



Greenpeace, FIDH, OECD Watch and SOMO welcome the release of the Zero Draft and the Draft Optional Protocol. This new step in the treaty process marks a milestone in longstanding efforts of communities and workers worldwide to prevent and seek justice for corporate human rights abuses.

The absence of direct corporate obligations in the Zero Draft limits the modes of enforcement contemplated in that instrument and its optional protocol. Taking this approach, the Zero Draft's main contribution would lie in strengthening international cooperation, expansion of extraterritorial jurisdiction, and clarification of the procedures, forms of liability, and standards to be applied. Article 1 states that businesses "shall respect human rights". This leaves conceptual room for direct obligations to be developed in a later protocol. If direct corporate obligations are resuscitated in the final draft or a later protocol, an individual complaints mechanism addressing corporations directly and/or an international tribunal for business and human rights would be a significant step in the right direction.

The Draft Optional Protocol includes functions which overlap with existing soft law bodies and their institutions. Most notably, we see overlap with the mediation function of the National Contact Points for the OECD Guidelines. Nearly two decades of experience across over 50 countries teaches us that the NCP system is highly flawed and often fails to provide effective access to remedy for victims. NCP mediation processes are often characterized by a lack of sanctions, power imbalances, conflicts of interest, and a lack of independence. This system must be strengthened, not duplicated.

The Draft Optional Protocol also speaks about a function, at domestic level, of monitoring States' implementation of their obligations under the treaty. We value the importance and such monitoring at national level, and argue this should be part of the treaty text rather than the Optional Protocol. Finally, we argue that one of the State's obligations should be to put into place mandatory human rights due diligence legislation that includes a cause of action, including a private right of action.

Effective enforcement is the ultimate litmus test for any human rights treaty. Would this treaty result in prevention of violations and will it result in access to effective remedy for victims? That is the question we need to keep asking ourselves as work on the text continues. If this treaty does not work for victims, it fails to serve its primary purpose.