

# Draft Report

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## Human Rights Council

### Forty-sixth session

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Agenda item 3

**Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development**

## **Report on the sixth session of the open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights\***

*Chair-Rapporteur:* Emilio Rafael Izquierdo Miño

### **I. Introduction<sup>1</sup>**

1. The open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights, established by the Human Rights Council in its resolution 26/9 of 26 June 2014, was mandated to elaborate an international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises with respect to human rights.

2. The working group's sixth session took place from 26 to 30 October 2020.<sup>2</sup> The session opened with a statement from the High Commissioner for Human Rights. She congratulated the Chair-Rapporteur on the release of the second revised draft legally binding instrument, and noted that the process to draw up such an instrument was challenging and complex, but also crucial to the lives and livelihoods of millions of people. Given businesses' growing impact on people's lives, the High Commissioner stressed that it was crucial for a future treaty to take into account the experiences of those who stand to be most affected by business activities, particularly those who experience different, often disproportionate, impacts, such as women and girls, human rights defenders and environmental defenders. The COVID-19 crisis has laid bare the inequities and fragility of

\* The annex to the present report is circulated as received, in the language of submission only.

<sup>1</sup> Due to the financial crisis faced by the United Nations, there was diminished capacity of the Secretariat to support the sixth session of the working group. Consequently, the report from the session is in a reduced format.

<sup>2</sup> The sixth session took place within a context in which safety measures were taken with regard to combatting the spread of COVID-19. Thus, participation in the working group's sessions was permitted in person, through the WebEx platform, and through pre-recorded video statements. Additional information about the modalities of the session and copies of the statements made during the sixth session that were shared with the Secretariat are available at [www.ohchr.org/EN/HRBodies/HRC/WGTransCorp/Session6/Pages/Session6.aspx](http://www.ohchr.org/EN/HRBodies/HRC/WGTransCorp/Session6/Pages/Session6.aspx). A webcast of the entire session is available at <http://webtv.un.org/>.

global supply chains, and she stressed that embedding respect for human rights across value chains was a key part of efforts to recover better and uphold human dignity and rights. In this regard, she noted that her office's submission to the working group this year set out the different considerations for the modalities of mandatory human rights due diligence regimes, which could play a vital role as part of a smart mix of measures to effectively foster business respect for human rights. She recalled that the work of her office on improving accountability and access to effective remedy (in particular through the Accountability and Remedy Project) was complementary to the goals of the working group, as were the Guiding Principles on Business and Human Rights, which call for relevant and meaningful legal developments at the international, regional and national levels. Lastly, she invited all stakeholders to engage constructively in this shared work to further promote principled, responsible and accountable business operations.

3. The Minister of Foreign Affairs and Human Mobility of Ecuador then delivered a statement in which he offered his thanks to the High Commissioner, her office, the Chair-Rapporteur, States, the working group on the issue of human rights and transnational corporations and other business enterprises, experts, and other stakeholders for their respective roles in the process to develop a legally binding instrument on this highly relevant, yet complex topic. He noted that although participation in the working group had increased each year, there was still a need to continue working together to ensure more participation of all stakeholders. In the wake of the coronavirus crisis, this process should be seen as an opportunity to develop binding human rights standards to ensure a socio-economic recovery that leaves no one behind, and which builds social cohesion in line with the 2030 Agenda for Sustainable Development. He recalled the efforts of Ecuador with respect to the business and human rights field both domestically and internationally. Despite the improvements that have been made, when human rights harms do occur (such as had been the case in the Rana Plaza incident), victims face many difficulties in accessing remedy. Thus, he stressed the importance of moving beyond voluntary standards in order to better ensure access to justice for those harmed in the context of business activities. He hoped that maintaining a focus on access to justice could help build consensus around the legally binding instrument, and he called on the Chair-Rapporteur to continue advancing this process based on the principles of transparency, inclusion, and compassion.

## **II. Organization of the session**

### **A. Election of the Chair-Rapporteur**

4. The Permanent Representative of Ecuador, Emilio Rafael Izquierdo Miño, was elected Chair-Rapporteur by acclamation following his nomination, on behalf of the Group of Latin American and Caribbean States, by the delegation of Panama.

