

UN Treaty on transnational corporations, other business enterprises & human rights: Options for justice

Legal seminar report, 30-31 May 2016, Brussels



Introduction

This report aims to provide a resource for civil society groups, states and all those engaged in the UN treaty process in the run up to the second intergovernmental working group (IGWG) session, which is due to take place from 24 to 28 October 2016. It discusses options for the following aspects of the treaty: access to remedy; enforcement mechanisms; and its relationship with the trade and investment regime.

The report captures the content of discussions that took place during a [legal seminar](#) in Brussels (30-31 May 2016), organised by Bread for the World (BftW), Friends of the Earth Europe (FoEE), Coopération Internationale pour le Développement et la Solidarité (CIDSE) and the Centre for Research on Multinational Corporations (SOMO), which are all members of the Treaty Alliance – a global movement working towards the treaty.

The seminar was attended by 24 European non-governmental organisations (NGOs) and several academic experts in public international law, corporate accountability, and trade and investment regimes in relation to the development of a UN binding instrument on business and human rights (hereafter referred to as the 'UN treaty process'). It should be noted, however, that the seminar – and therefore this report – has only been able to cover a proportion of the options and considerations involved in the overall UN treaty discussion. Furthermore, this report should not be read as the position of the participating NGOs or organisers, but as a reflection of the presentations and discussions that took place during the two-day seminar.

The following section provides an overview of the UN treaty process, followed by an assessment of how a treaty could address affected communities' that lack access to remedy. Then the report goes on to discuss different

content aspects of the treaty. In particular it focuses on enforcement mechanisms and access to remedy, and how these contribute to the effectiveness of the instrument. The last section looks at how to connect the UN treaty process to the debate around trade and investment regimes. Specifically, it assesses how the current policy incoherence between the two areas can be resolved in order to give primacy to human rights protection.

About the UN treaty process

In June 2014, the UN Human Rights Council adopted a resolution¹ which called for the creation of an internationally legally binding instrument on transnational corporations (TNCs) and other business enterprises in relation to human rights, by an open-ended intergovernmental working group (IGWG). The development was celebrated throughout the world by NGOs and social movements, which had been calling for an instrument that would help to close the current governance gap for many decades.

Many civil society organisations (CSOs) became engaged in what is now called the UN treaty process, advocating for a strong instrument that would help to end corporate impunity, as well as contributing to the protection and access to remedy for affected communities.

In July 2015, the IGWG held its first session in Geneva. Based on commissioned research papers, several NGOs – including FoEE, SOMO, CIDSE and BftW – made a written [submission](#) to the IGWG, focusing on the scope of the treaty, the state duty to protect and direct obligations for corporations.

The need for a treaty: affected communities' access to remedy

During the seminar, two cases were discussed in some depth. The aim was to identify the current gap in access to justice for affected people and to explore how the future UN treaty would address this. The two presented cases were:

- Gas flaring and pollution by [Shell in Nigeria](#).
- [Hydro-electrical dam project](#).

The presented cases and follow-up discussion identified the following lessons that had been learned:

