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October 13, 2021

The Honorable Antony Blinken
Secretary of State U.S.
Department of State
2201 C Street NW Washington, D.C. 20520

Re: Constructive US Engagement on the UN's Intergovernmental Working Group on Transnational Corporations and Other Business Enterprises with Respect to Human Rights

Dear Secretary Blinken,

The Center for Constitutional Rights has recently learned that representatives of the U.S. Mission to the United Nations will be in attendance at the 7th session of the open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights (the 'IGWG') at the UN in Geneva, between October 25-29. We have also learned that the U.S. Mission representatives attending the session are considering calling for UN Member States involved in the IGWG process to take a "step back" from this crucial opportunity to strengthen international human rights law.

As a U.S.-based civil and human rights organization committed to the protection of human rights worldwide, we write to seek clarification on the Biden administration's position regarding the upcoming IGWG session in Geneva. We are deeply concerned that the Biden administration would call on UN Member States to delay, withdraw from or otherwise hinder the historic progress made by the IGWG in the last seven years to develop the first international human rights treaty on business and human rights. It is our view, shared by [more than one thousand](#) representatives of social justice movements and civil society organizations in over one hundred countries, that people affected by business-related human rights abuses have waited far too long for a legally binding international instrument to address human rights abuses arising from business-related activities. Furthermore, as the only UN initiative of its kind with an explicit Human Rights Council mandate to develop such an instrument, Member States—particularly those only now joining the negotiations—have a responsibility to engage constructively, and thereby support the IGWG process to complete its mandate.

Communities across the world who have resisted and survived the most egregious business-related human rights abuses have gone without the necessary binding international legal protection for decades. In 2014, the Human Rights Council passed resolution 26/9, which established, for the first time in the history of the United Nations, an intergovernmental body with a mandate to elaborate an international legally binding instrument to address business-related human rights abuses. This authoritative intergovernmental UN mandate is therefore far more equipped to provide the necessary means of accountability for affected people than any of the various weaker voluntary initiatives that have preceded it, and it must not be delayed. As the legal maxim goes, 'justice too long delayed is justice denied.'

The IGWG enjoys robust support from UN Member States. According to annual reports compiled by the UN Office of the High Commissioner for Human Rights, on average 80 UN Member States have participated in the previous six annual sessions of the IGWG, including 2020, when attendance was markedly down as a result of the COVID 19 pandemic. Any attempt by the U.S. to obstruct the work of the IGWG or otherwise slow the community-led global momentum towards a binding treaty would be rightly seen as an explicit attempt to weaken the international human rights system.

As the Biden Administration re-engages the U.S. at the UN, we expect that the US Mission in Geneva will only engage constructively with the IGWG, thereby respecting the work of other member states who have spent the last 7 years advancing this vital intergovernmental mandate. We would welcome any clarification and commitment of intention to act in good faith with the IGWG. For any questions or concerns, please feel free to contact me at nbenyoussef@ccrjustice.org, or my colleague Dominic Renfrey, who will be in Geneva for the IGWG, and can be reached at drenfrey@ccrjustice.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'NBYP', written in a cursive style.

Nadia Ben-Youssef
Advocacy Director
Center for Constitutional Rights