### **B. Attendance**

5. The list of participants is contained in annex I.

### **C. Documentation**

6. The working group had before it the following documents:

(a) Human Rights Council resolution 26/9;

(b) The provisional agenda of the working group (A/HRC/WG.17/5/1);

(c) Other documents, including the Chair-Rapporteur's second revised draft legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises, explanatory notes to the second

revised draft, and a programme of work, all of which were made available to the working group on its website.<sup>3</sup>

#### **D. Adoption of the agenda and programme of work**

7. The Chair-Rapporteur presented the draft programme of work and invited comments. As there were no comments by States, the programme of work was adopted.

### **III. Opening statements**

#### **A. General statement and introductory remarks by the Chair-Rapporteur**

8. In his opening statement, the Chair-Rapporteur thanked the High Commissioner for her introduction and support for the process. He recalled the history of the working group, noting in particular the unprecedented level of participation in such a process. He also provided an overview of the drafting history of the legally binding instrument. The second revised draft of the legally binding instrument benefited from the discussions at previous sessions of the working group, the input of various experts, as well as contributions through a variety of means in the previous year. He stressed that the instrument was meant to strengthen human rights and be mutually supporting and reinforcing of existing standards such as the Guiding Principles on Business and Human Rights. He highlighted important modifications that were made in the most recent draft in order to broaden the protection of victims, clarify State obligations and business responsibilities in the business and human rights sphere, promote access to justice, and facilitate mutual legal assistance and international cooperation. He also mentioned that it was relevant to recognize that human rights abuses related to businesses activities impact different social groups in different ways and, in some cases, in a disproportionate way, and this is why a treaty can be and must be part of the solution to the obstacles and legal gaps that victims face when seeking justice and reparation. Additionally, he emphasized the fact that all the progress and legal initiatives that have taken place recently and those that are being created are a clear sign that non-binding standards in terms of businesses and human rights can be and must be complemented by binding regulations. He called on all States and other stakeholders to continue their contributions to the process, which was to focus on intergovernmental negotiations of the text during the sixth session.

#### **B. General statements**

9. Delegations and non-governmental organizations congratulated the Chair-Rapporteur on his election, and thanked him and the Secretariat for organizing the session in a way that could ensure the participation of different stakeholders, including through remote participation.

10. It was recalled that a wide range of human rights can be impacted in the context of business activities. The coronavirus crisis had brought increased attention to many human rights abuses, such as those with respect to worker protections, inequities throughout supply chains and pharmaceutical companies. It was argued that such circumstances demonstrated the increased need for a legally binding instrument.

11. Delegations provided several rationales for developing such an instrument, including to enhance access to remedy for victims, fill gaps in international law, level the playing field for business, and raise human rights standards with respect to business activities. However, delegations cautioned that such goals need to be balanced against constraints on States' ability to implement the instrument's provisions.

12. Many delegations shared measures taken at the national and regional levels to address business-related human rights abuse. It was stressed that any legally binding

<sup>3</sup>

See [www.ohchr.org/EN/HRBodies/HRC/WGTransCorp/Session6/Pages/Session6.aspx](http://www.ohchr.org/EN/HRBodies/HRC/WGTransCorp/Session6/Pages/Session6.aspx).

instrument must build on work already achieved and ensure alignment with relevant international laws and standards, such as those found in the Guiding Principles on Business and Human Rights. Further, it was noted that the instrument should be drafted in such a way as to foster States' sustainable development. In this regard, several delegations recognized the positive role business could have in promoting development and attaining the Sustainable Development Goals.

13. Delegations and organizations thanked the Chair-Rapporteur for the second revised draft of the legally binding instrument, noting that several comments from the fifth session had been incorporated and that there were positive developments in the draft. Among other issues, the draft's greater alignment with the Guiding Principles and its enhanced gender perspective were welcomed. However, it was recognized that the draft still contained unclear and problematic language. It was argued that there needed to be an increased focus on the practical challenges States would face in implementing the instrument's provisions, in part due to the variety of legal systems among States. Non-governmental organizations, in particular, requested stronger protections for human rights defenders and workers.

14. Many of the instrument's provisions were discussed during the general statements. Most of the debate centred around article 3 on scope. Some delegations and organizations welcomed the draft's application to all business enterprises; however, others argued that a proper reading of Human Rights Council resolution 26/9 restricted the scope of companies that can be covered by the instrument so as to exclude domestic companies. Further, it was argued by some State delegations and non-governmental organizations that the instrument should impose obligations directly on transnational corporations.

