

Geneva, 24 April 2023

Subject: Welcome to the new Ecuadorian Ambassador in Geneva and concerns regarding the next steps of the process of the OEIGWG

Your Excellency, H.E. Ambassador Cristian Espinosa Cañizares,

On behalf of the more than 250 social movements and organisations, workers, peasants, feminists, committed lawyers, and other members of civil society that make up the Global Campaign to Reclaim Peoples' Sovereignty, Dismantle Corporate Power and Stop Impunity (Global Campaign), the Treaty Alliance and the Young Friends of the Treaty, representing more than 260 million people around the world, we congratulate you on your appointment as Ambassador of the Permanent Mission of the Republic of Ecuador. We hereby place ourselves at your disposal and reiterate our support for this historic process towards an effective Legally Binding Treaty on Transnational Corporations (TNCs) and human rights (LBI) that can address the challenges defined by an economic system based on the unchecked power of TNCs.

We appreciate the important role that the government of Ecuador has played as guarantor of the rights of all parties to the process, while we acknowledge the challenges ahead.

Social movements and affected communities are eager to see the adoption of an LBI that is truly functional to guarantee the protection of human rights and the environment. To this end, it is crucial to ensure their effective participation in the negotiation and drafting process of the Binding Treaty. In this sense, we would like to share our deepest concerns regarding the ever-shrinking spaces in which social movements, civil society and affected communities can formally engage in the process. In 2021, with the change of negotiation methodology, participation was first limited to us submitting textual proposals without transparency or any clarity on how these inputs were to be considered.

Specifically: how will civil society participation in the current inter-sessional consultations and in the elaboration of the fourth draft be ensured? We hereby request that we be allowed to participate fully in the Consultations and that the Chair outlines how the written and oral inputs of other relevant parties will be dealt with in the elaboration of the next updated draft.

Ensuring mechanisms for consultation with civil society — as set out in the Conclusions and Recommendations of the 8th session — is fundamental to guarantee an inclusive and participatory dynamic, allowing social organisations to be involved in the discussions.

Our organisations and movements took note of the document of 23 March 2023, entitled "Guidelines for intersessional work". In addition to our concerns about the exclusion of civil society from the consultations as expressed above, we would like to express our indignation about the clarification on the issue of the scope made in this document. The statement that "States should accept that the instrument will apply to all companies and business activities" is simply unacceptable, as it flagrantly violates the original mandate established by Resolution 26/9, and disregards the positions expressed by many States, experts, civil society and affected communities' organisations and movements. We therefore ask you to withdraw this clarification and to respect the original mandate of this process, as well as its democratic character.

We take this opportunity to reiterate our rejection of the "informal" proposals presented in October 2022 by the Chair-Rapporteur Izquierdo. These proposals undermine the provisions of the future Treaty, depart from the objectives set out in Resolution 26/9, disregard the active and proactive work of civil society and States committed to the process, and violate the agreements made with other States at the end of the 7th session of the Working Group. Many States have raised the same concerns (in particular the African Group). It is therefore necessary, in order to restore the democratic direction and ensure a conducive working environment, to withdraw these proposals from the negotiating table. The third revised draft, as amended by States at the 7th and 8th sessions, is the only legitimate basis for negotiations and for the building of the next updated draft to be published in July 2023.

We thank you in advance for your response to this letter and respectfully request a meeting where we can get to know each other and, if needed, further elaborate on the issues raised in this letter.

Yours sincerely,

The Global Campaign to Reclaim Peoples' Sovereignty, Dismantle Corporate Power and Stop
Impunity

The Treaty Alliance

The Young Friends of the Treaty

Contacts:

Louise Lokumu, Facilitator of the Young Friends of the Treaty (YouFT), angelinelokumu@gmail.com

Raffaele Morgantini, Facilitator of the Global Campaign's Working group on the Binding Treaty, raffaele@cetim.ch

Treaty Alliance, treatymovement@gmail.com