- Even when good laws are in place, companies can adopt litigation strategies in bad faith, for example, by filing a countersuit in bad faith – criminalising environmental/land rights defenders with baseless allegations – or claiming damages from the government using investment agreements.
 - When seeking accountability of a local subsidiary (direct violator), plaintiffs are faced with legal obstacles in the domestic sphere, for example, because of the host state authorities' reluctance to hold the company accountable.
 - Where plaintiffs try to hold the parent company liable, additional legal hurdles have to be jumped to pierce the corporate veil, and prove the parent company's responsibility for the acts of its subsidiary.
 - Litigation is usually an option of last resort. The judicial route can offer the possibility of returning to a non-judicial forum like a mediation process, since notification of an imminent lawsuit can bring companies to the table.
 - The lengthiness of proceedings can be very problematic, to the extent that original plaintiffs sometimes die before proceedings have come to an end.
 - Host states can face negative consequences (lawsuits, divestment, etc.) when (legal) action is taken against a powerful company, decreasing the chances of effective legal recourse in host states. Hence, the treaty provisions should be developed in a way that strengthens states' legal positions rather than making them more vulnerable to corporate capture and retaliatory action when they hold corporations to account.
 - Even states that are willing to ratify a binding instrument need to be assured in relation to the implications and consequences – for example, as regards processes of corporate capture.²
 - Although it is not a goal of legal proceedings per se, they can have a de-escalating effect on community tensions, particularly when the community sees that there are ongoing efforts to achieve remedy for the corporate abuses they suffer(ed). It is important to continuously involve the whole community and not just the plaintiffs, and for them to know that their case is being heard.
- In both Nigeria and Colombia, the affected communities experienced significant barriers in terms of accessing remedy for the corporate wrongdoing they experienced. The following aspects could – and ideally should – be addressed by a business and human rights treaty:
- Improve a community's access to relevant information through transparency provisions;
 - Get rid of obstacles to liability and jurisdiction by removing the corporate veil and introducing an assumption of parent company liability;
 - Address the current lack of enforcement of existing legislation by requiring legal action from host and home states in cases of (alleged) violations. Denial of remedy for harm caused by a company should be treated as a human rights violation by the state(s) concerned. States are currently failing to enforce existing legislation. Therefore, a treaty should include mechanisms to induce states to implement their [existing obligations](#) that open up communities' access to home state courts, and ensure the enforcement of judgments that have already been passed;
 - Open up communities' access to home state courts by abolishing the principle of *forum non-conveniens*³ for business and human rights cases;
 - Establish a fund for redress for victims. This would enhance victims' access to remedy, reparation and options for remediation. Such a fund could be set up under the treaty (body) – for example, by obliging a company to pay a warranty when it conducts projects with high human rights risks. The state or a treaty-related institution can retain the fee when the company has violated applicable standards, and use the money for the benefit of the affected community;
 - Precedents from regional human rights bodies and corporate obligations in relation to impact assessments could feed into the treaty, to ensure that there is consistency in the human rights protection for affected communities;
 - Regional human rights bodies focus on the obligations of states, but are unable to deal with companies directly. A treaty could therefore include direct obligations for corporations, but such an approach entails both opportunities and risks. The legal seminar did not focus in on this discussion;
 - The burden of proof that rests on affected communities often results in insurmountable obstacles to justice. A treaty could provide for a reversed burden of proof;
 - Usually, affected communities have no or very few options for preventing the harmful impacts from projects. The treaty could introduce the possibility of preventive halting of projects in order to protect communities from potentially harmful impacts.

General considerations in relation to the treaty

For the proposed business and human rights (BHR) treaty to be an effective human rights instrument, the overall content of the treaty should be guided by certain fundamental principles. [Professor Surya Deva](#) from the City University of Hong Kong identified five underlying principles for developing the treaty, which were discussed and emphasised by other participants. These principles include the following:

- the treaty should ensure the primacy of human rights over other considerations such as policies of trade, investment and economic development;
- the treaty has to be centred on rights holders – that is, it should respond to the ‘access to justice needs’ of the victims;
- the treaty should cover all human rights, though with a possible distinction in terms of legal consequences for breaching different rights; and
- the treaty should be seen as part of an ‘integrated theory of regulation’ in which multiple regulatory tools are invoked in tandem.

During part of the seminar, participants argued that the following aspects should also be ensured:

- the treaty should apply to all business enterprises, though with special provisions for TNCs;
- a treaty should consider indirect as well as direct obligations for companies, without diluting state obligations. Corporations already have tremendous power and rights (think of investors’ rights) and often impact negatively on human rights. Therefore some people think they should have corresponding obligations ensuring their respect for human rights. The issue of direct obligations of companies, however, is contentious: some fear that moving away from the state-centred approach to human rights obligations will ‘lift’ companies to the same level as states, opening up the possibility of further corporate capture.

It became clear from the discussion that the proposed treaty needs to be part of an integrated solution in an ongoing process of regulation, as it will not in itself (or automatically) solve all the accountability problems. Both binding regulatory instruments and soft law initiatives bring unique value. And it is recognised that voluntary initiatives can, in certain cases, prove to be more effective, particularly when there is the possibility of invoking binding regulations or even initiating a legal case at the same time.

Professor Surya Deva identified five main components of the proposed BHR treaty:

1 Alignment

The treaty should push for alignment in laws and policies – on multiple fronts and at different levels – to enhance corporate compliance with international human rights. In addition to requiring a review and revision of national laws and policies as well as internal corporate rules, the treaty should: clarify extraterritorial obligations of states (see [here](#) for further reading); oblige states to insert human rights clauses in bilateral investment treaties; institutionalise the right to information; and strengthen the protection of human rights defenders. It should also contain a non-derogation clause for human rights, to ensure that the state obligations are not unduly detracted from.