15. Despite reservations made about the text, many delegations expressed their willingness to participate constructively during the sixth session, signalled their support of the process to develop a legally binding instrument, and noted the importance of multi-stakeholder engagement in enriching the discussions.

#### **IV. Negotiation of the second revised draft legally binding instrument<sup>4</sup>**

16. During each session of the negotiation of the second revised draft instrument, the Secretariat read the relevant article or articles. Afterwards, there was an open discussion and negotiation.<sup>5</sup> The Chair-Rapporteur added explanatory comments in relation to the questions and concerns raised by States.

##### **A. Preamble and articles 1 and 2**

17. Several recommendations were put forth to revise the preamble. Some delegations suggested that it may be easier to achieve consensus if the preamble referred to international instruments generally instead of citing specific documents, as not all States had ratified or endorsed the documents that were referenced in the text. Further, it was suggested that a greater distinction be made between treaties and other international instruments that did not have binding force. Textual amendments were suggested for many different preambular paragraphs, for instance to strengthen the language regarding human rights defenders. It was also proposed that the preamble be expanded to include references on issues such as child rights, conflict-affected areas and the primacy of human rights over trade and investment treaties.

<sup>4</sup> The present section should be read in conjunction with the second revised draft instrument, available at [https://www.ohchr.org/Documents/HRBodies/HRCouncil/WGTransCorp/Session6/OEIGWG\\_Chair-Rapporteur\\_second\\_revised\\_draft\\_LBI\\_on\\_TNCs\\_and\\_OBEs\\_with\\_respect\\_to\\_Human\\_Rights.pdf](https://www.ohchr.org/Documents/HRBodies/HRCouncil/WGTransCorp/Session6/OEIGWG_Chair-Rapporteur_second_revised_draft_LBI_on_TNCs_and_OBEs_with_respect_to_Human_Rights.pdf).

<sup>5</sup> The sixth session took place under extraordinary measures and uncertain circumstances that disrupted the full participation of States and other relevant stakeholders in the discussions and negotiations of the instrument.

18. Most of the discussion focused on article 1, which some delegations and a business organization argued needed greater clarity. Some delegations welcomed the change in article 1(1) that removed those who “have alleged to have suffered” harm from the definition of “victims.” However, other delegations argued the provision should be reworked. Delegations raised issues with the language on “emotional suffering,” “economic loss,” and “substantial impairment” of human rights. Further, some delegations voiced concern about how the definition of “victims” included family members and those intervening to assist victims. Some delegations and organizations also questioned the appropriateness of using the word “victim;” it was suggested that the terminology be changed to “rights holder” or “affected individuals and communities.”<sup>6</sup>

19. Some delegations welcomed the clear distinction made between human rights abuse and violations in article 1(2); however, it was argued that a separate definition be included for human rights violations, as these were still relevant in the context of business activities. Many delegations raised questions about the reference to “environmental rights” in article 1(2), with some calling for its removal.

20. Some delegations also requested the removal of the explicit reference to “State-owned enterprises” in article 1(3); however, a regional organization and some delegations and organizations welcomed the reference. It was also suggested that article 1(3) be amended to cover both for-profit and non-profit business activities.

21. There were calls for greater clarity about the scope of businesses covered in articles 1(4) and 1(5), with some delegations and a business organization arguing these provisions were overly broad. It was also suggested that article 1(4)(c) be removed from the text due to its vagueness. Additionally, while delegations and non-governmental organizations signalled their appreciation of the change in article 1(5) from “contractual relationship” to “business relationship,” it was noted that the definition found in article 1(5) had changed little since the previous draft.

22. Delegations offered proposed revisions to article 2 on the instrument’s statement of purpose. Some delegations and non-governmental organizations suggested that a reference be made to human rights violations in articles 2(1)(b) and/or 2(1)(c), while others suggested that article 2 include a greater emphasis on transnational corporations.

## **B. Articles 3 and 4**

23. There was significant disagreement on the scope of companies to be covered under the instrument in article 3(1). A regional organization and some delegations and organizations welcomed the applicability of the instrument to all business enterprises, and it was questioned why there was a need to reference transnational corporations or include the words “unless stated otherwise” in the provision. However, many delegations and some non-governmental organizations argued that such scope exceeded the mandate established by Council resolution 26/9 and diverted the working group’s focus, which in their view should be on harm from transnational corporations.

