

CONCEPT NOTE

Open Consultation on

The Process to Negotiate a Legally Binding Instrument on Business and Human Rights

18 October 2023, 15:30 CET

1. Background

The discussions on business and human rights have gained considerable momentum over the last few years. There are several initiatives being undertaken at the national, regional and multilateral level towards ensuring greater respect for human rights by business enterprises, and providing access to effective remedies for victims of human rights violations and abuses due to the activities of corporations.

Some developed countries have introduced mandatory due diligence laws, while others have come up with new legislations which require companies to report on the risks of modern slavery in their operations and supply chains and actions to address those risks. The European Commission has also made progress in its own processes for creating a regional framework on corporate sustainability due diligence¹. Several developing countries have also established their National Action Plans, in line with the UN Guiding Principles on Business and Human Rights, and are also exploring the development of binding rules at the national level for enhancing corporate accountability.

However, the largely voluntary nature of these initiatives has led to limited compliance by business enterprises. There is an urgent need to increase awareness on how States can ensure that the business and investor community respects human rights and conducts their commercial activities in a responsible and sustainable manner. This has resulted in efforts to develop binding rules at the multilateral level for human rights due diligence and to enhance access to remedies for victims of business-related human rights violations.

In particular, the negotiations for the ‘elaboration of an international legally binding instrument to regulate, in accordance with international human rights law, the activities of

¹ European Commission, Corporate sustainability due diligence. https://commission.europa.eu/business-economy-euro/doing-business-eu/corporate-sustainability-due-diligence_en

transnational corporations and other business enterprises’, mandated by UN Human Rights Council Resolution 26/9 (A/HRC/26/9), are of the greatest significance in this context. Such an instrument can play a vital role in strengthening the policy space of States for guaranteeing the protection of human rights, especially in times of crises. It will also serve to enhance the role of civil society organisations and human rights defenders in the fight against impunity of human rights abuses and violations in the context of business activities.

In continuance of its previous endeavours, the South Centre is organizing a virtual open consultation, bringing together representatives of developing countries, academia and civil society organizations, to discuss the current state of play on the draft legally binding instrument (LBI) and its potential role in addressing the current and future economic and social challenges of developing and least developed countries.

2. Objectives

The webinar will serve as an opportunity to exchange views among developing countries’ representatives and civil society organizations towards the upcoming ninth session of the Open Ended Intergovernmental Working Group (OEIGWG). In particular, the consultation will:

- Assess and analyse the prospective role of the draft LBI in addressing the human rights impacts of business activities in the context of current and future global crises;
- Consider how the draft LBI seeks to guarantee access to justice and remedy of victims of human rights violations;
- Provide an opportunity for participants to gain insights on how the negotiation process at the OEIGWG could develop going forward.

3. Issues to be addressed and agenda

15:30-15:35	Welcoming and Introductory Remarks
15:35-16:15	Substantive Discussions
	<ul style="list-style-type: none"> - How can the current draft of the legally binding instrument regulate business activities to protect and promote human rights, especially in times of crises; - How the current draft legally binding instrument seeks to guarantee access to justice and remedy for victims of human rights

	violations, including prevention mechanisms and access to information; - Identify current examples on intersections between the LBI and reforms of the international investment regime, particularly on investor-State dispute settlement (ISDS) and investor obligations.
16:15-16:30	- Substantive discussion and updates on the OEIGWG negotiations on the draft LBI
16:30-17:00	Open discussion among participants

4. Format

The webinar will be held using the Zoom video conferencing platform. Participants will be requested to register in advance so that they can receive the link to join the consultation.

Please register using the following link:

https://us06web.zoom.us/webinar/register/WN_iRYpuuhmRWqJwridyVZTnw#/registration

5. Participation

The participants will consist of representatives from Member States of the South Centre and other developing countries, as well as representatives from academia and civil society organisations. The discussion will be facilitated and moderated by the South Centre.

6. Contact Information and Registration

Please for further details and registration, please contact Mr. Daniel Uribe (uribe@southcentre.int) or Mr. Danish (danish@southcentre.int) or call to +41 22 791 80 50.