2 Assessment

Assessment of state performance will be crucial to ensuring the treaty’s effective implementation. The BHR treaty obligations could be linked to the process of Universal Periodic Review. The treaty could also facilitate peer learning among states on the issue of business and human rights.

Furthermore, the treaty should create a treaty body to monitor its implementation. The treaty body should have the mandate to clarify/develop standards and handle complaints against companies as well as states. In order to ensure that the workload of such a body is manageable, multiple cases dealing with a similar issue could be combined to issue a general authoritative ruling.

3 Access to remedy

See next section.

4 Assistance and cooperation

The treaty should include provisions on mutual assistance and cooperation between states (e.g., in relation to collection of evidence, freezing of corporate assets, extradition, enforcement of judgments), as well as on capacity building. As far as building the capacity of the affected communities is concerned, possible proposals could include: (i) creating a global fund for legal aid for victims of business-related human rights violations; and (ii) setting up a pool of pro bono lawyers who are willing to collaborate in transnational litigation concerning corporate human rights abuses.

5 Alliances

Human rights bodies should build alliances with financial and trade institutions to make sure that human rights principles prevail in these institutions. Furthermore, the proposed BHR treaty should institutionalise the role of CSOs and human rights defenders in monitoring corporate behaviour. Where states lack the capacity and/or political will, such a role would become very critical. Professor Deva also floated the idea of state funding of CSOs for this kind of work. This alliance should be built on a clear acknowl-

edgment of state obligations, but at the same time recognising how CSOs could complement a state's responsibility.

This idea was met with concern from some participants, who highlighted the state-centred idea underpinning human rights obligations. In their view, it is up to states to bear the human rights obligations, and therefore we need states to enforce and protect those rights in all cases. These participants argued that we need to avoid a kind of privatised human rights system where CSOs become a substitution for the enforcement of human rights by the state.

Enforcement mechanisms and access to remedy

Professor Deva presented general options for access to remedy and enforcement mechanisms, which were further discussed and elaborated on by participants during the course of the seminar. Participants also tabled new ideas for possible content and features of the treaty.

Access to remedy

In order to provide access to remedy, the treaty should set common goals while leaving the specific means to achieving these goals up to the state concerned, since states' legal systems and traditions differ greatly. International law provides such flexibility. In order to overcome the current barriers to access to justice, and promote corporate accountability, the following aspects should be dealt with in the treaty:

Emphasis on both judicial and non-judicial remedies

The proposed treaty should make use of both judicial and non-judicial remedies available at the national as well as regional levels. As judicial delay operates as one major obstacle to effective access to remedy, the treaty should encourage states to require resolution of cases by courts within a reasonable timeframe (it should also describe various factors that provide a definition of 'reasonable'). At the same time, the role of non-judicial mechanisms like national human rights institutions and alternative dispute resolution tools (e.g., arbitration and mediation) should be emphasised. In transnational cases, regional courts could also play an important role.

Liability within corporate groups

In court cases, claimants face significant problems in holding parent companies accountable, because they are not generally liable for human rights violations committed by their subsidiaries or along their supply chains. The treaty should require states to mitigate this obstacle by adopting an option appropriate to their legal systems. These options can include:

- clarifying specific exceptions to the corporate veil;
- recognising all companies of a group as one company by applying the enterprise principle;
- establishing a duty of care (human rights due diligence requirement) for parent companies; or
- including a presumption of parent company liability, unless the parent company can prove that the harmful impacts occurred despite due diligence steps taken.

A range of sanctions

The treaty should oblige states to provide for civil, criminal and administrative sanctions in case of violations of human rights by business. A breach of human rights obligations should also have negative consequences for the involved companies in relation to public procurement, export credits and subsidies involving state agencies. Moreover, there could be an international blacklist for companies that have committed grave violations, and that should be excluded from public procurement etc.

Steps to overcome obstacles in accessing remedies at the national level

The treaty needs to improve access to remedy at the national level by removing well-documented obstacles. The Office of the United Nations High Commissioner for Human Rights (OHCHR) [Accountability and Remedy Project](#) has put forward some [recommendations](#) that are useful in this regard. A treaty could establish a system to draft model laws that could enable states to reduce barriers in access to remedy. Some of the following issues should be dealt with:

- developing legal approaches to hold parent companies accountable for human rights violations by their subsidiaries (see the potential options discussed above);
- including provisions about transparency and access to information (including operations of private actors that have a bearing on public interest matters);
- requiring legal action from both host and home states in case of (alleged) violations, treating denial of access to remedy as a human rights violation by the state(s) concerned;
- opening access to TNCs' home state courts by abolishing the doctrine of forum non-conveniens in BHR cases;
- making a provision for class action and legal aid in appropriate cases; and
- shifting the burden of proof on the defendant companies if the affected plaintiff is able to establish a prima facie⁴ case.

