><i>Have agreed as follows:</i></p>
Section I Article 1. Definitions	
<p>For purposes of the present legally binding instrument:</p> <p>1.1. “Victim” shall mean any person or group of persons, irrespective of nationality or place of domicile, who individually or collectively have suffered harm that constitute human rights abuse, through acts or omissions in</p>	



<p>the context of business activities. The term “victim” may also include the immediate family members or dependents of the direct victim. A person shall be considered a victim regardless of whether the perpetrator of the human rights abuse is identified, apprehended, prosecuted, or convicted.</p>	
<p>1.2. “Human rights abuse” shall mean any direct or indirect harm in the context of business activities, through acts or omissions, against any person or group of persons, that impedes the full enjoyment of internationally recognized human rights and fundamental freedoms, including the right to a safe, clean, healthy and sustainable environment.</p>	<p>1.2. “Human rights abuse” shall mean any direct or indirect harm in the context of business activities, through acts or omissions, against any person or group of persons, that impedes the full enjoyment of internationally recognized human rights and fundamental freedoms, <u>including the right to a safe, clean, healthy and sustainable environment, as well as workers’ rights.</u></p>
<p>1.3. “Business activities” means any economic or other activity, including but not limited to the manufacturing, production, transportation, distribution, commercialization, marketing and retailing of goods and services, undertaken by a natural or legal person, including State- owned enterprises, financial institutions and investment funds, transnational corporations, other business enterprises, joint ventures, and any other business relationship undertaken by a natural or legal person. This includes activities undertaken by electronic means.</p>	<p>1.3. “Business activities” means any economic or other activity, including but not limited to the manufacturing, production, transportation, distribution, commercialization, marketing and retailing of goods and services, undertaken by a natural or legal person, including State- owned enterprises, financial institutions and investment funds, transnational corporations, other business enterprises, joint ventures, and any other business relationship undertaken by a natural or legal person. This includes activities undertaken by electronic means.</p>



1.4. “**Business activities of a transnational character**”

means any business activity described in Article 1.3. above, when:

- a. It is undertaken in more than one jurisdiction or State; or
- b. It is undertaken in one State but a significant part of its preparation, planning, direction, control, design, processing, manufacturing, storage or distribution, takes place through any business relationship in another State or jurisdiction; or
- c. It is undertaken in one State but has significant effect in another State or jurisdiction.

1.5. “**Business relationship**” refers to any relationship between natural or legal persons, including State and non-State entities, to conduct business activities, including those activities conducted through affiliates, subsidiaries, agents, suppliers, partnerships, joint venture, beneficial proprietorship, or any other structure or relationship as provided under the domestic law of the State, including activities undertaken by electronic means.

1.5. “**Business relationship**” refers to any relationship between natural or legal persons, including State and non-State entities, to conduct business activities. **The term includes including** those activities conducted through affiliates, subsidiaries, agents, suppliers, partnerships, joint venture, beneficial proprietorship, **entities in the value and supply chain,** ~~or any other structure or contractual relationship as provided under the domestic law of the State,~~ **any non-State or State entity linked to a business operation, product, or service even if the relationship is not contractual, including as well as** activities undertaken by electronic means.



<p>1.6. “Regional integration organization” shall mean an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by this (Legally Binding Instrument). Such organizations shall declare, in their instruments of formal confirmation or accession, their level of competence in respect of matters governed by this (Legally Binding Instrument), and they shall subsequently inform the depositary of any substantial modification to such competence. References to “States Parties” in the present (Legally Binding Instrument) shall apply to such organizations within the limits of their competence.</p>	
<p>Article 2: Statement of Purpose</p>	
<p>2.1. The purpose of this (Legally Binding Instrument) is:</p> <ul style="list-style-type: none"> a. To clarify and facilitate effective implementation of the obligation of States to respect, protect, fulfill and promote human rights in the context of business activities, particularly those of transnational character; b. To clarify and ensure respect and fulfillment of the human rights obligations of business enterprises. c. To prevent and mitigate the occurrence of human rights abuses in the context of business activities by effective mechanisms of monitoring and enforceability; 	<p>2.1.</p> <ul style="list-style-type: none"> a. As is b. As is. c. To prevent and mitigate the occurrence of human rights abuses and <u>violations as well as environmental harm resulting from</u> in the context of business activities <u>in both conflict and non-conflict affected areas by</u>



<p>d. To ensure access to justice and effective, adequate and timely remedy for victims of human rights abuses in the context of business activities;</p> <p>e. To facilitate and strengthen mutual legal assistance and international cooperation to prevent and mitigate human rights abuses in the context of business activities, particularly those of transnational character, and provide access to justice and effective, adequate and timely remedy to victims of such abuses.</p>	<p><u>creating and enacting effective and binding mechanisms of monitoring, enforceability and accountability;</u></p> <p>d. To ensure access to <u>gender-responsive and victim-centred</u> justice and effective, adequate remedy for victims of human rights abuses <u>and violations</u> in the context of such business activities;</p> <p>e. To facilitate and strengthen mutual legal assistance and international cooperation to prevent <u>and mitigate</u> human rights abuses <u>and violations</u> in the context of business activities, <u>particularly those of transnational character,</u> and provide access to justice and effective remedy <u>and reparations</u> to victims of such abuses <u>or violations - paying particular attention to women and girls, including those affected by conflict.</u></p>
<p>Article 3: Scope</p>	
<p>3.1. This (Legally Binding Instrument) shall apply to all business activities, including business activities of a transnational character.</p>	<p>3.1. This (Legally Binding Instrument) shall apply to all business activities, with particular focus on transnational corporations and other business enterprises <u>in the value chain</u> that undertake business activities of a transnational character.</p>
<p>3.2. Notwithstanding Article 3.1. above, when imposing prevention obligations on business enterprises under this</p>	<p>3.2. Notwithstanding Article 3.1. above, when imposing prevention obligations on business enterprises under this</p>



<p>(Legally Binding Instrument), States Parties may establish in their law, a non-discriminatory basis to differentiate how business enterprises discharge these obligations commensurate with their size, sector, operational context or the severity of impacts on human rights</p>	<p>(Legally Binding Instrument), States Parties may establish in their law, a non-discriminatory basis to differentiate how business enterprises discharge these obligations commensurate with their size, sector, operational context or the severity of impacts on human rights</p>
<p>3.3. This (Legally Binding Instrument) shall cover all internationally recognized human rights and fundamental freedoms binding on the State Parties of this (Legally Binding Instrument), including those recognized in the Universal Declaration of Human Rights, the ILO Declaration on Fundamental Principles and Rights at Work, all core international human rights treaties and fundamental ILO Conventions to which a State is a Party, and customary international law.</p>	<p>3.3. This (Legally Binding Instrument) shall cover all internationally recognized human rights and fundamental freedoms binding on the State Parties of this (Legally Binding Instrument), including those recognized in the Universal Declaration of Human Rights, the ILO Declaration on Fundamental Principles and Rights at Work, all core international human rights treaties and fundamental ILO Conventions to which a State is a Party,, <u>international humanitarian law, international criminal law, international environmental law,</u> and customary international law.</p>
<p>Section II: Article 4: Rights of Victims</p>	
<p>4.1. Victims of human rights abuses in the context of business activities shall enjoy all internationally recognized human rights and fundamental freedoms.</p>	<p>4.1. Victims of human rights abuses <u>and violations</u> in the context of business activities shall enjoy all internationally recognized human rights and fundamental freedoms.</p>

4.2. Without prejudice to Article 4.1. above, victims shall:

a. be treated with humanity and respect for their dignity and human rights, and their safety, physical and psychological well-being and privacy shall be ensured;

b. be guaranteed the right to life, personal integrity, freedom of opinion and expression, peaceful assembly and association, and free movement;

c. be guaranteed the right to fair, adequate, effective, prompt, non-discriminatory, appropriate and gender-sensitive access to justice, individual or collective reparation and effective remedy in accordance with this (Legally Binding Instrument) and international law, such as restitution, compensation, rehabilitation, reparation, satisfaction, guarantees of non-repetition, injunction, environmental remediation, and ecological restoration;

d. be guaranteed the right to submit claims, including by a representative or through class action in appropriate cases,

4(2) Without prejudice to the paragraph above, victims shall:

(a) be treated with humanity and respect for their dignity and human rights, and their safety, physical and psychological well-being and privacy shall be ensured; **taking into considering factors that affect the well-being of different genders and those in conflict-areas**

(b) be guaranteed the right to life, a **healthy and safe environment**, personal integrity, freedom of opinion and expression, peaceful assembly and association, and free movement;

(c) be guaranteed the right to fair, adequate, effective, prompt and non-discriminatory access to justice and effective remedy in accordance with this (Legally Binding Instrument) and international law, such as restitution, compensation, rehabilitation, satisfaction, guarantees of non-repetition, injunction, environmental remediation, ecological restoration, **including covering expenses for relocation of victims, replacement of community facilities, and emergency and long-term health assistance. Victims shall be guaranteed the right for long-term monitoring of such remedies.**

(d) No suggestions

(e) be protected from any unlawful interference against their privacy, and from intimidation, and retaliation, before, during and after any proceedings have been instituted, as well as from re- victimization in the course of proceedings



to courts and non-judicial grievance mechanisms of the States Parties;

e. be protected from any unlawful interference against their privacy, and from intimidation, and reprisals, before, during and after any proceedings have been instituted, as well as from re-victimization in the course of proceedings for access to effective, prompt and adequate remedy, including through appropriate protective and support services that are gender and age responsive; and,

f. be guaranteed access to information and legal aid relevant to pursue effective remedy.

for access to effective remedy, including through appropriate protective and support services that are ~~gender responsive~~, **ensure substantive gender equality, as well as equal and fair gender-responsive access to justice such as gender-appropriate counselling and gender-specific healthcare**

(f) be guaranteed access to **legal aid and** information **held by businesses and others** relevant to pursue effective remedy, **paying particular attention to greater barriers that at-risk groups face such as Indigenous Peoples', as well as women and girls; the right to access information shall also extend to human rights defenders and includes information relative to all the different legal entities involved in the transnational business activity alleged to harm human rights, such as property titles, contracts, business ownership and control, communications and other relevant documents; and...**

(g) be guaranteed full participation, transparency and independence in reparation processes, which take into account the differentiated impacts of human rights abuses on specific groups of people and respond adequately to these impacts and their particular needs.



