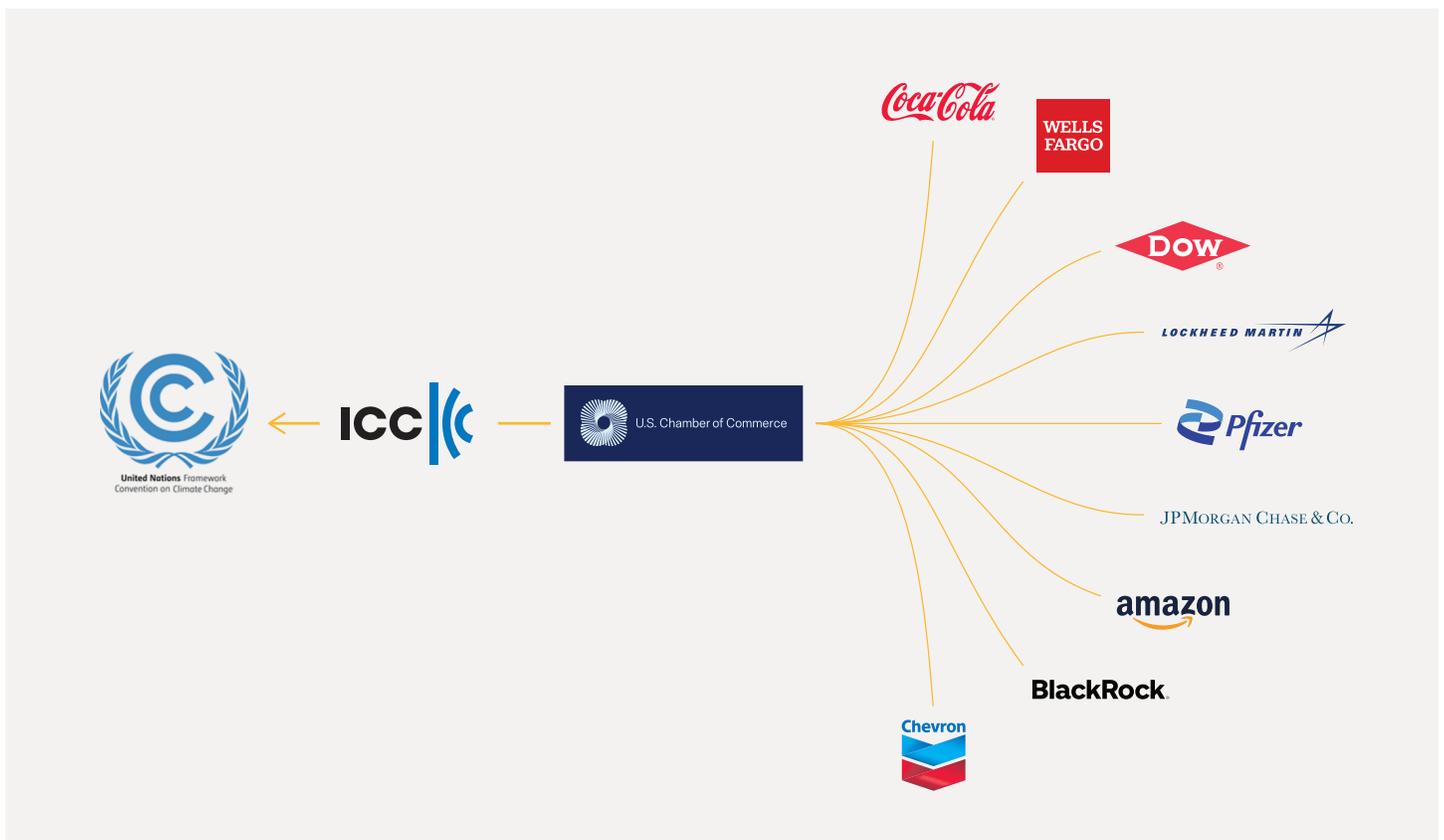


Corporate interference at the UN Treaty on transnational corporations and human rights

How Big Polluters and other abusive corporations use trade associations to advance their agenda



Through industry front groups like the International Chamber of Commerce and its national chapters, some of the most abusive corporations in the world are interfering with international policymaking to protect human rights. Source: Artwork by Corporate Accountability, based on "U.S. Chamber of Commerce Members have Paid \$154 Billion in Penalties," a report published in 2022 by Public Citizen.