24. There was also much discussion on article 3(3). Some delegations and organizations considered the text to be unclear, which could lead to different interpretations in different States. In this regard, specific reference was made to the phrases “internationally recognized human rights and fundamental freedoms,” “to which a state is a party,” and “customary international law.” Some delegations suggested that the provision be deleted from the text, while others offered recommendations to improve the language (for instance, by better aligning the text with the Guiding Principles on Business and Human Rights).

25. Article 4 was also subject to diverging views. Some delegations and organizations considered it to be one of the most important articles and appreciated the separation of the rights of victims from the obligations of States. In contrast, other delegations considered the article to be inappropriate, lacking complementarity with domestic law, and creating an excessive burden on States. There were suggestions to delete article 4 in its entirety, article 4(1), article 4(2), and/or article 4(2)(g) (a provision about which some delegations sought

<sup>6</sup>

Such comments were raised in different sessions throughout the week.

clarity). Some delegations proposed changes to improve the text, for instance by adding references to human rights “violations” in the article; child rights; economic, social and cultural rights; procedural rights; and due process rights. It was also suggested that article 4(2)(c) include references to other forms of remedies (e.g., apologies), that article 4(2)(e) be moved to article 5 on the protection of victims, and that the reference to “retaliation” be replaced with “reprisal” in article 4(2)(e).

### C. Articles 5, 6 and 7

26. Some delegations approved of the new article 5 on the protection of victims, though there were calls to merge some provisions with article 4, and delegations noted potential difficulties with implementation of the article, in part due to vague language. Several delegations and non-governmental organizations proposed ways to strengthen the protections of article 5, for instance by explicitly protecting those in trade unions, and by adding references to human rights “violations.”

27. Some delegations raised serious concerns with article 6 on prevention. In their view, the article was too prescriptive and did not allow States to determine how best to implement the instrument’s obligations; similarly, the article failed to respect existing domestic laws of States. Other delegations and non-governmental organizations considered article 6 to be one of the most important parts of the instrument.

28. With respect to article 6(1), there were requests for clarity about the scope of companies to be covered, with delegations and organizations disagreeing as to whether it was too narrow or too broad. Delegations and organizations also asked for greater clarity in articles 6(2) and 6(3). It was noted that the language in article 6(3)(d) departed from that of the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169), and there were calls to bring the text in line with international standards. Further, non-governmental organizations in particular requested the provision to be strengthened, for instance by expanding it to cover more than indigenous peoples and to refer to continuous consent. While some delegations and organizations welcomed the inclusion of article 6(6), others found the provision to be unclear or misplaced and requested that it be moved to a separate part of the instrument.

29. Some delegations recommended changing the title of article 7 to “Access to Justice.” Other delegations raised concerns with articles 7(5) (addressing *forum non conveniens*) and 7(6) (addressing a reversal of the burden of proof); in their view, the provisions were too prescriptive, encroached upon domestic law competence, and potentially raised due process concerns. However, many non-governmental organizations dismissed these concerns and signalled their strong support for the provisions. They argued that such provisions were necessary for victims to obtain access to justice and, if anything, these provisions should be strengthened.

### D. Article 8

30. Delegations and non-governmental organizations considered article 8 on legal liability to be key to ensuring access to justice in cases of business involvement in human rights harm. However, some delegations expressed their views that many of the article’s provisions were unclear, overly prescriptive, or not respectful of differences in legal systems. Concerns were raised with the references to criminal liability with respect to legal persons (which was not possible in their jurisdictions); in their view, the use of the phrase “or functionally equivalent liability” was unclear and did not adequately address this issue. There were calls to better distinguish between civil, criminal, and administrative liability, and to include more references to civil liability in the article.

31. While some delegations and non-governmental organizations welcomed article 8(6) on financial security, other delegations argued that the provision was too onerous for certain small and medium-sized enterprises and should therefore be removed. Much of the discussion focused on article 8(7). Some delegations and business organizations argued the provision was far too broad, and that it was unclear to which extent liability would be

placed on companies for failing to prevent harm committed by distant third parties. There were multiple calls to clarify the language in the provision, and non-governmental organizations in particular requested the provision to be maintained and strengthened. Some delegations and many non-governmental organizations also welcomed article 8(8) and called for it to be strengthened (for instance by removing the second sentence in that provision). However, other delegations and organizations considered article 8(8) to diminish incentives for preventative efforts by business enterprises and argued that the provision be removed or weakened.

32. There were several requests to add new elements to article 8. For instance, at least one delegation and some non-governmental organizations recommended that a provision be added to cover joint and several liability.