Some other thoughts on remedies at the national level include:

- introducing a provision of preventive remedies (like injunctions) that could be used by rights holders to pre-empt the harmful impacts of corporate projects;

- making sure the compensation is proportional to profit made by a company from the given violations;
- ensuring administrative fines should not preclude the possibility of criminal proceedings;
- seeing to it that company-led grievance mechanisms as well as arbitration/mediation are never conditioned on waiving access to judicial remedies for violation of human rights;
- setting standards about conducting meaningful human rights impact assessment and effective consultations with affected communities.

Extraterritorial jurisdiction and mutual legal assistance

The treaty should affirm the state duty to protect against abuses committed by corporations and codify states' extraterritorial obligations, such as those enshrined by the Maastricht principles. As noted above, the treaty should oblige states to provide access to remedies in home state courts for human rights violations occurring in a host state. Moreover, it should include provisions on mutual legal assistance. This would facilitate collection of evidence (including the hearing of witnesses and access to financial records), the freezing and confiscation of corporate assets and the enforcement of judgments delivered by competent courts.

Enforcement mechanisms

There are different options for enforcement of the treaty, varying in possible effectiveness, reach and powers. The following possibilities were discussed during the seminar:

Domestic courts

See discussion under access to remedy.

Regional courts

As stated above, the treaty could draw on the potential of regional courts to deal with alleged human rights violations by business. This might mean providing regional courts with an explicit mandate to deal with such cases. Transnational collaboration between National Human Rights Institutions (NHRIs) should also be encouraged, especially in cross-border disputes.

International court

Professor Deva mentioned that currently an international court does not seem to be a (politically) feasible option, even though it may be desirable from the point of view of those affected. As a second best option, the treaty could include a provision stipulating that states will explore – in good faith – the possibilities of establishing a court that can issue binding judgments. The other alternative may be to encourage states to amend the Rome Statute of the International Criminal Court (ICC) and allow for the prosecution of corporate entities for their role in international crimes. The downside of an international court with

proceedings that take place so far removed from the affected communities is that it does not necessarily contribute to their sense of justice or ownership over their legal case.

Treaty body

Existing human rights treaty bodies show significant weaknesses, which should be avoided – as far as possible – if such a body is created under the proposed BHR treaty. For example, it will be important for the treaty body to have a strong focus on prevention, and to have the mandate to point out where a state failed to prevent business-related human rights abuses.

Also, victim representation is crucial in the work of a treaty body. The ICC victim participation framework – and past truth and reconciliation commissions, among others – can provide valuable insights for ways of making victims' voices heard in the process of seeking remedy.

Furthermore, the treaty body should be enabled to provide exceptions to the requirement of exhausting domestic remedies in appropriate cases (e.g., when such remedies are too lengthy, not available, not accessible, or not enforceable). By way of an analogy, it should be noted that companies can go straight to investment arbitration without exhausting domestic remedies.

The BHR treaty could establish a treaty body that encompasses the following mandate:

- setting standards and clarifying the scope of general provisions (because treaty provisions cannot be sufficiently specific and detailed to cover all aspects of each case);
- receiving regular reports from states on the implementation of the treaty provisions;
- receiving complaints against states and – depending on whether the treaty includes direct obligations – against companies;
- investigating complaints about business-related human rights abuses;
- making recommendations to both states and companies (such recommendations may potentially be used in court proceedings against companies); and
- establishing and monitoring watch lists/blacklists of companies. This could be inspired by previous examples at national and international level.⁵

The treaty and the trade & investment regime

The trade and investment regime is clearly significant to the debate about – and development of – a business and human rights treaty. Most importantly, policy inconsistencies

can be observed between the rights and access to remedy granted to businesses through trade and investment treaties, and the rights and remedy accessible to communities affected by business-related human rights abuses. We are seeing the harmful impacts of international trade law, which is usually given primacy over human rights law, especially in relation to economic, social and cultural rights. Trade and investment treaties have the power to overrule national judgments.

Trade and investment agreements are aimed at constraining the policy space of host states, including the fulfilment of human rights duties, in favour of corporate interests. The business and human rights treaty could provide a means for governments to defend not only their citizens but also the state against corporate (legal) attacks.

