

**Open-ended Inter-Governmental Working Group on transnational corporations
and other business enterprises with respect to human rights
Oral Statement**

By **CIDSE** (International family of Catholic social justice organisations), **FIDH** (International Federation for Human rights), **FoEE** (Friends of the Earth Europe), **IBFAN** (International Baby-Food Action Network **SOMO** (Centre for Research on Multinational Corporations)

Panel I: Overview of the social, economic and environmental impacts related to transnational corporations and human rights, and their legal challenges.

Thank you Chair,

FIDH, IBFAN, CIDSE, SOMO and FoEE which are all members of the Treaty Alliance, firmly believe that a legally binding instrument must not be conceived as an isolated instrument - it must address the legal issues and potential conflicts that result from other legal regimes, such as those created by trade and investments agreements.

Criticism denouncing the adverse effects of trade and investment agreements on human rights is growing and several proposals to address them have not sufficiently addressed critical human rights challenges. The treaty should address the following challenges, namely:

- Trade and investment agreements oblige States to adopt measures that may infringe upon human rights, hamper their capacity to protect human rights or, prevent them from controlling private stakeholders
- Investment agreements are used by investors to protect investments, activities and licences which violate and hamper internally recognized human rights. They are also used to avoid paying damages ordered by national courts.
- Trade and investment agreements become an obstacle to the recognition of pre-existing human rights obligations, therefore subordinating human rights to investor protections.

The Treaty should ensure that trade and investment treaties do not prevent States from meeting their pre-existing human rights obligations, and do not provide the means for companies to escape their responsibility. It should :

- Contain a hierarchical clause that establishes the primacy of this Treaty above any trade and investment treaty between two Parties, in the event of a conflict.
- Reaffirm the primacy of human rights, as guaranteed by States' pre-existing obligations to respect, protect and fulfil human rights at every stage of negotiation, interpretation and dispute resolution.
- Address the critical gaps of the monitoring and assessment of the concrete impacts of trade and investment agreements.
- Effectively empower States and affected populations to prevent and remedy the adverse human rights impacts of these agreements.