

Oral contribution on Prevention during the 5th IGWG session in the UN Human Rights Council

By FIDH, Amnesty International, OECD Watch, ICJ and SOMO

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Thank you, Mister Chair. I make this contribution on behalf of FIDH, Amnesty International, OECD Watch, ICJ and SOMO. We welcome the emphasis on Prevention in the Revised Draft and the introduction of human rights due diligence obligations for companies.

To make these provisions more effective, we would like to suggest four key changes:

1. Firstly, we strongly advise States to expand the scope of the HRDD obligation to cover **all business relationships** instead of solely contractual relationships. If focussing only on contractual relationships, the obligation to conduct human rights due diligence would stop at the first tier of the value chain of an individual company. This would represent an unfortunate and unnecessary backtracking from agreed standards of human rights due diligence. This narrow focus could also potentially leave subsidiaries out of the scope of a parent company's due diligence duties.
2. Secondly, let us stress that the purpose of due diligence is and should be first and foremost preventative. However, in cases in which prevention has not succeeded and harms have materialised, it should be clear under Article 5 that **companies must adopt immediate and effective measures to cease ongoing human rights violations or abuses, and prevent further violations or abuses.**
3. Third, we propose to introduce in Article 5 effective and adequate sanctions **for failure to comply with the human rights due diligence obligation.** We suggest that such sanctions should exist independently from the existence of a harm.
4. Finally, while imposing human rights due diligence obligations on companies is critical for States to prevent human rights abuses by companies, it is not enough. This should be part of a **broader regulatory regime that includes a proactive role of the State** in monitoring, controlling and regulating companies' behaviour in areas in which it directly influences or shapes business activity, such as when procuring products or services, approving, permitting or financing projects or activities, when licensing products for sale or for export, and when acting as board members of International Financial Institutions.

I thank you, Mr. Chair.