## **E. Articles 9, 10 and 11**

33. With respect to articles 9, 10, and 11, some delegations called for more clarity and precision in the text as these articles covered technical and legal issues. It was suggested that each article make a clearer distinction as regards which provisions apply to civil cases and which apply to criminal cases. Additionally, concerns were raised by some delegations and business organizations that these articles would allow for too much forum shopping by victims.

34. Such concerns were specifically raised in relation to article 9(1), which was considered to grant jurisdiction to an excessively broad range of States. However, some delegations and many non-governmental organizations argued this was appropriate under international law and desirable to address the access to justice challenges in this context. They called for expanding article 9(1) to permit jurisdiction in the courts of States where victims were nationals or domiciled. Further, despite concerns raised by some delegations, there was support by other delegations and strong support by many non-governmental organizations of article 9(3) (addressing *forum non conveniens*) and article 9(5) (addressing *forum necessitatis*). Due to the chances of parallel proceedings and multiple courts being seized of the same or similar issues, some delegations and organizations requested that the article include provisions on conflicts of jurisdiction and/or *res judicata*.

35. Some delegations raised concerns with article 10 on statute of limitations, in part due to vague wording. In article 10(1), these delegations questioned what was meant by “most serious crimes of concern to the international community as a whole,” and there were calls for clarification as to what constituted a “reasonable period of time” in article 10(2).

36. Some delegations and business organizations raised concerns about article 11(2), arguing it was not appropriate to allow victims to choose the applicable substantive law. Non-governmental organizations, on the other hand, welcomed the inclusion of this provision and made recommendations to strengthen the text, for instance by adding a reference to the law of the State where a victim was a national or domiciled.

## **F. Articles 12, 13 and 14**

37. Delegations and organizations recognized the importance of article 12 on mutual legal assistance and international judicial cooperation, though some delegations and business organizations requested its removal as they considered the article to place excessive burdens on States and/or impinge upon State sovereignty. There were calls to draw a clearer distinction between civil and criminal cases. Some delegations welcomed article 12(9) and suggested that more grounds be added to refuse recognition and enforcement of judgements; however, non-governmental organizations recommended such grounds be further restricted.

38. Some delegations and organizations proposed amendments to strengthen article 13 on international cooperation, for instance by adding a reference to common but differentiated responsibilities, or by covering situations where business activities emanating from one State lead to human rights harms in a different State.

39. There was disagreement over the content of article 14 on consistency with international law principles and instruments. Some delegations welcomed article 14(1), while others requested its removal or greater conformity with the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations. Some delegations voiced concerns over article 14(5), questioning whether it was appropriate to specifically reference trade and investment agreements in the instrument. However, other delegations welcomed the provision. Many non-governmental organizations recalled the connections between the business and human rights agenda and trade and investment agreements, and they argued that the inclusion of article 14(5) was crucial to the instrument and should be strengthened.

## **G. Article 15**

40. With respect to article 15 on institutional arrangements, many delegations requested an assessment of whether it was necessary to establish the institutions referenced in that article given the potential duplication of work with existing human rights mechanisms. There were also requests for estimates of the financial implications of establishing these institutions. Many non-governmental organizations called for a stronger institutional framework, requesting that an international tribunal be created, or that the committee be given the competency, to adjudicate individual cases.

41. Some delegations considered it premature to discuss the international fund for victims since, in their view, there was little detailed information available about it (for instance about what the fund's scope would be, how it would be governed, or how it would be funded). Some non-governmental organizations insisted that certain corporations should be required to make contributions to the fund.

## **H. Articles 16 to 24**

42. Most of the discussion focused on article 16 on implementation. Some delegations and non-governmental organizations recommended strengthening article 16(3), for instance by adding references to occupied territories, child soldiers and the worst forms of child labour, including forced and hazardous child labour. Delegations and organizations suggested that it be made more explicit in article 16(4) that the list of those facing heightened risks of human rights abuse was not meant to be exhaustive. There were also calls to add references in that list to, among others, older persons, people of African descent, the urban poor, local communities, and lesbian, gay, bisexual, trans and intersex people. With respect to article 16(5), one delegation welcomed the reference to international humanitarian law, whereas another questioned its relevance to the instrument, and a third recommended referencing general international law in that provision. Many non-governmental organizations also requested that a new paragraph be added to article 16 to cover the issue of corporate capture.

