



Comments respectfully submitted in relation to the October 26-30, 2020 negotiations on the United Nations Human Rights Council's Open-ended Intergovernmental Working Group on a Legally Binding Instrument to Regulate, in International Human Rights Law, the Activities of Transnational Corporations and other Business Enterprises in Geneva via Webex.

The Centre for Health Science and Law (CHSL) is a small non-profit NGO based in Canada that accepts no funding from business. Its work is primarily financially supported by subscription revenue from its advertisement-free consumer magazine, *Food for Life Report*. It also advocates for public health reforms to national and international law and policy related to food, alcohol, nutrition and conflict of interest safeguards in Canada, and at the Codex Alimentarius Commission, the World Health Organization, and United Nations General Assembly. CHSL has Special Consultative Status with the United Nations Economic and Social Council (ECOSOC) and submits the following comments in respect of the on-going negotiations.

CHSL commends the Working Group for including text to ensure the primacy of human rights in relation to trade, investment, and other treaties as well as other improvements since the 2019 draft of *Legally Binding Instrument*.

Proposal: CHSL urges the Open-Ended Working Group to develop a conflict of interest declaration form and request non-state parties and experts participating in the negotiations to disclose their personal and employers' conflicts of interest for publication in OHCHR reports. Such conflicts of interest are not always obvious.

Rationale: It is appropriate for NGOs and experts to self-identify as representing public interest, academic, or human rights interests on one hand or business interests on the other, based on how those entities are financed and governed, and to be characterized as such in deliberations. These distinctions are often not obvious. Doing so is consistent with Article 6.7 of the draft *Legally Binding Instrument*, which states, in part:

"State Parties shall act to protect these policies from the influence of commercial and other vested interests of business enterprises..."

Doing so was advocated by one of the Working Group's experts as a precondition for appointing experts to the *Legally Binding Instrument's* Article 13 Committee (now Article 15).^[2] Furthermore, disclosing sources of conflicts of interest is typically required by authors before publishing in scientific journals.¹

¹ See: OEIGWG Chairmanship, *Legally Binding Instrument*, 2nd Revised Draft, August 6, 2020.

Procedural comment about declarations of vested interests of experts and NGOs

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“In setting and implementing their public policies with respect to the implementation of this (Legally Binding Instrument), State Parties shall act to protect these policies from the influence of commercial and other vested interests of business enterprises, including those conducting business activities of transnational character.”

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On a related topic, CHSL notes that the January 9, 2020 report incorrectly identified the International Chamber of Commerce as an inter-governmental organization at page 20. It is, of course, instead an international non-governmental business organization. (See: <https://iccwbo.org/about-us/governance/>)

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² See the paragraph 93 on page 16 of the January 9, 2020 *Report of the Fifth Session*, <https://undocs.org/A/HRC/43/55>.