<p>4.3. Nothing in this provision shall be construed to derogate from any higher level of recognition and protection of any human rights of victims or other individuals under international, regional or national law.</p>	
<p>Article 5: Protection of Victims</p>	
<p>5.1. States Parties shall protect victims, their representatives, families and witnesses from any unlawful interference with their human rights and fundamental freedoms, including prior, during and after they have instituted any proceedings to seek access to effective, prompt and adequate remedy, as well as from re-victimization in the course of these proceedings.</p>	<p>5.1 States Parties shall protect victims, their representatives, families and witnesses from any unlawful interference with their human rights and fundamental freedoms, including prior, during and after they have instituted any proceedings to seek access to effective, prompt and adequate remedy, as well as from re-victimization in the course of these proceedings. <u>States who fail to enshrine the provisions of this LBI into their domestic legislation in a timely manner (within 4 years maximum) or fail to amend any laws that may contradict it, will be held liable</u></p>
<p>5.2. States Parties shall take adequate and effective measures to guarantee a safe and enabling environment for persons, groups and organizations that promote and defend human rights and the environment, so that they are</p>	<p>5.2 States Parties shall take adequate and effective <u>and gender-responsive</u> measures to guarantee a safe and enabling environment for persons, groups and organizations that promote and defend human rights</p>

<p>able to exercise their human rights free from any threat, intimidation, violence or insecurity.</p>	<p>and the environment, so that they are able to exercise their human rights free from any threat, intimidation, violence or insecurity. <u>Adequate and effective measures include, but are not limited to, legislative provisions that prohibit interference, including through use of public or private security forces, with the activities of any persons who seek to exercise their right to peacefully protest against and denounce abuses linked to corporate activity; refraining from restrictive laws and establishing specific measures to protect against any form of criminalization and obstruction to their work, including gender-based</u></p>
<p>5.3 States Parties shall investigate all human rights abuses covered under this (Legally Binding Instrument), effectively, promptly, thoroughly and impartially, and where appropriate, take action against those natural and/or legal persons found responsible, in accordance with domestic and international law.</p>	<p>5.3 State Parties shall investigate all human rights abuses and violations covered under this (Legally Binding Instrument), effectively, promptly, thoroughly and impartially, and where appropriate, take action against those natural or legal persons found responsible, in accordance with domestic and international law</p>
<p>Article 6: Prevention</p>	
<p>6.1. States Parties shall regulate effectively the activities of all business enterprises within their territory, jurisdiction, or otherwise under their control, including transnational</p>	<p>6.1. States Parties shall regulate effectively the activities of all business enterprises within their territory, jurisdiction, or otherwise under their control, including</p>

<p>corporations and other business enterprises that undertake activities of a transnational character.</p>	<p>transnational corporations and other business enterprises that undertake activities of a transnational character.</p> <p>6.1bis</p> <p><u>State Parties shall take precautionary measures, including the halt of business activities, when such activities can cause imminent human rights abuses or violations causing irreparable harm, independently from the existence or outcome of a legal proceeding relative to the situation.</u></p> <p>6.2bis</p> <p><u>State Parties shall prioritize the safety and protection of human rights defenders as a foundational element to the principle of prevention</u></p>
<p>6.2. States Parties shall take appropriate legal and policy measures to ensure that business enterprises, including transnational corporations and other business enterprises that undertake activities of a transnational character, within their territory, jurisdiction, or otherwise under their control, respect internationally recognized human rights and prevent and mitigate human rights abuses throughout their business activities and relationships.</p>	<p>6.2 States Parties shall take appropriate legal and policy measures to ensure that business enterprises, including transnational corporations and other business enterprises that undertake activities of a transnational character, within their territory, jurisdiction, or otherwise under their control, respect internationally recognized human rights and prevent and mitigate human rights abuses <u>and violations</u> throughout their business activities and relationships.</p>
<p>6.3. For that purpose, States Parties shall require business enterprises to undertake human rights due diligence,</p>	<p><u>6.3. State Parties shall require business enterprises and other actors across the full value chain –</u></p>



proportionate to their size, risk of human rights abuse or the nature and context of their business activities and relationships, as follows:

- a. Identify, assess and publish any actual or potential human rights abuses that may arise from their own business activities, or from their business relationships;
- b. Take appropriate measures to avoid, prevent and mitigate effectively the identified actual or potential human rights abuses which the business enterprise causes or contributes to through its own activities, or through entities or activities which it controls or manages, and take reasonable and appropriate measures to prevent or mitigate abuses to which it is directly linked through its business relationships;
- c. Monitor the effectiveness of their measures to prevent and mitigate human rights abuses, including in their business relationships;
- d. Communicate regularly and in an accessible manner to stakeholders, particularly to affected or potentially affected persons, to account for how they address through their policies and measures any actual or potential human rights abuses that may arise from their activities including in their business relationships.

including State entities, to undertake ongoing and frequently updated human rights and environmental due diligence proportionate to their size, risk of severe human rights impacts and the nature and context of their operations, as follows:...

- a. Identify, assess and publish any actual or potential **environmental risks and/or human rights abuses or violations that may arise from their own business activities, or from their business relationships - including those that infringe upon workers' rights**
- b. Take appropriate measures to avoid, prevent and mitigate effectively the identified actual or potential human rights abuses which the business enterprise causes or contributes to through its own activities, or through entities or activities which it controls or manages, and take reasonable and appropriate measures to prevent or mitigate abuses to which it is directly linked through its business relationships **and historical contributions that increase planetary warming. In cases where mitigation is impossible, businesses may be required to terminate their relationship and/or cease activities/operations in order to fulfill their obligations.**

c. No proposed changes.

d. No proposed changes.

6.4. States Parties shall ensure that human rights due diligence measures undertaken by business enterprises shall include:

- a. Undertaking and publishing regular human rights, labour rights, environmental and climate change impact assessments throughout their operations;
- b. Integrating a gender perspective, in consultation with potentially impacted women and women's organizations, in all stages of human rights due diligence processes to identify and address the differentiated risks and impacts experienced by women and girls;
- c. Conducting meaningful consultations with individuals or communities whose human rights can potentially be affected by business activities, and with other relevant stakeholders, including trade unions, while giving special attention to those facing heightened risks of business-related human rights abuses, such as women, children, persons with disabilities, indigenous peoples, people of African descent, older persons, migrants, refugees, internally displaced persons and protected populations under occupation or conflict areas;
- d. Ensuring that consultations with indigenous peoples are undertaken in accordance with the internationally agreed standards of free, prior and informed consent;
- e. Reporting publicly and periodically on non-financial matters, including information about group structures and

6.4 State Parties shall ensure that human rights **and environmental** due diligence measures undertaken by business enterprises **and State entities involved in business** under Article 6(2) shall include:...

