



## First Submission by the International Corporate Accountability Roundtable (ICAR) to the Open-Ended Intergovernmental Working Group on Transnational Corporations and Other Business Enterprises with Respect to Human Rights

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The International Corporate Accountability Roundtable (ICAR) is a coalition of non-profit organizations that creates, promotes, and defends legal frameworks to ensure corporations respect human rights in their global operations.

ICAR welcomes the efforts of the Open-Ended Intergovernmental Working Group (OEIWG) on Transnational Corporations and Other Business Enterprises with Respect to Human Rights in developing an international, legally binding instrument to address business-related human rights violations. We are encouraged to see high-level negotiations proceeding alongside increasing efforts toward implementation of the UN Guiding Principles on Business and Human Rights at the domestic level in the form of National Actions Plans, as well as clear regulatory and enforcement mechanisms that ensure corporate accountability for human rights violations.

In this, our first submission to the OEIWG, we echo the recent call of the Special Rapporteur on the rights to freedom of peaceful assembly and of association to States to “enact a legally binding human rights instrument that applies to *all corporations, regardless of their size or geographical scope*” [emphasis added].<sup>1</sup>

The preamble footnote from resolution 26/9 expressly excludes “local businesses registered in terms of relevant domestic law.”<sup>2</sup> We thus urge the OEIWG to take this opportunity to clarify two points to participants and stakeholders:

First, that “business enterprises that have a transnational character in their operational activities”<sup>3</sup> includes **all enterprises that engage in transnational commerce or whose operational activities singularly or cumulatively have a substantial effect on transnational commerce.**

Second, that the OEIWG understands negotiations for an international binding instrument to be starting from a point of **openness to the inclusion of locally registered businesses under locally relevant law.**

The inclusion of locally registered business is a necessary starting point for negotiation because businesses may impact human rights whether or not their operational activities cross borders. Locally registered businesses operating within a single State may abuse human rights just as severely and on a similarly large scale as

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<sup>1</sup> *Natural Resources Sector: UN expert calls for binding human rights treaty for corporations*, U.N. OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS (June 18, 2015),

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16097&LangID=E#sthash.RZvAx4hI.dpuf>.

<sup>2</sup> Human Rights Council Res. 26/9, U.N. Doc. A/HRC/26/L.22/Rev.1, at 2 (June 26, 2014).

<sup>3</sup> *Id.* at 1.

transnational corporations, especially where State-owned enterprises (SOEs) are involved. From the victims' perspective, the nationality or scope of operational activities of the responsible business entity is irrelevant.

ICAR has reviewed research on human rights complaints filed globally and compiled a list of examples of locally registered businesses whose domestic operations have negatively impacted human rights:

### Americas

- A [Chilean bottled water company](#) violated the rights of indigenous communities in northern Chile when it illegally drew water from a source under the communities' lands.
- [American tomato growing companies in Florida](#) violated labor standards.
- Temporary migrant workers at a [Canadian company](#) were sexually assaulted.
- American companies failed to clean up communities harmed by [uranium mining operations](#) connected to high disease rates and an increase in birth defects.

### Africa & Middle East

- A pipeline owned by [Kenya Pipeline Company](#) running through a slum in an industrial area of Nairobi exploded after a fuel leak, killing 120 people and injuring hundreds of others.
- Thirteen children and four nursery school staff trapped in a [Qatari government-owned daycare](#) died in a fire. The daycare center, located in a mall in Doha, was unlicensed and did not meet safety standards.

### Asia & Pacific

- A [Burmese construction and telecommunications corporation](#) forcibly seized land belonging to villagers to make way for industrial projects.
- [Indian cottonseed companies](#) relied on the use of child labor in local farming.
- [Taiwanese companies](#) extended their workers' hours without paying overtime.

### Europe & Central Asia

- A [Belgian motorway restaurant chain](#) employed trafficked and abused cleaning workers.
- Over 1300 workers employed by [Russian companies to construct a space center](#) in the Russian Far East were denied wages.

In light of these examples, we urge the OEIWG to adopt a broad interpretation of "transnational character" and issue a statement that it understands its mandate to be the negotiation of an international binding instrument that includes **all enterprises that engage in transnational commerce or whose operational activities singularly or cumulatively have a substantial effect on transnational commerce** and includes **locally registered businesses under locally relevant law**.

Sincerely,



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Director

International Corporate Accountability Roundtable

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