

**STatement delivered by South Africa**

**Overview of the social, economic, and environmental impacts related to transnational corporations and other business enterprises and human rights, and their legal challenges**

**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,**

 ***Check against delivery***

**24 OCTOBER 2016**

 Chairperson,

South Africa welcomes this panel discussion which aims to outline the landscape in which transnational corporations and other business enterprises operate. We couldn’t agree more with all the panelists who have shared quality information and ideas on the glaring fault lines on the part of the corporate sector and their consequent violations of human rights particularly in the developing world.

Of particular importance has been the lack of freedom of association and permitting organized labour to bargain meaningfully for decent work, decent wages and for the elimination of the worst forms of child labour committed by these entities. My delegation wishes to reiterate that it is not feasible to equate companies with wide ranging transnational character with those operating locally within a single jurisdiction. The violations of human rights by the latter should quite adequately be addressed by the national law that created these companies in the first place.

Chairperson,

We concur that in the in order to deliver on the 2030 Agenda for Sustainable Development, TNCs and Other Business Enterprises, must play a much more constructive role in the provision of the necessary resources for the effective implementation of the SDGs. The Addis Ababa Action Agenda as an outcome of the Financing for Development Conference talks adequately to the imperative need for resource mobilization. Their role in this regard should not be limited to the notion of corporate social responsibility and self-regulation which is moribund and has never been effectively utilized by victims in pursuit of recourse and effective remedies.

As pointed out, there is a huge disconnect between the rights and responsibilities of these entities. In this regard, the South Africa’s Protection of Investment Act No. 22 of 2015 aims to secure a balance of balance of rights and obligations of investors and emphasizes that companies have obligations to the respect and apply the law. It also reaffirms the Government’s right to regulate in the public interest in accordance with the law.

The important connection between the recognition of binding obligations and the right to have access to a remedy is a necessity. Without an understanding of the obligations TNCs and Other Business Enterprises bear with respect to fundamental rights, it will not be possible for victims of rights violations to claim access to a remedy against these entities.

The different relations of TNCs with countries in terms of their application of the same standards in their global operations, particularly in relation to developing countries are well known. We are encouraged to hear recommendations of possible remedial measures to be provided for by the instrument. A primarily objective of our discussions, which are to ensure effective remedies for victims and uniform human rights standards, be they in the area of environment, child labour, and decent wages to name a few.

I thank you.