

## **Oral statement by Amnesty International**

### **Fifth session of the Open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights**

Tuesday, 15 October 2019 - **Article 5 – Prevention**  
**Delivered by Gabriela Quijano**

Thank you, Mr Chairperson-Rapporteur,

Amnesty International welcomes the prominent focus on prevention and the express articulation of a corporate duty to respect human rights and prevent human rights abuses as well as to conduct human rights due diligence to achieve these aims.

While critical, we would like to highlight that corporate human rights due diligence should work within a larger regulatory system that not only places obligations on companies but also guarantees and strengthens mechanisms for individuals and communities to defend their rights in the context of business activities.

In addition to corporate due diligence, Article 5 should incorporate critical procedural rights that enable individuals and communities to defend their rights in the context of business activities such as:

- effective participation in decision making;
- full and equal access to key information concerning corporate structures, activities, risks and impacts;
- the availability of injunctive and other precautionary measures to protect from imminent harm;
- participatory and gender-sensitive impact assessments;
- meaningful consultation and the Free, Prior and Informed Consent of Indigenous Peoples.

While the need for consultation has been given some attention, it has been left entirely within the realm of corporate due diligence, leaving the state completely out of the picture. Indigenous Peoples' rights have now also been mentioned, but it is problematic that the text refers to the lower standard of Free, Prior and Informed *Consultation* instead of *Consent*, risking watering down international standards.

We hope that these issues can be rectified in future drafts to make the prevention section more complete and effective.

Thank you Mr Chair.