- a. Undertaking and publishing regular human rights, labour rights, environmental and climate change impact assessments throughout **all phases of** their operations **– taking into account workers' rights – such impact assessments shall be undertaken by independent third parties with no conflicts of interests.**
- b. Integrating a gender perspective, with the leadership of and in meaningful in consultation with potentially impacted women and women's rights organizations, in all stages of human rights due diligence processes to identify and address the differentiated and intersectional risks and impacts experienced by women and girls, including through the collection of data disaggregated by gender and other major variables relevant to the communities potentially affected by their operations
- c. Conducting meaningful consultations **– in line with principles of free, prior and informed consent and throughout all phases of operations –** with individuals or communities whose human rights can potentially be affected by business activities, and with other relevant stakeholders, while giving special attention to those facing heightened risks of business related human rights abuses, such as women, children, persons with disabilities, Indigenous Peoples, migrants, refugees, internally displaced persons and protected populations under occupation or conflict areas **- such consultations shall**

suppliers as well as policies, risks, outcomes and indicators concerning human rights, labour rights, health, environmental and climate change standards throughout their operations, including in their business relationships;

f. Integrating human rights due diligence requirements in contracts regarding their business relationships and making provision for capacity building or financial contributions, as appropriate;

g. Adopting and implementing enhanced human rights due diligence measures to prevent human rights abuses in occupied or conflict-affected areas, including situations of occupation.

be undertaken by an independent public body and protected from any undue influence from commercial and other vested interests - where it is not possible to conduct meaningful consultations such as in conflict areas, business operations should refrain from operating unless it is for the benefit of the oppressed population.

d. Ensuring that consultations with Indigenous Peoples are undertaken in accordance with ~~the internationally agreed standards~~ **all elements of Free, Prior and Informed consent endorsed by the UNPFII at its Fourth Session in 2005, and in accordance with international human rights standards. business activities must not go forward without the continuous consent of affected communities. Consent must be continuously attained at every stage of business activity and in correspondence to change in business plans, by providing genuine information and carrying out timely and meaningful consultations.**

6.4(d)*bis* **Respecting that Peoples have a right to self-determination and, therefore, a right to refuse business activity on their land without threats of retaliation.**

6.4(d)*ter*: **“Safeguarding the rights of Indigenous Peoples to environmental governance as means to respect their right to a safe and healthy environment.”**

e. Reporting publicly and periodically on non-financial matters, including information about group structures and suppliers as well as policies, risks, outcomes and indicators concerning human rights, labour rights, health,



environmental and climate change **impacts standards** throughout their operations, including in their business relationships; **using accountability metrics as recognized by the United Nation.**

f. No changes proposed

g. Adopting and implementing enhanced **and ongoing human rights and environmental** due diligence to prevent human rights **and violations** in conflict-affected areas, including situations of occupation – **the enhanced due diligence must take place prior to the commencement of business activities and throughout all phases of operations, corporations and/or State-entities must refrain from pursuing or starting operations in situations where no independent due diligence assessment can guarantee neither directly causing, contribution or being directly linked to human rights abuses or violations of human rights and humanitarian law standards¹ arising from business activities, or from contractual business relationships across the value chain, including with respect to their products and services; entities already engaged in business activity in conflict-affected areas, including situations of occupation, shall also adopt and implement urgent and immediate measures, such as divestment and disengagement policies, to avoid corporate involvement in, or contribution to human rights abuses and violations in their activities and relationships.**

¹ As in commentary to UNGP 12



<p>6.5. States Parties may provide incentives and adopt other measures to facilitate compliance with requirements under this Article by micro, small and medium sized business enterprises.</p>	<p>6.5. States Parties may provide incentives and adopt other measures to facilitate compliance with requirements under this Article by micro, small and medium sized business enterprises.</p>
<p>6.6. States Parties shall ensure that effective national procedures are in place to ensure compliance with the obligations laid down under this Article, taking into consideration the potential human rights abuses resulting from the business enterprises' size, nature, sector, location, operational context and the severity of associated risks associated with the business activities in their territory, jurisdiction, or otherwise under their control, including those of transnational character.</p>	<p>6.6. States Parties shall ensure that effective national procedures are in place to ensure compliance with the obligations laid down under this Article, taking into consideration the potential human rights abuses resulting from the business enterprises' size, nature, sector, location, operational context and the severity of associated risks associated with the business activities in their territory, jurisdiction, or otherwise under their control, including those of transnational character.</p>
<p>6.7. Without prejudice to the provisions on criminal, civil and administrative liability under Article 8, State Parties shall provide for adequate penalties, including appropriate corrective action where suitable, for business enterprises failing to comply with provisions of Articles 6.3 and 6.4.</p>	<p>6.7. Without prejudice to the provisions on criminal, civil and administrative liability under Article 8, <u>State Parties shall conduct human rights, environment and gender impact assessments of all their policies, projects, activities and decisions involving business activities of a transnational character. This obligation shall apply to all branches and bodies of the State.</u></p>

	<p><u>6.7bis Where applicable under international law, States shall incorporate or otherwise implement within their domestic law appropriate provisions for universal jurisdiction over human rights violations that amount to international crimes</u></p>
<p>6.8. In setting and implementing their public policies and legislation with respect to the implementation of this (Legally Binding Instrument), States Parties shall act in a transparent manner and protect these policies from the influence of commercial and other vested interests of business enterprises, including those conducting business activities of transnational character.</p>	<p>6.8. In setting and implementing their <u>legislation and</u> public policies with respect to the implementation of this (Legally Binding Instrument), State Parties shall act to protect these legislation and policies from the influence of commercial and other vested interests of business enterprises, including those conducting business activities of a transnational character. <u>In efforts to limit corruption, States shall also review and adopt laws that will enhance transparency regarding business donations to political parties, corporate lobbying, awarding of licenses, public procurement, and revolving doors practices.</u></p>
	<p><u>6.9.bis States and corporations shall provide individuals and communities, including human rights defenders, safe access to relevant, timely, sufficient, and quality information in connection with each stage of business activities, in order to facilitate meaningful participation in the prevention of and response to human rights and environmental impacts. Information should be made available in language and formats that are truly accessible to relevant stakeholders within the community and civil society. The choice of what information should be</u></p>



	<p><u>made available should respond to specific needs of affected communities, who are best placed to determine what information is relevant to them in order to make informed decisions about projects. State Parties shall prioritize the safety and protection of human rights defenders as a foundational element to the principle of prevention.</u></p>
	<p>6.10bis <u>State Parties shall take all necessary steps, particularly through human rights and environmental impact assessments, to respect and protect human rights in the context of business activities that the State Party is engaged in, supports, or shapes. This includes but is not limited to, State ownership or control in business activities, State engagement in business activities with companies or other States, State regulatory oversight, or political or financial support</u></p>
	<p>i. 6(11)bis <u>State Parties shall ensure that reparations processes and mechanisms established to repair the harm caused by large-scale industrial disasters are designed and implemented in consultation with, and with the full participation of those affected are transparent and independent from the business enterprise that caused or contributed to the harm, ensure independent technical assistance and are sufficiently resourced to offer the prospect of full reparation to all those affected, and include</u></p>

	<p><u>accountability metrics as identified by third-party reporting and analysis;</u></p>
<p>Article 7: Access to Remedy</p>	
<p>7.1. States Parties shall provide their courts and State-based non-judicial mechanisms, with the necessary competence in accordance with this (Legally Binding Instrument) to enable victims' access to adequate, timely and effective remedy and access to justice, and to overcome the specific obstacles which women, vulnerable and marginalized people and groups face in accessing such mechanisms and remedies.</p>	<p>7.1. No changes proposed</p> <p>7.1.<i>bis</i></p> <p><u>State Parties shall ensure that reparations processes and mechanisms established to repair the harm caused by large-scale industrial disasters are designed and implemented in consultation with, and with the full participation of affected communities are transparent and independent from the business enterprise that caused or contributed to the harm, ensure independent technical assistance and are sufficiently resourced to offer the prospect of full reparation to all those affected</u></p> <p>7.2.<i>ter</i></p> <p><u>State Parties shall ensure that reparations processes and mechanisms established to repair the harm caused by large-scale industrial disasters are designed and implemented in consultation with, and with the full participation of Indigenous Peoples and affected communities are transparent and independent from the business enterprise that caused or contributed to the harm, ensure independent technical assistance and are sufficiently resourced to offer the prospect of full reparation to all those</u></p>



	<p><u>affected, and include accountability metrics as identified by third-party reporting and analysis;</u></p>
<p>7.2. States Parties shall ensure that their domestic laws facilitate access to information, including through international cooperation, as set out in this (Legally Binding Instrument), and enable courts to allow proceedings in appropriate cases.</p>	<p>7.2 State Parties to this LBI shall ensure that their domestic laws <u>and court proceedings</u> facilitate access to information <u>in a gender-sensitive manner from both States and corporate entities enabling courts to allow proceedings in all cases</u>, through: (a) international cooperation, (b) <u>facilitating requests for disclosure of State or corporate finances or relations and other relevant information such as the legal persons constituting the respective economic group or holding, relevant business relationships along the global value chain, places in which assets of the company are located that are relevant to ensuring access to remedy for affected communities, contracts with involved states, and (c) expanding admissible evidence to include different types of evidence, such as oral and visual, in efforts to prioritize that which is more suitable for communities to remove barriers for community-led data.</u></p>
<p>7.3. States Parties shall provide adequate and effective legal assistance to victims throughout the legal process, including by:</p>	<p>7.3. States Parties shall provide <u>adequate gender-responsive</u> and effective legal assistance to victims throughout the legal process, including by:</p>



