

**11th Session of the
open-ended intergovernmental working group on transnational corporations and other business
enterprises with respect to human rights**

20 October - 24 October 2025

Article 12: Joint statement on behalf of ESCR Net

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Thank you Mr. Chairperson,

I speak on behalf of ESCR-Net.

In relation to Article 12, we stress that States must not withhold information essential for corporate accountability. As it stands, this Article remains weak by allowing excessive discretion to refuse legal assistance. The Article should more explicitly underscore States' duty to protect and fulfil the right to information, ensuring access to all relevant evidence needed for effective, prompt, and impartial investigations and judicial or other criminal, civil or administrative proceedings.

We support the suggestions made by the State of Palestine and Colombia to improve the text of the Article and encourage States to support them as well, as they offer stronger guarantees for accountability. We denounce efforts to weaken the text by making the sharing of information discretionary rather than mandatory.

With regard to legal clarity, we note that Article 12 draws on precedents from the UN Convention Against Corruption and the UN Convention Against Transnational Organized Crime, both of which foster cooperation in addressing cross-border harm. Terms such as "early identification" and "lessons learned" reflect proactive and preventive enforcement, rather than vagueness. These mechanisms are crucial for detecting risks early and sharing best practices among States.

On sovereignty, Article 12.2 explicitly recognises that mutual legal assistance should operate "in conformity with any treaties or other arrangements" between States, preserving State consent. Far from undermining sovereignty, such cooperation strengthens States' capacity to regulate corporate conduct and fulfil their human rights obligations.

Finally, on confidentiality, Article 12 does not mandate wholesale disclosure. It applies only to information relevant to alleged violations and abuses under Articles 6–8, and remains subject to procedural safeguards.

In sum, Article 12 must reinforce mutual legal assistance rather than dilute it, to ensure that accountability mechanisms are genuinely effective across borders.

Thank you.