



LAWYERS FOR
HUMAN RIGHTS

TO: H.E. Ambassador Emilio Rafael Izquierdo Miño
Permanent Representative of Ecuador to the United Nations in Geneva
Chair-Rapporteur of the OEIGWG Resolution 26/9
By email: onuginebra@cancilleria.gob.ec

COPIED TO: H.E. Ambassador Kouadio ADJOU MANI
Permanent Mission of the Republic of Côte d'Ivoire to the United Nations in
Geneva
By email: info.geneve@diplomatie.gouv.ci

28 September 2022

Your Excellency Ambassador Izquierdo Miño

RE: AFRICAN CIVIL SOCIETY CONCERNS REGARDING THE OEIGWG PROCESS AHEAD OF THE EIGHTH SESSION

1. We write to you as the Centre for Applied Legal Studies (“**CALS**”) and Lawyers for Human Rights (“**LHR**”). CALS is a human rights organisation and registered law clinic based at the School of Law at the University of the Witwatersrand, Johannesburg, South Africa. LHR is an independent, non-profit, non-governmental legal organisation based at four locations across South Africa.
2. Both CALS and LHR have worked consistently to end corporate impunity for human rights violations, and have long supported the work of the open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights (“**OEIGWG**”) and in particular the drafting process towards an internationally legally binding instrument on transnational corporations and other business enterprises with respect to human rights (“**Business and Human Rights Treaty**”). It is in that spirit that we raise the concerns contained in this correspondence.
3. We refer to the letter from His Excellency as Chair-Rapporteur dated 7 September, and enclosed herewith as **Annexure 1**.
 - 3.1. We note that the letter confirms that –

“[D]espite all the efforts made by the Chair-Rapporteur between February and July to form the Friends of the Chair group reflecting a balanced regional

representation . . . it was [not] possible to confirm the representation of at least one of the regional groups. For that reason, it has been not been possible to convene any meeting of the group”

and later confirms that the regional group which has failed to confirm its representation in the ‘Friends of the Chair’ forum is indeed the African region.

- 3.2. The letter notes further that, due to the absence of an African regional representative on the ‘Friends of the Chair’ forum, no new full revised draft of the Treaty text will be made available in advance of the 8th session of the OEIGWG, and the Chair-Rapporteur shall rather release an “informal contribution” to advance the 8th session discussions by the end of September 2022.
4. At the outset, we are particularly concerned, as African CSOs, that the failure to release a revised draft of the Treaty in advance of the 8th session is being laid solely at the door of the African region.
5. We are furthermore concerned that the delays in convening a sufficiently representative ‘Friends of the Chair’ forum is being relied upon to delay the drafting process in its entirety.
 - 5.1. We accordingly feel it necessary to humbly remind His Excellency that the convening of a ‘Friends of the Chair’ forum is not a pre-requisite for the progression of the drafting process.
 - 5.2. Accordingly, any “consultations to facilitate and advance work on the draft legally binding instrument during the intersessional period, convening and leading consultations among States on specific provisions of the text” should not be solely dependent on the establishment of the ‘Friends of the Chair’ forum, in particular where that establishment is delayed.
 - 5.3. In this regard, we refer to the correspondence between international CSOs and the Chair-Rapporteur in June and July 2022, attached hereto as **Annexures 2 and 3**.
6. In the circumstances, we raise the following queries:
 - 6.1. Kindly confirm the timeline and content of all correspondences from His Excellency to the 2022 human rights regional coordinator for the African region, namely Côte d'Ivoire, between February and July 2022;
 - 6.2. Kindly confirm if any responses were received to the above correspondences from Côte d'Ivoire or any other regional representative, and if so, kindly confirm the content and timeline thereof;

- 6.3. If no such responses were received, kindly confirm whether His Excellency attempted to correspond with any other African states, and, if so, confirm the content and timeline thereof; and
- 6.4. Kindly advise when His Excellency begun work on his “informal contribution”.
7. We emphasize that we raise these concerns and requests for clarification and information in the spirit of openness, and in pursuit of an end to corporate impunity through *inter alia* the work of the OEIGWG. We trust that this communication will be received in the spirit thereof.
8. We would thus appreciate if you could revert to us on the above requests for clarity and information by 5 October 2022.
9. Kindly take note that we have copied the 2022 human rights regional coordinator for the African region, namely Côte d'Ivoire, herein, and will be addressing similar correspondence to their offices, in which we will likewise copy His Excellency.
10. We look forward to further fruitful engagement in the coming weeks in advance of the 8th session, towards the promotion of human rights and ending corporate impunity.

Yours faithfully,

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