



POSITION PAPER AHEAD OF THE 12TH SESSION OF THE OPEN-ENDED INTERGOVERNMENTAL WORKING GROUP ON TRANSNATIONAL CORPORATIONS AND OTHER BUSINESS ENTERPRISES WITH RESPECT TO HUMAN RIGHTS

Geneva, 12-16 October 2026

CIDSE and its member organisations welcome the progress made through the [2026 intersessional thematic consultations](#) and the continued efforts of the Chair-Rapporteur and legal experts to identify areas of convergence and clarify the legal implications of different proposals.

As organisations working with communities and victims affected by corporate-related human rights and environmental abuses, we remain committed to a Legally Binding Instrument (LBI) that strengthens corporate accountability, prevents human rights abuses and ensures effective access to justice and remedy for affected individuals and communities.

During the 2026 intersessional period, thematic consultations addressed a number of key provisions of the draft Legally Binding Instrument, including Articles 12 to 24 as well as Article 1 (Definitions), Article 2 (statement of purpose), Article 3 (scope) and the Preamble. CIDSE and its member organisations welcome the efforts of the Chair-Rapporteur to facilitate these discussions and appreciate the [Addendum](#) containing wording proposals on specific provisions, which provides a basis for further consideration and negotiation. While these consultations have helped clarify certain issues and identify areas of convergence, some concerns and questions remain insufficiently addressed. We kindly ask the Chair Rapporteur to consider these during the 12th session to ensure that the next stage of negotiations strengthens the coherence, effectiveness and human rights protections of the future instrument.

Ahead of the 12th session, CIDSE and its member organisations wish to highlight the concerns that remain insufficiently addressed, for example those relating to:

- Effective access to justice and remedy for individuals and communities
- The recognition of the right to a safe, clean, healthy and sustainable environment, in addition to environmental due diligence; and
- Corporate accountability under State regulation across the entire global value chains.

We also reiterate that the next phase of negotiations must prioritise substance over speed. The objective should be to develop a legally robust and effective instrument, supported by meaningful participation and adequate legal scrutiny, rather than to accelerate the process at the expense of its intended purpose.

1. SUBSTANTIVE CONCERNS

1.1. Ensuring effective access to justice and remedy for individuals and communities

International cooperation on access to justice and effective remedy must remain central objectives of the LBI. The instrument should establish a framework that enables victims and affected communities to seek redress, overcome procedural and practical barriers, and obtain adequate and effective reparation. CIDSE and its member organisations welcome the Chair-Rapporteur's wording proposal on Article 1.1 to explicitly include "affected communities" within the definition of victims. This is an important step towards recognising the collective dimension of harm and ensuring that communities affected by business-related human rights abuses are adequately recognised and protected. However, this recognition is not consistently reflected across the provisions discussed during the intersessional period. In particular, Article 15.4 should explicitly empower the Committee to receive and consider communications from individuals, affected communities and their representatives, subject to appropriate and comprehensive admissibility criteria. This mechanism should complement comprehensive monitoring and reporting mechanisms, including periodic reviews, and ensure that the experiences and perspectives of those most affected inform the Committee's work.

We stress the importance of a functional International Fund for Victims under Article 15.7. The instrument should establish a mechanism capable of providing legal and financial assistance to victims seeking access to remedies, with particular attention to people facing heightened barriers. Its governance, financing, and implementation arrangements should ensure that the Fund can operate effectively.

The consultations have recognised the importance of monitoring, communications procedures, and differentiated access to remedy. However, the precise scope and institutional arrangements of these mechanisms are not reflected in the wording proposals by the Chair. The future draft should translate these considerations into clear and effective provisions.

1.2. Recognising the right to a safe, clean, healthy and sustainable environment

The LBI must adequately address the relationship between human rights and environmental protection, particularly in the context of business activities that cause or contribute to environmental harm.

CIDSE and its member organisations reiterate the need to reinstate the explicit recognition of the right to a safe, clean, healthy and sustainable environment in Article 1.3, within the definition of human rights abuse. This is consistent with the evolving international human rights framework. In its [2025 Advisory Opinion on Obligations of States in respect of Climate Change](#), the International Court of Justice affirmed the essential importance of a clean, healthy and sustainable environment for the enjoyment of other human rights, underscoring the interdependence between human rights and environmental protection. The Court also referred to the broad recognition of this right at the international, regional and national levels, including through UN General Assembly resolution 76/300.

Against this background, the explicit recognition of the right in the LBI is necessary to ensure that environmental harm affecting the enjoyment of human rights is properly recognised and that the instrument provides a coherent basis for prevention, accountability and remedy. This is particularly important where business activities cause or contribute to environmental degradation and related human rights impacts.

While the consultations have further explored the relationship between human rights and environmental protection, the Chair-Rapporteur's proposed definition of human rights abuse does not expressly include this right. Its explicit recognition therefore remains an outstanding substantive concern and should be restored in the next draft.

1.3. Ensuring comprehensive human rights and environmental due diligence

Human rights and environmental due diligence (HREDD) must be a coherent, preventive, and ongoing process that enables business enterprises to identify, prevent and address adverse impacts throughout their activities and business relationships.