<p>a. Making information available and accessible to victims of their rights and the status of their claims, in relevant languages and accessible formats to adults and children alike, including those with disabilities;</p> <p>b. Guaranteeing the rights of victims to be heard in all stages of proceedings;</p> <p>c. Avoiding unnecessary costs or delays for bringing a claim and during the disposition of cases and the execution of orders or decrees granting awards; and,</p> <p>d. Removing legal obstacles, including the doctrine of <i>forum non conveniens</i>, to initiate proceedings in the courts of another State Party in appropriate cases of human rights abuses resulting from business activities of a transnational character.</p>	<p>a. No changes proposed</p> <p>b. No changes proposed</p> <p>c. Ensuring that rules concerning allocation of legal costs at the conclusion of legal proceedings <u>are adapted to allow for waiving of legal fees and costs where economic barriers exist, and that legal costs</u> do not place an unfair and unreasonable burden on victims.</p> <p>d. No changes proposed</p>
<p>7.4. States Parties shall ensure that court fees and rules concerning allocation of legal costs do not place an unfair and unreasonable burden on victims or become a barrier to commencing proceedings in accordance with this (Legally Binding Instrument) and that there is a provision for possible waiving of certain costs in suitable cases.</p>	<p>7.4 State Parties shall ensure that court fees and other related costs do not become a barrier to commencing proceedings in accordance with this (Legally Binding Instrument) and that there is a provision for waiving of legal <u>fees and costs particularly for those facing heightened barriers in accessing remedy, such as women, children, persons with disabilities, indigenous peoples, migrants, refugees, internally displaced persons and protected populations in conflict- affected areas, among other groups, paying particular attention to the</u></p>



	<p><u>multiple or intersectional forms of discrimination faced by persons belonging to more than one of these groups.</u></p> <p><u>States shall ensure robust legal representation throughout all proceedings related to abuses or violations in the context of this LBI, for instance, via legal aid from public defenders/ombudspersons offices.</u></p>
<p>7.5. States Parties shall enact or amend laws allowing judges to reverse the burden of proof in appropriate cases to fulfill the victims' right to access to remedy, where consistent with international law and its domestic constitutional law.</p>	<p>7.5. State Parties shall, <u>consistent with international human rights standards</u>, enact or amend <u>domestic</u> laws to reverse the burden of proof in appropriate cases <u>in order</u> to fulfil the victims' right to access to remedy – <u>requiring corporate and State entities involved in the case to provide sufficient evidence for acquittal.</u></p>
<p>7.6. State Parties shall provide effective mechanisms for the enforcement of remedies for human rights abuses, including through prompt execution of national or foreign judgments or awards, in accordance with the present (Legally Binding Instrument), domestic law and international legal obligations.</p>	<p>7.6. State Parties shall provide effective mechanisms for the enforcement of remedies for human rights abuses <u>and violations</u>, including through prompt execution of national or foreign judgments or awards, in accordance with the present (Legally Binding Instrument), domestic law and international legal obligations.</p>
<p>Article 8: Legal Liability</p>	
<p>8.1. States Parties shall ensure that their domestic law provides for a comprehensive and adequate system of legal</p>	<p>8.1. States Parties shall ensure that their domestic law provides for a comprehensive and adequate system of</p>



<p>liability of legal and natural persons conducting business activities, within their territory, jurisdiction, or otherwise under their control, for human rights abuses that may arise from their own business activities, including those of transnational character, or from their business relationships.</p>	<p>legal liability of legal and natural persons conducting business activities, within their territory, jurisdiction, or otherwise under their control, for human rights abuses that may arise from their own business activities, including those of transnational character, or from their business relationships.</p>
<p>8.2. State Parties shall ensure that their domestic liability regime provides for liability of legal persons without prejudice to the liability of natural persons, and does not make civil liability contingent upon finding of criminal liability or its equivalent for the same acts.</p>	<p>8.2. State Parties shall ensure that their domestic liability regime provides for liability of legal persons without prejudice to the liability of natural persons, and does not make civil liability contingent upon finding of criminal liability or its equivalent for the same acts.</p>
<p>8.3 States Parties shall adopt legal and other measures necessary to ensure that their domestic jurisdiction provides for effective, proportionate, and dissuasive criminal, civil and/or administrative sanctions where legal or natural persons conducting business activities have caused or contributed to human rights abuses.</p>	<p>8 (3) State Parties shall adopt legal and other measures necessary to ensure that their domestic jurisdiction provides for effective, proportionate, and dissuasive criminal and/or administrative sanctions where legal or natural persons conducting business activities, have caused or contributed to criminal offences or other regulatory breaches that amount or lead to human rights abuses - <u>such as withdrawal of licenses, termination of contracts for company projects, or inclusion on a prohibited list of companies for business.</u></p>
<p>8.4. States Parties shall adopt measures necessary to ensure that their domestic law provides for adequate, prompt, effective, gender and age responsive reparations to the victims of human rights abuses in the context of business activities, including those of a transnational character, in line with applicable international standards</p>	<p>8.4. States Parties shall adopt measures necessary to ensure that their domestic law provides for adequate, prompt, effective, gender and age responsive reparations to the victims of human rights abuses in the context of business activities, including those of a transnational character, in line with applicable international standards</p>



<p>for reparations to the victims of human rights violations. Where a legal or natural person conducting business activities is found liable for reparation to a victim of a human rights abuse, such person shall provide reparation to the victim or compensate the State, if that State has already provided reparation to the victim for the human rights abuse resulting from acts or omissions for which that legal or natural person conducting business activities is responsible.</p>	<p>for reparations to the victims of human rights violations. Where a legal or natural person conducting business activities is found liable for reparation to a victim of a human rights abuse, such person shall provide reparation to the victim or compensate the State, if that State has already provided reparation to the victim for the human rights abuse resulting from acts or omissions for which that legal or natural person conducting business activities is responsible.</p>
<p>8.5. States Parties shall require legal or natural persons conducting business activities in their territory or jurisdiction, including those of a transnational character, to establish and maintain financial security, such as insurance bonds or other financial guarantees, to cover potential claims of compensation.</p>	<p>8.5. States Parties shall require legal or natural persons conducting business activities in their territory or jurisdiction, including those of a transnational character, to establish and maintain financial security, such as insurance bonds or other financial guarantees, to cover potential claims of compensation.</p>
<p>8.6. States Parties shall ensure that their domestic law provides for the liability of legal and/or natural persons conducting business activities, including those of transnational character, for their failure to prevent another legal or natural person with whom they have had a business relationship, from causing or contributing to human rights abuses, when the former controls, manages or supervises such person or the relevant activity that caused or contributed to the human rights abuse, or should have foreseen risks of human rights abuses in the conduct of their business activities, including those of transnational</p>	<p>8.6. States Parties shall ensure that their domestic law provides for the liability of legal and/or natural persons conducting business activities, including those of transnational character, for their failure to prevent another legal or natural person with whom they have had a business relationship, from causing or contributing to human rights abuses, when the former controls, manages or supervises such person or the relevant activity that caused or contributed to the human rights abuse, or should have foreseen risks of human rights abuses in the conduct of their business activities, including those of transnational character, or in their business relationships,</p>

<p>character, or in their business relationships, but failed to take adequate measures to prevent the abuse.</p>	<p>but failed to take adequate measures to prevent the abuse.</p>
<p>8.7. Human rights due diligence shall not automatically absolve a legal or natural person conducting business activities from liability for causing or contributing to human rights abuses or failing to prevent such abuses by a natural or legal person as laid down in Article 8.6. The court or other competent authority will decide the liability of such legal or natural persons after an examination of compliance with applicable human rights due diligence standards.</p>	<p>(7) Human rights due diligence shall not automatically absolve a legal or natural person conducting business activities from liability for causing or contributing to human rights abuses or failing to prevent such abuses by a natural or legal person as laid down in Article 8(6). The court or other competent authority will decide the liability of such entities after an examination of compliance with applicable human rights due diligence standards</p>
<p>8.8. Subject to their legal principles, States Parties shall ensure that their domestic law provides for the criminal or functionally equivalent liability of legal persons for human rights abuses that amount to criminal offenses under international human rights law binding on the State Party or customary international law, or their domestic law. Regardless of the nature of the liability, States Parties shall ensure that the applicable penalties are proportionate with the gravity of the offense. This Article shall apply without prejudice to any other international instrument which requires or establishes the criminal or administrative liability of legal persons for other offenses.</p>	<p>8(8) Subject to their legal principles, State Parties shall ensure that their domestic law provides for the criminal or functionally equivalent liability of legal persons for human rights abuses <u>or violations</u> that amount to criminal offences under international <u>human rights law binding on the State Party, including but not limited to</u> customary international law, or their domestic law, <u>and humanitarian law. When appropriate, States should refer cases where corporations or/and State officials are causing or contributing to war crimes, crimes against humanity, aggression, genocide, and environmental crimes² to the International Criminal Court, in accordance with Rome Statute rules.</u> State Parties shall ensure that the applicable penalties are commensurate with the gravity of the offence. State Parties shall individually or jointly advance their criminal</p>

² Considering that the ICC has opened the door to begin investigating environmental crimes



	<p>law to ensure that the criminal offences covered in the listed areas of international law are recognized as such under their domestic criminal legislation and that legal persons can be held criminally or administratively liable for them. This Article shall apply without prejudice to any other international instrument which requires or establishes the criminal or administrative liability of legal persons for other offences</p>
<p>8.9. The liability of legal persons under Article 8.9. shall be without prejudice to the criminal liability of the natural person who have committed the offenses under the applicable domestic law.</p>	<p>8.9. The liability of legal persons under Article 8.9. shall be without prejudice to the criminal liability of the natural person who have committed the offenses under the applicable domestic law.</p>
<p>8.10. States Parties shall provide measures under domestic law to establish the criminal or functionally equivalent legal liability for legal or natural persons conducting business activities, including those of a transnational character, for acts or omissions that constitute attempt, participation or complicity in a criminal offense in accordance with this Article and criminal offenses as defined by their domestic law.</p>	<p>8.10. States Parties shall provide measures under domestic law to establish the criminal or functionally equivalent legal liability for legal or natural persons conducting business activities, including those of a transnational character, for acts or omissions that constitute attempt, participation or complicity in a criminal offense in accordance with this Article and criminal offenses as defined by their domestic law.</p>
	<p>8.10bis <u>All companies involved in human rights abuse or violation, whether a subsidiary, a parent company, or any other business along the value chain, shall be</u></p>



