

**Statement delivered by South Africa**

**Open-ended intergovernmental working group on THE ELABORATION of an International Legally Binding Instrument on Transnational Corporations and other Business Enterprises with respect to human rights**

**Strengthening cooperation with regard to prevention, remedy and accountability and access to justice at the national and international levels**

**Subtheme 1 - Moving forward in the implementation of the United Nations Guiding Principles on Business and Human Rights and subtheme 2: the relation between the ungps and the elaboration of an international legally binding instrument on tncs and other business enterprises**

***Check against delivery***

**27 OCTOBER 2016**

Madame Moderator,

South Africa agrees that there are chronic shortcomings in voluntary initiatives, including in the UNGPs. As alluded to earlier, Corporate Social Responsibility initiatives cannot be equated with human rights. In this regard, South Africa is an ardent supporter of hard law, on the codification of norms and standards and the creation of mechanisms that ensure and promote and accountability. It is difficult to ensure the responsibilities of TNCs and OBEs without effective enforcement and remedial measures.

For South Africa, the Guiding Principles were not intergovernmental negotiated, were never adopted by the General Assembly through a negotiated resolution; do not represent the minimum threshold in international human rights law norms and standards, and cannot be regarded as part of codified international human rights law of which the minimum standard is a UN Human Rights Declaration.

It is therefore a contradiction, in terms, to expect Member States of the United Nations to develop National Action Plans (NAPs) around an issue that is not part of norms and standards of international human rights law. It would have been ideal if such NAPs were envisaged for legally binding Covenants and Instruments, which are currently not being fully complied with by States.

Finally Madame Moderator, it cannot be denied by anyone that the TNCs and OBEs are the owners of global wealth and the key drivers of globalisation and must show a momentous responsibility to ensure social development and the attainment of sustainable development in the global world.

I thank you.