CIDSE and its member organisations call for:

- The consultations acknowledged the importance of a coherent definition and the relationship between Article 1.8 and Article 6. However, the Chair's proposal retains the terminology of human rights due diligence and does not expressly incorporate environmental due diligence. The scope and substantive content of the definition therefore remain unresolved from CIDSE's perspective.
- A coherent relationship between the definition and the substantive obligations under Article 6, ensuring that the definition supports a consistent interpretation of prevention, liability and remedy throughout the instrument.
- A clear preventive orientation, ensuring that mitigation does not become a substitute for preventing human rights abuses and addressing their root causes.

1.4. Addressing heightened and differentiated risks across the instrument

The LBI should consistently address the heightened and differentiated risks faced by individuals and communities in vulnerable or high-risk situations, including women, children, Indigenous Peoples, persons with disabilities, human rights defenders and other groups facing specific barriers to the enjoyment of their rights.

CIDSE and its member organisations are concerned that references to specific groups and protective approaches remain unevenly reflected across the draft, potentially creating gaps in protection.

We therefore call for:

- A cross-cutting implementation principle under Article 16 requiring States Parties to address heightened and differentiated risks in all measures adopted under the instrument.
- A systematic approach across the LBI, ensuring that the protection of people in vulnerable or high-risk situations is not limited to selected provisions or contexts.
- Strengthened Articles 16.3 and 16.4 as operational anchors for this principle, while ensuring that protection extends beyond conflict-affected areas.

The Chair's proposal under Article 16.3 focuses on business activities and relationships in conflict-affected areas, including specific forms of harm. While this is relevant, it does not establish the broader, cross-cutting principle advocated by CIDSE. The consultations also recognised the need to address differentiated risks, but the scope and operationalisation of such protection remain open.

1.5. Protecting public decision-making from undue corporate influence

Public institutions and decision-making processes must be protected from undue interference by businesses and other economic interests. CIDSE and its member organisations welcome the Chair Rapporteur's effort to strengthen Article 16.6 to ensure this, and his proposal to extend it to judicial systems and regulatory and governmental bodies.

Furthermore, we call for the provision to explicitly address:

- Interference and influence by commercial and other vested interests.
- Conflicts of interest arising from corporate influence over public decision-making.
- Appropriate legislative, administrative, and institutional measures to prevent and address such interference.
- Guarantee independence of supervisory authorities from external corporate and government influence in administrative enforcement of the LBI.

1.6. Ensuring that trade and investment agreements do not undermine human rights obligations

Trade and investment agreements must be consistent with States Parties' human rights obligations and must not undermine their ability to implement the LBI.

CIDSE and its member organisations call for Article 14.5 to ensure that trade and investment agreements are negotiated, ratified, interpreted, implemented, reviewed and adapted in a manner consistent with all internationally recognised human rights and fundamental freedoms binding on the States Parties.

The Chair's proposal refers to the compatibility of existing bilateral and multilateral agreements, including trade and investment agreements, with States Parties' obligations under the LBI and relevant human rights instruments. However, the proposal does not expressly retain the requirement to negotiate, conclude, review and adapt agreements consistent with the LBI. The future draft should clarify the scope of this obligation and ensure that existing and future agreements cannot be used to undermine the implementation of the instrument or other applicable human rights obligations.

1.7. Ensuring a comprehensive definition of business relationships and corporate structures

The effectiveness of the LBI depends on definitions that reflect the complexity of contemporary corporate structures and business operations, including their transnational dimensions and all direct and indirect business relationships along the whole global value chains.

CIDSE and its member organisations welcome the Chair-Rapporteur's proposal to explicitly include financial institutions in the list of business relationships under Article 1.6, as well as the removal of the reference to domestic law in defining such relationships. These changes contribute to a clearer definition. Nevertheless, we call for the provision to explicitly encompass the entire value chain and the range of direct and indirect relationships through which business activities are conducted. The wording should ensure that the scope of business relationships is sufficiently comprehensive to avoid legal uncertainty and prevent corporate structures from being used to evade accountability.

1.8. Ensuring that the scope of the instrument covers relevant business activities and their transnational impacts

CIDSE and its member organisations welcome the Chair-Rapporteur's efforts to provide different wording options on the scope of the instrument, taking into account the divergent positions of State and non-State actors.

CIDSE and its member organisations call for:

- A scope that captures business activities based on their nature and impacts, rather than relying exclusively on the legal status or registration of the enterprise.
- Clear definitions of business relationships and transnational character that encompass relevant direct and indirect business relationships and entire global value chains.
- Recognition of the right to a safe, clean, healthy and sustainable environment within the provisions defining the purpose and scope of the instrument.

The Chair-Rapporteur's proposals contain options that differ in their coverage of business activities and enterprises. The approach that ultimately determines the scope of the instrument remains a central concern, particularly if it results in the exclusion of locally registered entities involved in transnational activities or fails to adequately address cross-border harm.

The future draft should preserve comprehensive coverage of all business activities as well as direct and indirect relationships in Article 3.1 while ensuring legal certainty and avoiding protection gaps.

