

# AMNESTY INTERNATIONAL PUBLIC STATEMENT

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## **Amnesty International position on the new UN process to elaborate a legally binding instrument on business and human rights**

On 26 June, the UN Human Rights Council adopted a resolution to establish an open-ended intergovernmental working group (OIGWG) on a legally binding instrument on transnational corporations and other business enterprises with respect to human rights.<sup>1</sup>

Amnesty International regrets that the mandate for the OIGWG excludes from its scope local businesses registered in terms of relevant domestic law, and that the approach to the negotiations of the lead sponsors of the resolution resulted in a lack of consensus and a North/South split in the final vote.

Amnesty International strongly cautions against developing a treaty exclusively focusing on transnational companies – legally binding measures must be applied against all companies, including national corporate actors. Our research has clearly documented evidence of human rights abuses by national and multinational companies. An international instrument that fails to cover all such abuses would be neither credible nor effective.

The priority for standard setting needs to be on the enforcement and strengthening of laws at the national level to hold companies to account for human rights abuses and better enable access to remedies for those affected by such abuses. To address outstanding protection gaps, a cohesive and coherent strategy is required at the global level to effectively move forward.

All states must act constructively in the OIGWG in identifying the principles, scope and elements which can inform the development of an international legally binding instrument. Measures must be taken to ensure that progress is real and that critical areas which deserve attention are prioritized.<sup>2</sup> The OIGWG must develop a strategy for building consensus, in order for it to be effective. Key actors, including those states home to many transnational companies, must be engaged in this process.

From a pragmatic perspective, it is imperative that discussions on a new binding international instrument are not used by states as an excuse for inaction in the short-term. It was clear from the outset that the Guiding Principles alone would not be enough; they must be complemented by effective national regulatory measures, including with extra-territorial effect, to address on an immediate basis the continuing human rights protection gaps.

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<sup>1</sup> UN Doc: A/HRC/26/L.22/Rev.1

<sup>2</sup> These include: corporate legal accountability for human rights abuses committed abroad (*i.e.* outside the company's home state borders); access to state-based remedies by individuals and communities affected by corporate human rights abuses; legal protections for vulnerable groups; and the mandatory transparency and reporting of information relevant to corporate human rights risk and impact assessments.