# **VII. Recommendations of the Chair-Rapporteur and conclusions of the working group**

## **A. Recommendations of the Chair-Rapporteur**

43. **Following the discussions held during the sixth session, and acknowledging the different views, comments and concrete textual suggestions on the second revised draft legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises expressed therein, the Chair- Rapporteur makes the following recommendations:**

(a) **That the Secretariat prepare a compilation of the statements from States and other relevant stakeholders on the second revised draft legally binding instrument, provided to the Secretariat and presented during the sixth session of the working**

group, to be made available no later than the end of December 2020, and to be included as an annex to the present report;

(b) That the Chair-Rapporteur invite States and other relevant stakeholders to fill, no later than February 2021, two matrix templates to be circulated by the Secretariat, reflecting: 1. concrete textual suggestions, modifications, additional language, requests for deletions, as well as expressions of support on the current provisions of the second revised draft legally binding instrument; and 2. general comments and requests of clarification. These two matrices will be compiled and distributed by the Secretariat no later than the end of March 2021;

(c) That the Chair-Rapporteur encourage regional and political groups, intergovernmental organizations, national human rights institutions, civil society and all other relevant stakeholders, as appropriate, to organize consultations at all levels, including in particular at the regional and national level, with a view to exchanging comments and inputs on the second revised draft legally binding instrument;

(d) That the Chair-Rapporteur invite a group of experts from different regions, legal systems and fields of expertise to provide independent expertise and advice in relation to the preparation of the third revised draft legally binding instrument, in accordance with operative paragraph 6 of Human Rights Council resolution 26/9;

(e) That the Chair-Rapporteur hold comprehensive and periodic informal consultations with Governments, regional and political groups, intergovernmental organizations, civil society and other relevant stakeholders before the working group meets for its seventh session;

(f) That the Chair-Rapporteur prepare a third revised draft legally binding instrument on the basis of the discussions held during the sixth session of the working group, of the annex to the present report, and of the informal consultations, and present the third revised text no later than the end of July 2021, for consideration and further discussion;

(g) That the Chair-Rapporteur prepare a programme of work for the seventh session, on the basis of the discussions held during the sixth session of the working group and of the informal consultations, and make available that programme before the seventh session of the working group, for consideration and further discussion;

(h) That the Chair-Rapporteur promote State-led direct substantive intergovernmental negotiations on the preparation of a fourth draft legally binding instrument during the working group's seventh session, to be held in 2021, on the basis of the third revised draft referred to in subparagraph (f), in order to fulfil the mandate of Human Rights Council resolution 26/9. The format of the seventh session should be organized in a manner that allows different stakeholders to present their views regarding the draft legally binding instrument.

## **B. Conclusions of the working group**

44. At the final meeting of its sixth session, on 30 October 2020, the working group adopted the following conclusions, in accordance with its mandate established by Human Rights Council resolution 26/9:

(a) The working group welcomed the opening messages of the United Nations High Commissioner for Human Rights and of the Minister of Foreign Affairs and Human Mobility of Ecuador, and thanked the representatives who took part in the negotiation of the second revised draft legally binding instrument and took note of the comments, questions, clarifications and concrete textual suggestions received from Governments, regional and political groups, intergovernmental organizations, national human rights institutions, civil society and all other relevant stakeholders on substantive issues related to the second revised draft instrument;

(b) The working group acknowledged the dialogue focused on the content of the second revised draft legally binding instrument, as well as the participation and

engagement of Governments, regional and political groups, intergovernmental organizations, national human rights institutions, civil society and all other relevant stakeholders, and took note of the input they had provided;

(c) The working group took note with appreciation of the recommendations of the Chair-Rapporteur and looked forward to the third revised draft legally binding instrument, the informal consultations and the programme of work for its seventh session.

## **VIII. Adoption of the report**

45. At its 10th meeting, on 30 October 2020, after an exchange of views on the report and its content, the working group adopted ad referendum the draft report on its sixth session and decided to entrust the Chair-Rapporteur with its finalization and submission to the Council for consideration at its forty-sixth session.