	<p><u>jointly and several responsibility for human rights abuses in which they are involved.</u></p>
	<p><u>8.10ter State Parties shall ensure that their domestic law provides for a rebuttal presumption of control of the controlling or parent company in order to determine the joint and several liability of the involved natural or legal persons when business enterprises fail to disclose information, in accordance with their obligations under article 4(2)(f) and 6(3)(e)</u></p>
	<p><u>8.10quater State Parties shall ensure that their domestic law provides for the criminal liability of legal or natural persons for acts that directly or indirectly contribute, cause or are linked to human rights abuses or violations. At a minimum, States shall ensure criminal liability of legal persons for the following abuses that may arise from business activities, including those of transnational character, or from their business relationships: a. War crimes, crimes against humanity and genocide, b. Torture, c. Enforced disappearance, d. Extrajudicial execution, e. Sexual and gender based violence in all its forms, f. Slavery and forced labor, in particular of children under 18 years, g. Forced displacement and evictions, h. Attacks on human rights and environmental defenders, i. Long term damage to the environment, which endangers peace or prevents the population from enjoying a healthy environment.”</u></p>
<p>Article 9: Adjudicative Jurisdiction</p>	

<p>9.1. Jurisdiction with respect to claims brought by victims, irrespectively of their nationality or place of domicile, arising from acts or omissions that result or may result in human rights abuses covered under this (Legally Binding Instrument), shall vest in the courts of the State where:</p> <p>a. the human rights abuse occurred and/or produced effects; or</p> <p>b. an act or omission contributing to the human rights abuse occurred;</p> <p>c. the legal or natural persons alleged to have committed an act or omission causing or contributing to such human rights abuse in the context of business activities, including those of a transnational character, are domiciled; or</p> <p>d. the victim is a national of or is domiciled.</p> <p>This provision does not exclude the exercise of civil jurisdiction on additional grounds provided for by international treaties or domestic laws.</p>	<p>(1)</p> <p>“...jurisdiction with respect to claims brought by victims, irrespectively of their nationality or place of domicile, arising from acts or omissions that result or may result in human rights abuses covered under this (Legally Binding Instrument), shall <u>upon the victims and their family’s choice</u> vest in the courts of the State where:</p> <p>a. the human rights abuse occurred or produced effects;</p> <p>b. an act or omission contributing to the human rights abuse <u>or violation</u> occurred;</p> <p><u>c. the victims is a national of or domiciled, or;</u></p> <p><u>d.</u> the legal or natural persons alleged to have committed an act or omission causing or contributing to such human rights abuse in the context of business activities, including those of a transnational character, are domiciled.</p> <p>This provision does not exclude the exercise of civil jurisdiction on additional grounds provided for by international treaties or domestic laws.</p>
<p>9.2. Without prejudice to any broader definition of domicile provided for in any international instrument or domestic law, a legal person conducting business activities of a transnational character, including through their business relationships, is considered domiciled at the place where it has its:</p>	<p>9 (2) Without prejudice to any broader definition of domicile provided for in any international instrument or domestic law, a legal <u>or natural</u> person conducting business activities of a transnational character, including through their business relationships, is considered domiciled at the place where it has its:</p>



<p>a. place of incorporation or registration; or</p> <p>b. place where the principal assets or operations are located; or</p> <p>c. central administration or management is located; or</p> <p>d. principal place of business or activity on a regular basis.</p>	<p>a. place of incorporation or registration; or</p> <p>b. statutory seat; or</p> <p>c. central administration or management is located; or</p> <p>d. principal place of business or operations are located; or</p> <p><u>e. where substantial assets are held</u></p>
<p>9.3. Courts vested with jurisdiction on the basis of Article 9.1 and 9.2 shall avoid imposing any legal obstacles, including the doctrine of <i>forum non conveniens</i>, to initiate proceedings in line with Article 7.5 of this (legally binding instrument).</p>	<p>9.3. Courts vested with jurisdiction on the basis of Article 9.1 and 9.2 shall avoid imposing any legal obstacles, including the doctrine of <i>forum non conveniens</i>, to initiate proceedings in line with Article 7.5 of this (legally binding instrument).</p>
<p>9.4. Courts shall have jurisdiction over claims against legal or natural persons not domiciled in the territory of the forum State, if the claim is connected with a claim against a legal or natural person domiciled in the territory of the forum State.</p>	<p>9.4. Courts shall have jurisdiction over claims against legal or natural persons not domiciled in the territory of the forum State, if the claim is connected with a claim against a legal or natural person domiciled in the territory of the forum State.</p>
<p>9.5. Courts shall have jurisdiction over claims against legal or natural persons not domiciled in the territory of the forum State if no other effective forum guaranteeing a fair</p>	<p>9.5. Courts shall have jurisdiction over claims against legal or natural persons not domiciled in the territory of the forum State if no other effective forum guaranteeing a fair</p>



<p>judicial process is available and there is a connection to the State Party concerned as follows:</p> <p>a. the presence of the claimant on the territory of the forum;</p> <p>b. the presence of assets of the defendant; or</p> <p>c. a substantial activity of the defendant</p>	<p>judicial process is available and there is a connection to the State Party concerned as follows:</p> <p>a. the presence of the claimant on the territory of the forum;</p> <p>b. the presence of assets of the defendant; or</p> <p>c. a substantial activity of the defendant</p>
<p>Article 10: Statute of Limitations</p>	
<p>10.1. The States Parties to the present (Legally Binding Instrument) shall adopt any legislative or other measures necessary to ensure that statutory or other limitations shall not apply for the commencement of legal proceedings in relation to human rights abuses resulting in violations of international law which constitute the most serious crimes of concern to the international community as a whole.</p>	<p>No proposed changes.</p>
<p>10.2. The States Parties to the present (Legally Binding Instrument) shall adopt any legislative or other measures necessary to ensure that statutory or other limitations applicable to civil claims or violations that do not constitute the most serious crimes of concern to the international community as a whole allow a reasonable period of time for the commencement of legal proceedings in relation to human rights abuses, particularly in cases where the</p>	<p>10.2. The States Parties to the present (Legally Binding Instrument) shall adopt any legislative or other measures necessary to ensure that statutory or other limitations applicable to civil claims or violations that do not constitute the most serious crimes of concern to the international community as a whole allow a reasonable gender-responsive period of time for the commencement of legal proceedings in relation to human rights abuses, particularly in cases where the abuses</p>



<p>abuses occurred in another State or when the harm may be identifiable only after a long period of time.</p>	<p>occurred in another State or when the harm may be identifiable only after a long period of time, <u>or where the victim is delayed in commencing a proceeding in respect of the claim because of their age, physical, mental or psychological condition.</u></p>
<p>Article 11: Applicable Law</p>	
<p>11.1. All matters of procedure regarding claims before the competent court which are not specifically regulated in the (Legally Binding Instrument) shall be governed by the law of that court seized on the matter.</p>	<p>No suggested changes</p>
<p>11.2. All matters of substance which are not specifically regulated under this [international legally binding instrument] may, upon the request of the victim, be governed by the law of another State where:</p> <p>a. the acts or omissions have occurred or produced effects; or</p> <p>b. the natural or legal person alleged to have committed the acts or omissions is domiciled.</p>	<p>No suggested changes</p>

Article 12: Mutual Legal Assistance and International Judicial Cooperation	
<p>12.1. States Parties shall carry out their obligations under this Article in conformity with any treaties or other arrangements on mutual legal assistance or international judicial cooperation that may exist between them. In the absence of such treaties or arrangements, States Parties shall make available to one another, mutual legal assistance and international judicial cooperation to the fullest extent possible under domestic and international law.</p>	<p>12.1. States Parties shall carry out their obligations under this Article in conformity with any treaties or other arrangements on mutual legal assistance or international judicial cooperation that may exist between them. In the absence of such treaties or arrangements, States Parties shall make available to one another, mutual legal assistance and international judicial cooperation to the fullest extent possible under domestic and international law.</p>
<p>12.2. States Parties may invite any State not party to this (Legally Binding Instrument) to provide mutual legal assistance and international judicial cooperation under this Article on the basis of an <i>ad hoc</i> arrangement, an agreement with such State or any other appropriate basis.</p>	<p>12.2. States Parties may invite any State not party to this (Legally Binding Instrument) to provide mutual legal assistance and international judicial cooperation under this Article on the basis of an <i>ad hoc</i> arrangement, an agreement with such State or any other appropriate basis.</p>
<p>12.3. States Parties shall make available to one another the widest measure of mutual legal assistance and international judicial cooperation in initiating and carrying out effective, prompt, thorough and impartial investigations, prosecutions, judicial and other criminal, civil or administrative proceedings in relation to all claims covered by this (Legally Binding Instrument), including access to information and supply of all evidence at their disposal that is relevant for the proceedings.</p>	<p>12.3. States Parties shall make available to one another the widest measure of mutual legal assistance and international judicial cooperation in initiating and carrying out effective, prompt, thorough and impartial investigations, prosecutions, judicial and other criminal, civil or administrative proceedings in relation to all claims covered by this (Legally Binding Instrument), including access to information and supply of all evidence at their disposal that is relevant for the proceedings.</p>