Contrary to many human rights instruments, trade and investment agreements are enforced and implemented by the World Trade Organization (WTO) and a dispute settlement system. Corporations are key actors in international trade and investment regimes. When addressing human rights abuses committed by TNCs and other business enterprises, conflicts between human rights obligations and trade and investment regimes need to be considered. In the UN Guiding Principles on Business & Human Rights, this is addressed in Principle 9: "States should maintain adequate domestic policy space to meet their human rights obligations when pursuing business-related policy objectives with other States or business enterprises, for instance through investment treaties or contracts."

In the context of the UN Treaty, a number of options to help to rebalance investors' privileges and human rights obligations could be considered.

Rebalancing human rights and trade and investment regimes: options for the treaty

For many years, there have been campaigns around WTO trade rules. However, it would be easier to reform the fragmented investment regime via bilateral investment treaties than to reform the consolidated WTO, which requires a broader alignment of states. Free trade agreements often do not have the opportunity for reform, while bilateral investment treaties do. There are many ongoing discussions on reform of trade and investment agreements. The current crisis of legitimacy they are facing provides a window of opportunity for more far-reaching change.

Although this would be a challenging exercise, the treaty could provide a moral and practical avenue on how to balance rights with obligations.

Ways in which this could be done are outlined below, and are (partially) based on input by Professor Dr. Markus Krajewski.

1 Give primacy to treaty obligations through a hierarchy clause

For example:

"In case of conflict between this treaty and another treaty concluded by (at least two of) the Parties, the former shall prevail (in the relationship of the parties of the latter treaty)."

Currently, there is no clear hierarchy between such trade agreements and other conventions such as human rights treaties. Conflicts between human rights obligations and trade & investment agreements are therefore currently resolved by ad hoc interpretation. However, this depends on the forum chosen – e.g., an investor-state dispute settlement (ISDS) mechanism, the WTO or a human rights committee. The fact is that bilateral trade agreements currently completely disregard human rights, which is contrary to EU law and a violation of EU member states' human rights obligations. It would be possible to litigate based on this argument (see, for example, the Front Polisario-Morocco case), seeking annulment of a bilateral investment treaty (BIT). However, as with all strategic litigation, this comes with a risk.

Hierarchy exists already within regimes: within trade law and human rights law. A clause establishing a hierarchy across regimes would be new, but there is no theoretical reason preventing this: parties to a treaty are free to establish a hierarchy. For this to take effect, two countries would have to be party to the treaty, and have a BIT, for example.

2 Recognition of treaty obligations in investment and trade dispute settlement

For example:

"The Parties ensure/Each Party endeavors to ensure the respect of the obligations of this treaty by any dispute settlement mechanism established in another treaty concluded by (at least two of) the Parties."

Currently, dispute settlement mechanisms do not take account of human rights interests. States are also not currently citing human rights in ISDS cases. This could be addressed in different ways:

- applying general comments of human rights committees;
- appointing an expert who is knowledgeable about human rights;
- involving civil society dispute settlement mechanisms;
- calling for a rejection of ISDS mechanisms, as a number of campaigns have done, especially in future investment agreements.

3 Incorporation of human rights obligations in future trade & investment agreements through human rights clauses

For example:

“The Parties will include/Each Party shall endeavor to include clauses ensuring the protection of human rights (human rights clauses) in trade and investment agreements concluded amongst them/concluded by that Party.”

There is reluctance among states to claim human rights in dispute settlement procedures. This is something that could be addressed in a business and human rights treaty, by including a general clause that requires states to include a human rights chapter in trade and investment agreements. A legal case could be made that agreements lacking such clauses are in contravention of EU human rights obligations – as stated in the Lisbon Treaty, Article 21 – and of EU member states’ human rights obligations. Litigation could seek annulment of an agreement.

Bringing human rights obligations into trade frameworks is addressed in the Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights, Principles 17 and 29.

4 Require human rights impact assessments in current and future trade & investment agreements

For example:

“Each Party shall periodically assess the impact of every trade and investment agreement ratified by the Party on the protection and fulfilment of internationally recognized human rights/the international human rights obligations of the Party/fundamental human rights. Such assessment shall be based on objective and transparent criteria, incorporate the views of potential victims of human rights violations and be carried out by an independent institution. Taking the findings of the assessment into account, the Party shall take any measures necessary to observe its human rights obligations in accordance with international law.”