For too long, transnational corporations have used their considerable might to block, weaken, and shape international policy that could impinge on their profits, despite the impact on human rights, democracy, or the environment. Industry front groups such as the International Chamber of Commerce (ICC), International Organisation of Employers (IOE), and United States Council for International Business (USCIB) are three of the most active industry voices in the ongoing negotiations over the **U.N. binding treaty**

on transnational corporations and other business enterprises with respect to human rights (OEIGWG). This document reveals the close ties between these industry megaphones and some of the most abusive corporations in the world, calling into question their legitimacy as human rights interlocutors, and elevating the repeated demands of affected communities to protect the negotiations—and treaty implementation—from corporate capture.

GROWING CORPORATE CAPTURE OF GLOBAL POLICYMAKING

Transnational corporations have used both subtle and overt methods to undermine U.N. initiatives to protect human rights and advance sustainability.¹ Now, through the World Economic Forum, transnational corporations are going even further, attempting to advance a so-called “multi-stakeholder” model of global governance, which has been critiqued for displacing State-centered multilateralism and institutionalizing corporate control over international policy.²

Sadly the negotiations around this binding treaty have not been exempt from this pattern of corporate interference. Industry front groups like the ICC, IOE, and USCIB have actively participated in negotiation sessions and widely distributed their publications and analysis to government negotiators. Some of these publications³ have even drawn criticism for appearing to threaten countries with economic retaliation, should they ratify such a treaty.⁴

By contrast to nonprofit actors, these industry groups enjoy named placards in the treaty negotiation room and offices in Geneva, where they have regular access to government representatives. These privileges are merely emblematic of the many ways in which these industry mouthpieces have capacity far outstripping the grassroots civil society organizations representing affected peoples around the globe—and in some cases, even governments themselves.

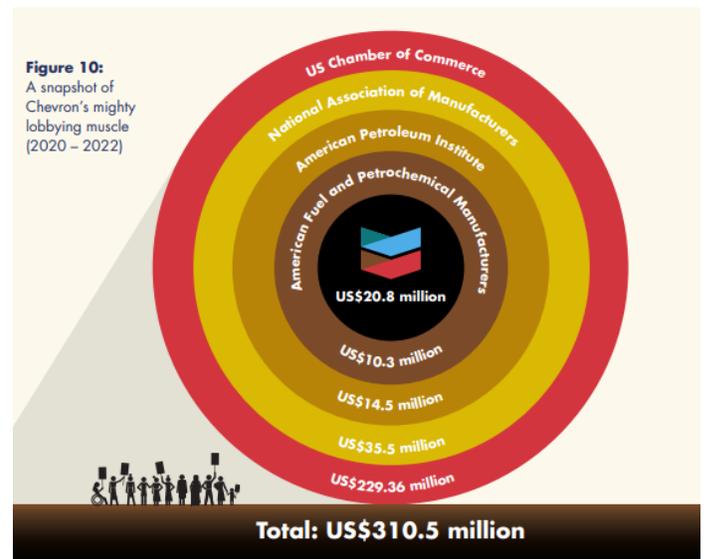
INDUSTRY MOUTHPIECES: ICC REPRESENTS HUMAN RIGHTS ABUSERS AT THE U.N.

As one example, the ICC represents chapter organizations in each country, which are tied to some of the world’s most abusive corporations through both revolving door relationships and the member corporations of its chapters, which pay dues to the ICC.

For example, the U.S. Chamber of Commerce, the ICC’s chapter in the U.S. that is shown on the previous page, represents some of the most abusive corporations in the world—including Dow, Shell, and Chevron—which have been implicated in serious human rights abuses.⁵ Looking into just one of these corporations is illustrative of the interests that the ICC represents at the U.N.

CHEVRON: TRACK RECORD OF ABUSE

Chevron has a track record of human rights and environmental abuse around the globe,⁶ from the Ecuadorian Amazon to Nigeria. In May 2023, a Corporate Accountability report widely covered in international press—including the BBC,⁷ Associated Press,⁸ and Financial Times⁹—exposed Chevron’s failure to live up to its carefully constructed green image, calling over 90% of its claimed carbon offsets “worthless.”¹⁰ **The report also indicates that “40% of Chevron’s offsets purchased through the voluntary carbon market are not only junk, but are also linked to claims of negative social and environmental impacts.”** Furthermore, the report documents Chevron’s heavy investment in lobbying to influence domestic and international policy, including through the U.S. Chamber of Commerce.



