

**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**

**Panel II: obligations of states, including extraterritorial obligations**

***Check against delivery***

**25 OCTOBER 2016**

Mr Moderator,

Thank you to the distinguished panelists for their presentations this morning and the valuable information shared in this regard.

Indeed, the South African delegation shares the serious concerns raised by panelists on the vexing issue of State obligations and the concomitant complicity. We listened to an equally excellent panel yesterday alluding to the huge corrupting influence which the TNCs and Other Business Enterprises exert on developing countries to exploit weaknesses in legislation and oppress organized labour in the countries where they undertake their operational activities. We also heard that this corrupting influence take many forms, including well orchestrated lobbies with unlimited resources at their disposal. Examples abound in this regard, such as in the tobacco and extractive industries.

Mr Moderator,

South Africa in its humble and honest view believes that the envisaged instrument should dedicate a chapter to the notion of State obligations and complicity as well as extra-territorial obligations. These are all pertinent and attendant issues which the envisioned instrument should effectively address.

In South Africa, human rights are an important pillar of both our domestic and foreign policies and enshrined in our Constitution. Allow me to also underline that in recent times our judicial system has been able to adjudicate successfully on cases involving the corporate sector, whose actions have compromised and led to human rights violations. However, there have been challenges of enforcement in that these entities reneged on their obligations in relation to the restoration of the environment and water resources following the closure of their operations.

There are in our view practical and legal considerations that influences the ability of any state to implement enforce relevant standards. It would therefore not be correct to continue to hold a view that political will remains the only factor attributable to the challenges on the States’ duty to protect.

Chairperson,

All South African business undertaking operations further afield in Africa and elsewhere around the globe are expected to uphold the same human rights standards. While work is currently being undertaken to develop an international legally binding instrument, South Africa has developed, as an ineterim measure, Guidelines for Good Practice by South African Companies Operating in the rest of Africa and set out sound business practices for South African businesses that are consistent with South African legislation, the laws of host countries and international norms and standards.

I thank you.