1.9. Strengthening State obligations for prevention and access to remedy across global value chains

CIDSE and its member organisations welcome the strengthening of the statement of purpose on prevention and access to remedy, including the attention given to the specific needs and circumstances of women, children, persons with disabilities and victims of business-related human rights abuses.

Nevertheless, we call for a Statement of Purpose (Article 2) that emphasize State regulation of business activities across global value chains and the removal of "mitigation" as an objective of the instrument. Furthermore, the reference to business activities "particularly of a transnational character" may leave gaps in the scope of protection.

We therefore call for:

- Robust State regulation to prevent business-related human rights abuses throughout global value chains.
- Replace "mitigation" with "ending abuses" as an objective of the instrument.
- Explicit reference to the whole global value chains, including downstream and upstream activities, in the relevant purpose clauses to ensure comprehensive coverage of business activities and direct and indirect relationships.

The next draft should ensure that prevention and access to remedy are supported by a coherent framework of State obligations, with no gaps in protection across global value chains.

2. OUTSTANDING PROCEDURAL CONCERNS AND THE WAY FORWARD

2.1 Ensuring a transparent process and meaningful participation in the next phase of negotiations

CIDSE and its member organisations welcome the Chair-Rapporteur's confirmation that, following the 12th session, a new draft of the LBI will be prepared to reflect the progress made and areas of convergence. Nevertheless, several concerns raised in our [statement of 1st September 2026](#) remain insufficiently addressed. While the Summary Report clarifies the

overall direction of the process, it does not yet provide the practical guidance needed to ensure the meaningful participation of affected communities, victims of business-related human rights abuses and civil society organisations (CSOs).

We therefore reiterate the importance of establishing a clear and transparent timeline for the preparation and circulation of the new draft, allowing all stakeholders sufficient time to review its content and prepare for the next stage of negotiations.

For affected communities, victims and CSOs, timely information is essential to enable their effective participation. Their presence in Geneva requires advance planning, resource mobilisation and, where necessary, visa applications. As 2027 will be a pivotal year for the negotiations, ensuring that those most affected by business operations can participate in discussions is essential to the legitimacy, inclusiveness and effectiveness of the process. The next phase should therefore provide sufficient notice and practical arrangements for their meaningful engagement.

2.2. Clarifying the methodology beyond the 12th session

CIDSE and its member organisations reiterate the need for a methodology capable of addressing the substantive and structural issues that remain unresolved after more than a decade of negotiations.

We call for:

- A clear explanation of how the negotiations will proceed after the 12th session, including the objectives, sequence and format of the next phase.
- A methodology that facilitates the resolution of outstanding political and legal questions, while preserving the necessary detailed examination of the text.
- The transparent communication of the proposed methodology in advance, with clear opportunities for stakeholder engagement.
- The Chair-Rapporteur has indicated that informal consultations will be conducted on the programme of work and the proposed 2027 roadmap. However, the precise methodology for the next phase, including how outstanding substantive questions will be addressed, remains to be clarified.

2.3. Ensuring continuity of legal expertise

The complexity of the outstanding legal and technical questions requires sustained access to independent legal expertise throughout the next phase of negotiations.

CIDSE and its member organisations call for:

- The continued involvement of legal experts in the preparation and review of the new draft and throughout the intersessional period.
- Sufficient time and opportunities for legal experts to identify inconsistencies and assess the implications of proposed provisions.
- The integration of legal expertise into the process leading towards the final text, rather than limiting it to individual consultations.

3. CONCLUSION: PRIORITISING SUBSTANCE OVER SPEED

As acknowledged in the [CIDSE statement of 1st September](#), we are deeply concerned that the current time constraints, compounded by the UN's liquidity crisis, are accelerating the process without ensuring that outstanding substantive issues are adequately addressed. After more than ten years of negotiations, the process should only conclude once the LBI provides a strong and comprehensive framework that fully protects people and communities from human rights and environmental abuses linked to business operations.

The next draft must ensure that the LBI provides effective prevention of and protection against business-related human rights abuses, strengthens corporate accountability, and guarantees access to justice and remedy for victims and affected communities.

We therefore call on States and the Chair-Rapporteur to ensure that the next draft and next phase:

- Strengthen prevention and access to remedy, including through a robust human rights and environmental due diligence framework and explicit recognition of the right to a safe, clean, healthy and sustainable environment.
- Ensure comprehensive corporate accountability by addressing complex corporate structures, business relationships, entire global value chains and the transnational impacts of business activities.
- Protect individuals and communities facing heightened and differentiated risks throughout the instrument.
- Guarantee a transparent and participatory process, with a clear timeline, sufficient opportunities to review and comment on the new draft, and continuity of legal expertise.

We are now at a critical juncture in this process. The remaining differences must be addressed through political will and a genuine commitment to a LBI that delivers meaningful protection, accountability and access to justice for people and communities affected by business-related human rights and environmental abuses. The engagement of the European Union and its Member States will be crucial at this stage, not only to bridge differences, but to help secure a strong and effective LBI. We therefore call on them to use this opportunity to demonstrate their commitment to human rights and to ensure that the final outcome puts affected people and communities where they belong: at the centre of this LBI.