

LAW & POLICY GROUP**GRIST**

UNITED NATIONS ADVANCES TREATY ON COMPANIES' HUMAN RIGHTS DUTIES

*By Mercer's Fiona Webster and Stephanie Rosseau
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Companies could face criminal, civil or administrative liability for human rights violations, under the terms of a [proposed](#) United Nations (UN) multilateral treaty on human rights that is open for comments until 29 February 2020. The proposal is under discussion in the UN's [open-ended intergovernmental working group](#) on human rights, which met in October and could finalize the treaty at the group's next annual meeting in 2020. Participating countries have yet to agree on the content of the proposed treaty, but companies should carefully monitor its progress.

HIGHLIGHTS

First established in 2014, the UN working group's mandate is to create "an international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises." Creation of the working group followed approval of the UN's [Guiding Principles on Business and Human Rights](#), which aim to clarify existing human rights standards and their application, but don't create new legal obligations.

The draft treaty includes the following measures:

- Companies would face legal liability for their human rights violations and abuses against any person or group of persons. Relevant violations and abuses include any "physical or mental injury, emotional suffering, economic loss or substantial impairment of ... human rights, including environmental rights," or other "harm committed ... through acts or omissions in the context of business activities." The current draft would allow governments to exclude domestic small and medium-sized businesses from the treaty's scope.
- Companies would have to conduct due diligence for human rights concerns in the operations of their own business and any organization with which they have "contractual relationships." Companies would need to assess and monitor potential human rights impacts, prevent human rights violations, and report publicly on the steps taken to prevent abuses.

- Countries would have to establish “comprehensive and adequate” legal liability arrangements (criminal, civil and administrative) to address human rights violations by corporate entities and individuals.
- The current proposal would leave uncertainty about which jurisdiction’s laws would apply to a company.

Sharan Burrow, the general secretary of the International Trade Union Confederation (ITUC), recently endorsed the treaty, saying that a legally binding global instrument on business and human rights could help close accountability gaps and combat corporate impunity.

RELATED RESOURCES

- [Sharan Burrow’s Blog Post: A UN Treaty on Business and Human Rights Is Vital for Economic and Social Justice](#) (Equal Times, 5 Nov 2019)
- [Legally Binding Instrument To Regulate, in International Human Rights Law, the Activities of Transnational Corporations and Other Business Enterprises](#) (UN Human Rights Council, 16 Jul 2019)
- [Open-Ended Intergovernmental Working Group](#) (UN Human Rights Council)
- [Guiding Principles on Business and Human Rights](#) (UN Human Rights Council, 16 Jun 2011)

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