“Before entering into negotiations of, during the negotiation of and before concluding a trade or investment agreement, each Party shall assess the impact of such an agreement on the protection and fulfilment of internationally recognized human rights etc. (...)”

Human rights impact assessment in advance of negotiations would help to shape the trade and investment agenda and to define trade negotiations.

The Front Polisario v. EU Council case provides a precedent in annulling a Council decision due to lacking a human rights impact assessment. In December 2015, the EU General Court ordered that a 2012 trade pact between the EU and Morocco should be annulled, saying the agreement should not apply to the Western Sahara. The ruling was

based on the Charter of Fundamental Rights of EU, and could be considered as an extraterritorial application.

5 Human rights obligations for export credit and investment guarantee schemes

For example:

“Each Party ensures that enterprises which receive financial and other support from that Party, or any of its agencies or entities, including but not limited to export credit and investment guarantee schemes do not cause or contribute to human rights violations. Furthermore, each Party ensures that its financial support does not give an incentive to cause or contribute to human rights violations.”

This option was introduced at the seminar, but was not further discussed.

Conclusions

Among both states and CSOs, discussions on the content of a business and human rights treaty still include a wide variety of options in relation to scope, enforcement mechanisms, duty bearers, liability and access to remedy.

However, among CSOs there is clear agreement about the urgent need for a binding instrument to enhance and ensure victims’ access to remedy, whether at a national or international forum. By sharing general considerations and a variety of treaty provision options, this report aims to inform the discussions around the treaty content regarding remedy, its enforcement and its relation to the trade and investment regime.

Furthermore, among the many different options for treaty content, the seminar organisers believe that certain priority issues can be identified, including: enforceability, extraterritorial obligations, piercing the corporate veil, access to remedy, covering the full scope of business relationships (including supply chain responsibility), and establishing the primacy of human rights over investment rights.

At this stage, the engagement of member states in the treaty process is key for ensuring the development of a widely adopted effective business and human rights instrument. European member states have been reluctant to engage in the UN treaty process. One of the stated reasons is the possibility that the treaty would only cover TNCs. The European CSOs at the seminar believe this is all the more reason for engaging in the process, and pushing for the development of a treaty with optimal accountability provisions and assurances for access to remedy.

It emerged clearly during the seminar that the business and human rights treaty cannot be regarded in a vacuum

separately from the international trade and investment regime. The trade movement and UN treaty movement can and should build on each other's advocacy in pushing for greater human rights protection and corporate accountability. Some countries are renegotiating their trade agreements, which could be one of the areas in which both trade and treaty advocates focus their joint messaging.

Although there need to be many more discussions held in order to develop the treaty content options further, we hope the seminar and this report will provide useful information for NGOs, decision-makers and others involved from Europe and elsewhere, in their engagement in the UN treaty process.

Endnotes

1. [Resolution 26/9](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/26/9), available at: http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/26/9
2. 'Corporate capture' is the (undue) influence corporations exert over public institutions – for example, through lobbying. See [here](#) for further information.
3. Forum non-conveniens is a legal principle that gives courts the discretion to decline exercising its jurisdiction where another foreign court, for example, could hear the case.
4. The term prima facie is a legal term referring to the establishment of an initial (rebuttable) presumption, based on available evidence.
5. So-called 'black lists' can be used as a tool for governments to exclude badly performing companies from benefits, and by market actors to exclude these companies as business partners, for example.

Colophon

UN Treaty on transnational corporations, other business enterprises & human rights: Options for justice

Legal seminar report, 30-31 May 2016, Brussels

September 2016

Authors

Sarah Lincoln Brot für die Welt

sarah.lincoln@brot-fuer-die-welt.de

Denise Auclair CIDSE

auclair@cidse.org

Anne van Schaik Friends of the Earth Europe

anne.vanschaik@foeeurope.org

Mariëtte van Huijstee SOMO

m.van.huijstee@somo.nl

Lydia de Leeuw SOMO

l.deleeuw@somo.nl

Layout

Frans Schupp

The authors gratefully acknowledges financial assistance from the Dutch Ministry of Foreign Affairs (DGIS).

The contents of this document are the sole responsibility of the authors and cannot be regarded as reflecting the position of the funder mentioned above. The funder cannot be held responsible for any use which may be made of the information this document contains.

Brot
für die Welt

www.brot-fuer-die-welt.de

CIDSE
together for global justice

www.cidse.org

**Friends of
the Earth
Europe**

www.foeeurope.org

SOMO

www.somo.nl