<p>12.4. The requested State Party shall inform the requesting State Party, as soon as possible, of any additional information or documents needed to support the request for assistance and, where requested, of the status and outcome of the request for assistance. The requesting State Party may require that the requested State Party keep confidential the fact and substance of the request, except to the extent necessary to execute the request.</p>	<p>12.4. The requested State Party shall inform the requesting State Party, as soon as possible, of any additional information or documents needed to support the request for assistance and, where requested, of the status and outcome of the request for assistance. The requesting State Party may require that the requested State Party keep confidential the fact and substance of the request, except to the extent necessary to execute the request.</p>
<p>12.5. Mutual legal assistance and international judicial cooperation under this (Legally Binding Instrument) will be determined by the concerned Parties on a case-by-case basis.</p> <p>a. Mutual legal assistance under this (Legally Binding Instrument) is understood to include, <i>inter alia</i>:</p> <ul style="list-style-type: none">i. Taking evidence or statements from persons;ii. Executing searches and seizures;iii. Examining objects and sites;iv. Providing information, evidentiary items and expert evaluations;	<p>12.5. Mutual legal assistance and international judicial cooperation under this (Legally Binding Instrument) will be determined by the concerned Parties on a case-by-case basis.</p> <p>a. Mutual legal assistance under this (Legally Binding Instrument) is understood to include, <i>inter alia</i>:</p> <ul style="list-style-type: none">i. Taking evidence or statements from persons;ii. Executing searches and seizures;iii. Examining objects and sites;iv. Providing information, evidentiary items and expert evaluations;



v. Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records;

vi. Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes;

vii. Facilitating the voluntary appearance of persons in the requesting State Party;

viii. Facilitating the freezing and recovery of assets;

ix. Assisting and protecting victims, their families, representatives and witnesses, consistent with international human rights legal standards and subject to international legal requirements, including those relating to the prohibition of torture and other forms of cruel, inhuman or degrading treatment or punishment;

x. Assisting in regard to the application of domestic law;

xi. Any other type of assistance that is not contrary to the domestic law of the requested State Party.

b. International judicial cooperation under this (Legally Binding Instrument) is understood to include, *inter alia*: effective service of judicial documents; and, provision of judicial comity consistent with domestic law.

v. Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records;

vi. Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes;

vii. Facilitating the voluntary appearance of persons in the requesting State Party;

viii. Facilitating the freezing and recovery of assets;

ix. Assisting and protecting victims, their families, representatives and witnesses, consistent with international human rights legal standards and subject to international legal requirements, including those relating to the prohibition of torture and other forms of cruel, inhuman or degrading treatment or punishment;

x. Assisting in regard to the application of domestic law;

xi. Any other type of assistance that is not contrary to the domestic law of the requested State Party.

b. International judicial cooperation under this (Legally Binding Instrument) is understood to include, *inter alia*: effective service of judicial documents; and, provision of judicial comity consistent with domestic law.



12.6. In criminal cases covered under this (Legally Binding Instrument), and without prejudice to the domestic law of the involved States Parties,

a. With respect to criminal offenses covered under this (Legally Binding Instrument), mutual legal assistance shall be provided to the fullest extent possible, in a manner consistent with the law of the requested Party and its commitments under treaties on mutual assistance in criminal matters to which it is Party;

b. In cases where such mutual assistance is related to the question of extradition, Parties agree to cooperate in accordance with this (Legally Binding Instrument), their national law and any treaties that exist between the concerned State Parties.

12.6. In criminal cases covered under this (Legally Binding Instrument), and without prejudice to the domestic law of the involved States Parties,

a. With respect to criminal offenses covered under this (Legally Binding Instrument), mutual legal assistance shall be provided to the fullest extent possible, in a manner consistent with the law of the requested Party and its commitments under treaties on mutual assistance in criminal matters to which it is Party;

b. In cases where such mutual assistance is related to the question of extradition, Parties agree to cooperate in accordance with this (Legally Binding Instrument), their national law and any treaties that exist between the concerned State Parties.

12.7. The competent authorities of a State Party may, without prior request, transmit and exchange information relating to criminal offenses covered under this (Legally Binding Instrument) to a competent authority in another State Party where they believe that such information could assist the authority in undertaking or successfully concluding inquiries and criminal proceedings or could result in a request formulated by the latter State Party pursuant to this (Legally Binding Instrument). The transmission and exchange of information shall be without

12.7. The competent authorities of a State Party may, without prior request, transmit and exchange information relating to criminal offenses covered under this (Legally Binding Instrument) to a competent authority in another State Party where they believe that such information could assist the authority in undertaking or successfully concluding inquiries and criminal proceedings or could result in a request formulated by the latter State Party pursuant to this (Legally Binding Instrument). The transmission and exchange of information shall be



<p>prejudice to inquiries and criminal proceedings in the State of the competent authorities providing the information, to guarantee the widest protection of human rights.</p>	<p>without prejudice to inquiries and criminal proceedings in the State of the competent authorities providing the information, to guarantee the widest protection of human rights.</p>
<p>12.8. States Parties may consider concluding bilateral or multilateral agreements or arrangements whereby, in relation to matters that are subject of investigations, prosecutions or judicial proceedings under this (Legally Binding Instrument), the competent authorities concerned may establish joint investigative bodies. In the absence of such agreements or arrangements, joint investigations may be undertaken by agreement on a case-by-case basis. The States Parties involved shall ensure that the sovereignty of the State Party in whose territory such investigation is to take place, is fully respected.</p>	<p>12.8. States Parties may consider concluding bilateral or multilateral agreements or arrangements whereby, in relation to matters that are subject of investigations, prosecutions or judicial proceedings under this (Legally Binding Instrument), the competent authorities concerned may establish joint investigative bodies. In the absence of such agreements or arrangements, joint investigations may be undertaken by agreement on a case-by-case basis. The States Parties involved shall ensure that the sovereignty of the State Party in whose territory such investigation is to take place, is fully respected.</p>
<p>12.9. States Parties shall designate a central authority that shall have the responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution, in accordance with their domestic laws.</p>	<p>12.9. States Parties shall designate a central authority that shall have the responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution, in accordance with their domestic laws.</p>



12.10. Any judgment of a court having jurisdiction in accordance with this (Legally Binding Instrument) which is enforceable in the State of origin of the judgment and is not subject to any appeal or review shall be recognized and enforced in any State Party as soon as the formalities required in that State Party have been completed, provided that such formalities are not more onerous and fees and charges are not higher than those required for the enforcement of domestic judgments and shall not permit the re-opening of the merits of the case. The enforcement in the requested State of criminal judgments shall be to the extent permitted by the law of that State.

12.10. Any judgment of a court having jurisdiction in accordance with this (Legally Binding Instrument) which is enforceable in the State of origin of the judgment and is not subject to any appeal or review shall be recognized and enforced in any State Party as soon as the formalities required in that State Party have been completed, provided that such formalities are not more onerous and fees and charges are not higher than those required for the enforcement of domestic judgments and shall not permit the re-opening of the merits of the case. The enforcement in the requested State of criminal judgments shall be to the extent permitted by the law of that State.

12.11. Recognition and enforcement may be refused, only where:

- a. the defendant furnishes to the competent authority or court where the recognition and enforcement is sought, proof that the defendant was not given reasonable notice and a fair opportunity to present his or her case; or
- b. where the judgment is irreconcilable with an earlier judgment validly pronounced in the State Party where its recognition is sought with regard to the same cause of action and the same parties; or
- c. where the judgment is manifestly contrary to the *ordre public* of the State Party in which its recognition is sought.

12.11. Recognition and enforcement may be refused, only where:

- a. the defendant furnishes to the competent authority or court where the recognition and enforcement is sought, proof that the defendant was not given reasonable notice and a fair opportunity to present his or her case; or
- b. where the judgment is irreconcilable with an earlier judgment validly pronounced in the State Party where its recognition is sought with regard to the same cause of action and the same parties; or
- c. where the judgment is manifestly contrary to the *ordre public* of the State Party in which its recognition is sought.

