

CIDSE Statement on Article 14 of the second revised draft of the Legally Binding Instrument to regulate, in international human rights law, the activities of transnational corporations and other enterprises

Dear chairperson

I am speaking on behalf of CIDSE, MISEREOR, CCFD, DKA, Trocaire, Maryknoll Office of Global Concerns, Global Policy Forum, and Franciscans International.

In the past, provisions of trade and investment agreements have often threatened the rights to food, housing, health and other human rights of agricultural producers, workers, indigenous people, and especially women.

Therefore, we welcome the clarifications in Article 14.5. according to which

- a) existing trade and investment agreements shall be interpreted and implemented in a manner that will not undermine or limit States capacity to fulfill their human rights obligations, and
- b) new trade agreements shall be compatible with State Parties human rights obligations.

However, the Article lacks concrete measures on how to ensure such human rights compatibility of trade and investment agreements. Experience shows that human rights obligations are not well reflected during negotiations and the implementation of trade and investment agreements.

Therefore, we recommend, the following amendments in Art. 14.5:

- 1) The obligation “to conduct comprehensive and participatory human rights and environmental impact assessments before, during and after trade negotiations and after some period of implementation.”
- 2) The obligation “to include specific exception clauses in trade and investment agreements establishing that trade and investment provisions shall not undermine or limit States capacities to respect, protect and fulfill human rights obligations or environmental and labor standards in their own territories and abroad”.
- 3) The obligation “to introduce a revision clause in trade agreements obliging State parties to revise articles that have been shown to limit capacities to respect, protect and fulfill human rights.”

- 4) The obligation that “to subject human rights and environmental obligations to the full state-to-state dispute settlement and sanctioning mechanism of any new trade and investment agreement”.

Thank you very much!