According to research by Corporate Accountability, Chevron seems to leverage multiple trade groups to advance its political agenda.

Based on these findings, Chevron appears to be continuing its legacy of “preventing, not promoting, the legally binding regulations ... that need to happen to avert the climate catastrophe” and, by extension, protect human rights.

Unfortunately, Chevron is far from the only corporate entity the ICC is representing that holds such a checkered track record, which raises serious questions about the conflicts of interest posed by their participation in human rights policymaking processes.¹¹

HOW THE ICC, IOE, AND USCIB ARE USING THEIR INFLUENCE

What's more, industry front groups pose more than just a theoretical conflict of interest. In negotiations over the draft treaty, trade industry groups like the ICC and IOE have used their considerable might to attack core provisions of the treaty, from liability¹² to the very legitimacy of the process itself,^{13,14} calling the draft treaty overly broad and impossible to implement.¹⁵

For these reasons, grassroots affected communities and the civil society coalitions advocating for the treaty have unanimously called on governments to protect the policymaking process from corporate interference, calling the industry's participation akin to letting the "fox guard the hen house."

IT'S TIME TO ACT

Despite their rhetoric, industry mouthpieces like the ICC and IOE are not on par with civil society organizations representing affected communities.

These front groups are made up of some of the world's most powerful corporations and represent the very actors this treaty seeks to regulate.

Furthermore, they have well established means to make themselves heard by governments through innumerable channels without being given a platform to bully governments and shape the outcomes of this vital process.

ENDNOTES

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- 2 Harris Gleckman, "Multistakeholderism: Is it good for developing countries?" Transnational Institute, Sept 7, 2023, <https://www.tni.org/en/publication/multistakeholderism>
- 3 International Organisation of Employers (IOE) Additional Analysis: "The United Nations' proposed Treaty imposing corporate liability for human rights violations and the potential economic implications associated with its ratification". October 2018
- 4 ESCR-Net Twitter post amplifying the civil society response to an industry publication at the Human Rights Council negotiation session in 2018: <https://twitter.com/ESCRNet/status/1053016551329288200>
- 5 Rick Claypool, "U.S. Chamber of Commerce Members Have Paid \$154 Billion in Penalties. No Wonder the 'World's Largest Business Organization' Is Furious the FTC Is Cracking Down on Corporate Crime", Public Citizen, January 10, 2022, <https://www.citizen.org/article/us-chamber-penalties-violations-ftc-report/>
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- 11 Corporate Accountability, "Behind the veil of civility: The ICC & IOE exposed," October 2018, page 2, <https://corporateaccountability.org/resources/behind-the-veil-of-civility-the-icc-ioe-exposed>
- 12 International Chamber of Commerce, "Business position on the UN draft "Zero Draft" Treaty on Business and Human Rights," October 2018. <https://iccwbo.org/publication/business-response-zero-draft-treaty-draft-optional-protocol/>
- 13 Draft IOE Oral Statement, General Statements in the 7th session of the Intergovernmental Working Group on Business and Human Rights, 25 Oct 2021, available on the UNOG website.
- 14 Draft USCIB Oral Statement, Seventh session of the Intergovernmental Working Group on transnational corporations and other business enterprises with respect to human rights. Item 4: General Statement (Monday AM)", October 25, 2021. Available on the UNOG website.
- 15 IOE, Business at OECD, Business Europe, "Joint IOE-Business at OECD (BIAC)-BusinessEurope position on the third revised draft of the legally binding instrument with the textual proposals submitted by States during the eighth session" Mar31 March 2023, <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/igwg-transcorp/session9/igwg-9th-intersession-written-inputs.pdf>

Fortunately, there is a precedent for protecting against corporate interference in the development of international policy. "The Framework Convention on Tobacco Control" includes a powerful provision that does just that. This provision (Article 5.3) has created the space for governments to regulate in the public interest, passing laws in dozens of countries that have protected public health—despite major industry opposition.

Such conflict of interest provisions are vital tools for good governance. These protections are, in fact, vital to the successful elaboration and ratification of this treaty, which is just the latest in a series of failed attempts to hold transnational corporations accountable to protecting human rights.

If we are to succeed this time, we must chart a new path. Empower and center the voices of directly impacted people. Protect the negotiations from corporate capture. Adopt transparency standards to root out conflicts of interest in the policymaking process.

The time to rein in corporate abuse and ecological destruction is now. The future of our world, and prosperity of our nations, depends upon it.

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