<p>12.12. Mutual legal assistance or international legal cooperation under this article may be refused by a State Party if it is contrary to the applicable laws of the requested State Party.</p>	<p>Remove.</p>
<p>12.13. States Parties shall not decline to render mutual legal assistance or international judicial cooperation in a claim involving liability for harms or criminal offenses, falling within the scope of this (Legally Binding Instrument) on the sole ground that the request is considered to involve fiscal matters or bank secrecy.</p>	<p>12.13. States Parties shall not decline to render mutual legal assistance or international judicial cooperation in a claim involving liability for harms or criminal offenses, falling within the scope of this (Legally Binding Instrument) on the sole ground that the request is considered to involve fiscal matters or bank secrecy.</p>
<p>Article 13: International Cooperation</p>	
<p>13.1. States Parties shall cooperate in good faith to enable the implementation of their obligations recognized under this (Legally Binding Instrument) and the fulfillment of the purposes of this (Legally Binding Instrument).</p>	<p>13.1. States Parties shall cooperate in good faith to enable the implementation of their obligations recognized under this (Legally Binding Instrument) and the fulfillment of the purposes of this (Legally Binding Instrument).</p>
<p>13.2. States Parties recognize the importance of international cooperation, including financial and technical assistance and capacity building, for the realization of the purpose of the present (Legally Binding Instrument) and will undertake appropriate and effective measures in this regard, between and among States and, as appropriate, in partnership with relevant international and regional organizations and civil society. Such measures include, but are not limited to:</p>	<p>13.2. States Parties recognize the importance of international cooperation, including financial and technical assistance and capacity building, for the realization of the purpose of the present (Legally Binding Instrument) and will undertake appropriate and effective measures in this regard, between and among States and, as appropriate, in partnership with relevant international and regional organizations and civil society. Such measures include, but are not limited to:</p>



<p>a. Promoting effective technical cooperation and capacity-building among policy makers, parliaments, judiciary, national human rights institutions, business enterprises and operators, as well as users of domestic, regional and international grievance mechanisms;</p> <p>b. Sharing experiences, good practices, challenges, information and training programs on the implementation of the present (Legally Binding Instrument);</p> <p>c. Raising awareness about the rights of victims of business-related human rights abuses and the obligations of States under this (Legally Binding Instrument);</p> <p>d. Facilitating cooperation in research and studies on the challenges, good practices and experiences in preventing human rights abuses in the context of business activities, including those of a transnational character;</p> <p>e. Contribute, within their available resources, to the International Fund for Victims referred to in Article 15.7 of this (Legally Binding Instrument).</p>	<p>a. Promoting effective technical cooperation and capacity-building among policy makers, parliaments, judiciary, national human rights institutions, business enterprises and operators, as well as users of domestic, regional and international grievance mechanisms;</p> <p>b. Sharing experiences, good practices, challenges, information and training programs on the implementation of the present (Legally Binding Instrument);</p> <p>c. Raising awareness about the rights of victims of business-related human rights abuses and the obligations of States under this (Legally Binding Instrument);</p> <p>d. Facilitating cooperation in research and studies on the challenges, good practices and experiences in preventing human rights abuses in the context of business activities, including those of a transnational character;</p> <p>e. Contribute, within their available resources, to the International Fund for Victims referred to in Article 15.7 of this (Legally Binding Instrument).</p>
<p>Article 14: Consistency with International Law principles and instruments</p>	
<p>14.1. States Parties shall carry out their obligations under this (Legally Binding Instrument) in a manner consistent with, and fully respecting, the principles of sovereign equality and territorial integrity of States.</p>	<p>14.1. States Parties shall carry out their obligations under this (Legally Binding Instrument) in a manner consistent with, and fully respecting, the principles of sovereign equality and territorial integrity of States.</p>



<p>14.2. Notwithstanding Article 9, nothing in this (Legally Binding Instrument) entitles a State Party to undertake in the territory of another State the exercise of jurisdiction and performance of functions that are reserved exclusively for the authorities of that other State's jurisdiction.</p>	<p>14.2. Notwithstanding Article 9, nothing in this (Legally Binding Instrument) entitles a State Party to undertake in the territory of another State the exercise of jurisdiction and performance of functions that are reserved exclusively for the authorities of that other State's jurisdiction.</p>
<p>14.3. Nothing in the present (Legally Binding Instrument) shall affect any provisions in the domestic legislation of a State Party or in any regional or international treaty or agreement that is more conducive to the respect, protection, fulfillment and promotion of human rights in the context of business activities and to guaranteeing the access to justice and effective remedy to victims of human rights abuses in the context of business activities, including those of a transnational character.</p>	<p>14(3) The present (Legally Binding Instrument) shall <u>affect be interpreted in consonance with, and without limiting</u>, any provision in the domestic legislation of a State Party, or in any regional or international treaty or agreement <u>or customary international law</u> that is more conducive to the respect, protection, fulfilment and promotion of human rights in the context of business activities and to guaranteeing the access to justice and effective remedy <u>and reparations</u> to victims of human rights abuses in the context of business activities, including those of a transnational character.</p>
<p>14.4. This (Legally Binding Instrument) shall not affect the rights and obligations of the States Parties under the rules of general international law with respect to State immunity and the international responsibility of States. Earlier treaties relating to the same subject matter as this (Legally Binding Instrument) shall apply only to the extent that their provisions are compatible with this (Legally Binding Instrument), in accordance with Article 30 of the Vienna Convention on the Law of Treaties.</p>	<p>14.4. This (Legally Binding Instrument) shall not affect the rights and obligations of the States Parties under the rules of general international law with respect to State immunity and the international responsibility of States. Earlier treaties relating to the same subject matter as this (Legally Binding Instrument) shall apply only to the extent that their provisions are compatible with this (Legally Binding Instrument), in accordance with Article 30 of the Vienna Convention on the Law of Treaties.</p>
<p>14.5. States Parties shall ensure that:</p>	<p>14.5. States Parties shall ensure that:</p>

a. All existing bilateral or multilateral agreements, including regional or sub-regional agreements, on issues relevant to this (Legally Binding Instrument) and its protocols, including trade and investment agreements, shall be interpreted and implemented in a manner that does not undermine or restrict their capacity to fulfill their obligations under this (Legally Binding Instrument) and its protocols, if any, as well as other relevant human rights conventions and instruments.

b. All new bilateral or multilateral trade and investment agreements shall be compatible with the States Parties' human rights obligations under this (Legally Binding Instrument) and its protocols, as well as other relevant human rights conventions and instruments.

a) Any existing bilateral or multilateral agreements, including regional or sub-regional agreements, on issues relevant to this (Legally Binding Instrument) and its protocols, including trade and investment agreements, shall be **interpreted and implemented in a manner that will not undermine or limit their capacity to fulfil reviewed, adapted and implemented in compliance with and in a manner that does not undermine** their obligations under this (Legally Binding Instrument) and its protocols, as well as other relevant human rights, **environmental rights** and **humanitarian law** conventions and instruments.

b) Any **new** bilateral or multilateral trade and investment agreements shall be compatible with the State Parties' human rights and humanitarian law obligations under this (Legally Binding Instrument) and its protocols, as well as other relevant human rights, **environmental rights and humanitarian law** conventions and instruments

c) **To this effect, new³ trade and investment agreements shall be designed, negotiated and concluded to fully respect the State Parties' human rights obligations under this (Legally Binding Instrument) and its protocols, and related human rights, environmental rights and humanitarian law conventions and instruments, through *inter alia*:**

a. **Undertaking human rights and sustainability impact assessments prior to signing and ratification of the proposed agreement and periodically throughout their application period, and ensuring these**

³ 'New' would mean any agreement that has not come into force at the time that this LBI has been concluded.



	<p><u>agreements are in accordance with the results of these impact assessments; and</u></p> <p>b. <u>Ensuring the upholding of human rights, environmental rights and humanitarian law in the context of business activities by parties benefiting from trade and investment agreements.”</u></p>
<p>Section III: Article 15: Institutional Arrangements</p>	
<p>Committee</p> <p>15.1. There shall be a Committee established in accordance with the following procedures:</p> <p>a. The Committee shall consist of, at the time of entry into force of the present (Legally Binding Instrument), (12) experts. After an additional sixty ratifications or accessions to the (Legally Binding Instrument), the membership of the Committee shall increase by six members, attaining a maximum number of (18) members. The members of the Committee shall serve in their personal capacity and shall be of high moral standing and recognized competence in the field of human rights, public international law or other relevant fields.</p> <p>b. The experts shall be elected by the States Parties, consideration being given to equitable geographical distribution, the differences among legal systems, gender and age balanced representation and ensuring that elected</p>	<p>Committee</p> <p>15.1. There shall be a Committee established in accordance with the following procedures:</p> <p>a. The Committee shall consist, at the time of entry into force of the present (Legally Binding Instrument), (12) experts - no more than half of them men. After an additional sixty ratifications or accessions to the (Legally Binding Instrument), the membership of the Committee shall increase by six members, attaining a maximum number of eighteen members. The members of the Committee shall serve in their personal capacity and shall be of high moral standing, gender expertise, and recognized competence in the fields of human rights, public international law, or other relevant fields.</p> <p>b. The experts shall be elected by the States Parties, consideration being given to equitable geographical distribution, the differences among legal systems, gender and age balanced representation and ensuring that</p>



experts are not engaged, directly or indirectly, in any activity which might adversely affect the purpose of this (Legally Binding Instrument).

c. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. They shall be elected for a term of 4 years and can be re-elected for another term. Each State Party may nominate one person from among its own nationals.

