**Recommendations in view of the discussion of the upcoming EU law on corporate due diligence, with regard to justice and reparation for victims of human rights abuses**

Formulated by the **EU-LAC Working Group** (a network composed of CONCORD, the EU-LAT Network, the Heinrich Böll Foundation, 11.11.11, CNCD-11.11.11, Oxfam, SOLIDAR, WSM, the Coordinadora ONGD-España, the Oidhaco network and Pax Christi International), the **Plataforma Europa Perú (PEP)** and **CIDSE**

1. **Legislation must guarantee meaningful and effective participation of affected parties**, specifically it must include ongoing consultation with local defenders, as well as the indispensable requirement to obtain free, prior and informed consent, through a fair and culturally appropriate process with indigenous and traditional communities.

2. **Companies must incorporate due diligence into their overall structure in a way that regulates their actions**. Due diligence cannot remain an additional process within companies, but must become part of their overall structure, in such a way that it regulates their actions as a company and makes them accountable to the law: they must have a complaint mechanism accessible to all and a person in charge at Board of Directors level.

3. **Legislation should cover all sectors and companies of different sizes - public and private - including financial institutions**, which are domiciled or based in, operate, or offer a service or product, within the EU. Both small and large companies are part of the same global value chain and the focus should be on identifying and mitigating risks throughout the chain. Within sectors, additional measures should be included for those with the highest risk to human rights and the environment.

4. **The EU and its Member States should ensure strict enforcement of the law and put in place effective judicial mechanisms for access to justice and reparation for victims and victims’ organisations**, as well as determine whether identified companies are eligible for public funds. Damages should be assessed objectively and victims should be involved in monitoring environmental, social and economic reparations. The burden of proof should fall on the company and include direct and indirect suppliers in the value chain - such as private security companies.

5. **The development of due diligence legislation must be holistic, building on legislative coherence and political commitment across the range of institutions, bodies and agreements promoted by the EU in external action, ensuring follow-up to the sustainable development chapters of Trade Agreements, international cooperation and political dialogues on human rights**. Furthermore, the presence and work with guarantees of the International Human Rights Law should be evidenced through involvement of the UN Binding Treaty and the other international bodies and commitments made by the EU.
6. The EU and its Member States must combine the introduction of due diligence legislation with the reform of trade and investment agreements, eliminating the Investor-State Dispute Settlement Mechanism to limit the ability of some corporations to undermine the new legislation. This is a fundamental step towards a world where investor rights do not interfere with democratic governance and human and environmental rights. Where ISDS clauses already exist in international trade and investment agreements, the EU and its member states should consider options to terminate, renegotiate or not renew these agreements. If these options are not plausible, states that are party to the agreements should work together to enact reforms to limit the scope of ISDS clauses.