## Annex I

### List of participants

#### States Members of the United Nations

Afghanistan, Albania, Algeria, Argentina, Armenia, Austria, Azerbaijan, Bangladesh, Belgium, Bolivia (Plurinational State of), Botswana, Brazil, Burkina Faso, Burundi, Cameroon, Chile, China, Cuba, Czech Republic, Denmark, Ecuador, Egypt, El Salvador, Equatorial Guinea, Ethiopia, Fiji, Finland, France, Germany, Ghana, Greece, Guatemala, Haiti, India, Indonesia, Iran (Islamic Republic of), Iraq, Kenya, Malaysia, Mexico, Morocco, Mozambique, Namibia, Nepal, Netherlands, Pakistan, Panama, Philippines, Portugal, Qatar, Russian Federation, Senegal, Slovenia, South Africa, Spain, Sudan, Sweden, Switzerland, Thailand, Togo, Tunisia, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela (Bolivarian Republic of).

#### Non-member States represented by an observer

Holy See, State of Palestine.

#### Intergovernmental organizations

European Union, International Chamber of Commerce, International Organization of la Francophonie, Organization of Islamic Cooperation, South Centre.

#### National human rights institutions

Commission Nationale Consultative des Droits de l'Homme (France), Conseil National des Droits de l'Homme (Morocco), Finnish National Human Rights Institution, German Institute for Human Rights, Global Alliance of National Human Rights Institutions.

#### Non-governmental organizations in consultative status with the Economic and Social Council

ACT Alliance - Action by Churches Together, ActionAid, Al-Haq (Law in the service of Man), All Win Network, American Association of Jurists, Americans for Democracy & Human Rights in Bahrain Inc, Amnesty International, Asia Pacific Forum on Women, Law and Development (APWLD), Associação Brasileira Interdisciplinar de AIDS (ABIA), Association de Protection et de Promotion des Interets des Familles en Perils (APPIFAPE), Associazione Comunita Papa Giovanni XXIII, Bischöfliches Hilfswerk Misereor e.V., Business & Human Rights Resource Centre, Cairo Institute for Human Rights Studies, Caritas Internationalis (International Confederation of Catholic Charities), Catholic Agency for Overseas Development (CAFOD), Center for Constitutional Rights, Center for Legal and Social Studies (CELS), Centre Europe-Tiers Monde – Europe-Third World Centre (CETIM), Centre for Health Science and Law (CHSL), Centre for Human Rights, Centre for Human Rights, Child Rights Connect, Christian Aid, Comité catholique contre la faim et pour le développement (CCFD), Comité des observateurs des droits de l'homme, Commission africaine des promoteurs de la santé et des droits de l'homme, Congregation of Our Lady of Charity of the Good Shepherd, Coopération internationale pour le développement et la solidarité (CIDSE), Corporate Accountability International (CAI), DKA Austria, European Center for Constitutional and Human Rights, Dreikönigsaktion - Hilfswerk der Katholischen Jungschar, Earthjustice, East and Horn of Africa Human Rights Defenders Project, Edmund Rice International Limited, ESCR-Net - International Network

for Economic, Social and Cultural Rights, Inc., FIAN International e.V., Franciscans International, Friends of the Earth International, Friedrich-Ebert-Stiftung, Friends of the Earth International, Fundación para la Democracia Internacional, Genève pour les droits de l'homme: formation internationale, Global Policy Forum, Human Rights Now, Indigenous Peoples' International Centre for Policy Research and Education (Tebtebba), Indigenous World Association, Institute for NGO Research, Institute for Policy Studies (IPS), Instituto Para la Participación y el Desarrollo-INPADE, Asociación Civil Internacional, Commission of Jurists (ICJ), International Federation for Human Rights Leagues (FIDH), International Human Rights Association of American Minorities (IHRAAM), International Human Rights Council, International Human Rights Observer (IHRO) Pakistan, International Institute of Sustainable Development, International Organisation of Employers (IOE), International Service for Human Rights, International Trade Union Confederation (ITUC), International Women's Rights Action Watch Asia Pacific, International Youth and Student Movement for the United Nations, Land is Life, Inc., Medico International, MISEREOR, Netherlands National Committee for IUCN, Public Organization "Public Advocacy", Public Services International, Rosa-Luxemburg-Stiftung - Gesellschaftsanalyse und Politische Bildung e.V., Servas International, Sikh Human Rights Group, Social Service Agency of the Protestant Church in Germany, Swiss Catholic Lenten Fund, The Chittagong Hill Tracts (CHT) Foundation Inc., Third World Network, Tides Center, United States Council for the International Business Incorporated (USCIB), Verein Sudwind Entwicklungspolitik, Womankind Worldwide, Women in Europe for a Common Future, Women's International League for Peace and Freedom (WILPF).

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