Elections of the members of the Committee shall be held at the Conference of States Parties by majority present and voting. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the State Party which has nominated them, and shall submit it to the States Parties.

d. The initial election shall be held no later than six months after the date of the entry into force of this (Legally Binding Instrument). The term of six of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these six members shall be chosen by lot by the chairperson of the meeting referred to in this Article.

e. If a member of the Committee dies or resigns or for any other cause can no longer perform his or her Committee

elected experts are not engaged, directly or indirectly, in any activity which might adversely affect the purpose of this (Legally Binding Instrument).

c. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. They shall be elected for a term of 4 years and can be re-elected for another term. Each State Party may nominate one person from among its own nationals.

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e. If a member of the Committee dies or resigns or for any other cause can no longer perform his or her Committee



duties, the State Party which nominated him or her shall appoint another expert from among its nationals to serve for the remainder of his or her term, subject to the approval of the majority of the States Parties.

f. The Committee shall establish its own rules of procedure and elect its officers for a term of two years. They may be re-elected.

g. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under this (Legally Binding Instrument). The Secretary-General of the United Nations shall convene the initial meeting of the Committee. After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.

h. With the approval of the General Assembly, the members of the Committee established under the present (Legally Binding Instrument) shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide through the established procedures.

15.2. States Parties shall submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have taken to give effect to their undertakings under this (Legally Binding Instrument),

duties, the State Party which nominated him or her shall appoint another expert from among its nationals to serve for the remainder of his or her term, subject to the approval of the majority of the States Parties.

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h. With the approval of the General Assembly, the members of the Committee established under the present (Legally Binding Instrument) shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide through the established procedures.

15.2. States Parties shall submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have taken to give effect to their undertakings under this (Legally Binding Instrument),



<p>within one year after the entry into force of the (Legally Binding Instrument) for the State Party concerned. Thereafter the States Parties shall submit supplementary reports every four years on any new measures taken and such other reports as the Committee may request.</p>	<p>within one year after the entry into force of the (Legally Binding Instrument) for the State Party concerned. Thereafter the States Parties shall submit supplementary reports every four years on any new measures taken and such other reports as the Committee may request.</p>
<p>15.3. The Secretary-General of the United Nations shall transmit the reports to all States Parties.</p>	<p>15.3. The Secretary-General of the United Nations shall transmit the reports to all States Parties.</p>
<p>15.4. The Committee shall have the following functions:</p> <p>a. Make general comments and normative recommendations on the understanding and implementation of the (Legally Binding Instrument) based on the examination of reports and information received from the States Parties and other stakeholders;</p> <p>b. Consider and provide concluding observations and recommendations on reports submitted by States Parties as it may consider appropriate and forward these to the State Party concerned that may respond with any observations it chooses to the Committee. The Committee may, at its discretion, decide to include these suggestions and general recommendations in the report of the Committee together with comments, if any, from States Parties;</p>	<p>15.4. The Committee shall have the following functions:</p> <p>a. Make general comments and normative recommendations on the understanding and implementation of the (Legally Binding Instrument) based on the examination of reports and information received from the States Parties and other stakeholders;</p> <p>b. Consider and provide concluding observations and recommendations on reports submitted by States Parties as it may consider appropriate and forward these to the State Party concerned that may respond with any observations it chooses to the Committee. The Committee may, at its discretion, decide to include these suggestions and general recommendations in the report of the Committee together with comments, if any, from States Parties;</p>



<p>c. Provide support to the States Parties in the compilation and communication of information required for the implementation of the provisions of the (Legally Binding Instrument);</p> <p>d. Submit an annual report on its activities under this (Legally Binding Instrument) to the States Parties and to the General Assembly of the United Nations;</p> <p>e. [The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the present (Legally Binding Instrument)].</p>	<p>c. Provide support to the States Parties in the compilation and communication of information required for the implementation of the provisions of the (Legally Binding Instrument);</p> <p>d. Submit an annual report on its activities under this (Legally Binding Instrument) to the States Parties and to the General Assembly of the United Nations;</p> <p>e. [The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the present (Legally Binding Instrument)].</p>
<p>Conference of States Parties</p> <p>15.5. The States Parties shall meet regularly in a Conference of States Parties in order to consider any matter with regard to the implementation of the (Legally Binding Instrument), including any further development needed towards fulfilling its purposes.</p>	<p>Conference of States Parties</p> <p>15.5. The States Parties shall meet regularly in a Conference of States Parties in order to consider any matter with regard to the implementation of the (Legally Binding Instrument), including any further development needed towards fulfilling its purposes.</p>
<p>15.6. No later than six months after the entry into force of the present (Legally Binding Instrument), the Conference of the States Parties shall be convened by the Secretary-General of the United Nations. The subsequent meetings shall be convened by the Secretary-General of the United Nations biennially or upon the decision of the Conference of States Parties.</p>	<p>15.6. No later than six months after the entry into force of the present (Legally Binding Instrument), the Conference of the States Parties shall be convened by the Secretary-General of the United Nations. The subsequent meetings shall be convened by the Secretary-General of the United Nations biennially or upon the decision of the Conference of States Parties.</p>



<p>International Fund for Victims</p> <p>15.7. States Parties shall establish an International Fund for Victims covered under this (Legally Binding Instrument), to provide legal and financial aid to victims, taking into account the additional barriers faced by women, children, persons with disabilities, Indigenous peoples, migrants, refugees, internally displaced persons, and other vulnerable or marginalized persons or groups in seeking access to remedies. This Fund shall be established at most after (X) years of the entry into force of this (Legally Binding Instrument). The Conference of States Parties shall define and establish the relevant provisions for the functioning of the Fund.</p>	<p>International Fund for Victims</p> <p>15.7. States Parties shall establish an International Fund for Victims covered under this (Legally Binding Instrument), to provide legal and financial aid to victims, taking into account the additional barriers faced by women, children, persons with disabilities, Indigenous peoples, migrants, refugees, internally displaced persons, and other vulnerable or marginalized persons or groups in seeking access to remedies. This Fund shall be established at most after (X) years of the entry into force of this (Legally Binding Instrument). The Conference of States Parties shall define and establish the relevant provisions for the functioning of the Fund.</p>
<p>16 IMPLEMENTATION</p>	
<p>16.1. States Parties shall take all necessary legislative, administrative or other action including the establishment of adequate monitoring mechanisms to ensure effective implementation of this (Legally Binding Instrument).</p>	<p>16.1. States Parties shall take all necessary legislative, administrative or other action including the establishment of adequate monitoring mechanisms to ensure effective implementation of this (Legally Binding Instrument).</p>
<p>16.2. Each State Party shall furnish copies (including in electronic form or online links) of its laws and regulations that give effect to this (Legally Binding Instrument) and of any subsequent changes to such laws and regulations or a description thereof, within [6 months] of their enactment, to the Secretary-General of the United Nations, which shall be made publicly available.</p>	<p>16.2. Each State Party shall furnish copies (including in electronic form or online links) of its laws and regulations that give effect to this (Legally Binding Instrument) and of any subsequent changes to such laws and regulations or a description thereof, within [6 months] of their enactment, to the Secretary-General of the United Nations, which shall be made publicly available.</p>



16.3. Special attention shall be undertaken in the cases of business activities in conflict- affected areas including taking action to identify, prevent and mitigate the human rights- related risks of these activities and business relationships and to assess and address the heightened risks of abuses, paying special attention to both gender-based and sexual violence, the use of child soldiers and the worst forms of child labour, including forced and hazardous child labour.

16.3. Special attention shall be undertaken in the cases of business activities in conflict- affected areas including taking action to identify, prevent and mitigate the human rights- related risks of these activities and business relationships and to assess and address the heightened risks of abuses, paying special attention to both gender-based and sexual violence, the use of child soldiers and the worst forms of child labour, including forced and hazardous child labour. **Actions of States Parties should be consistent with their obligations under international humanitarian law.**

16.4. In implementing this (Legally Binding Instrument), States Parties shall address the specific impacts of business activities on while giving special attention to those facing heightened risks of human rights abuse within the context of business activities, such as, but not limited to, women, children, persons with disabilities, indigenous peoples, people of African descent, older persons, migrants, refugees and internal displaced persons.

16.4. In implementing this (Legally Binding Instrument), States Parties shall address the specific impacts of business activities **all relevant stakeholders**, while giving special attention **and facilitating participatory, gender-transformative engagement in all stages of implementation, development of national laws, policies and procedures, and prevention, monitoring and remedial processes** to those facing heightened **specific or cumulative** risks of human rights abuse **or violation** within the context of business activities, such as, but not limited to, women, children, persons with disabilities, indigenous peoples, people of African descent, older persons, migrants, refugees and internal displaced persons , **among other groups, paying particular attention to the multiple or intersectional forms of discrimination and impacts faced by persons belonging to more than one of these groups.**



	<p><u>16(4)bis: Special attention shall also be undertaken in climate-vulnerable communities that are facing current and future environmental and climate related threats that cause, among other impacts, mass migration and other climate-related conflicts from droughts, heatwaves, and resource extraction, or pose severe health risks.</u></p>
<p>16.5. The application and interpretation of these Articles shall be consistent with international law, including international human rights law and international humanitarian law, and shall be without any discrimination of any kind or on any ground, without exception.</p>	<p>16.5. The application and interpretation of these Articles shall be consistent with international law, including international human rights law and international humanitarian law, and shall be without any discrimination of any kind or on any ground, without exception.</p>