**GENERAL Statement delivered by SOUTH AFRICA ON BEHALF OF THE AFRICAN GROUP**

**2nd session of the Open-ended intergovernmental working group on Transnational Corporations and other Business Enterprises with respect to human rights,**

***Check against delivery***

**24 OCTOBER 2016**

I have the honour to deliver this statement on behalf of the African Group.

Madame Chairperson, at the outset South Africa wishes to congratulate you on your election as Chairperson of the Working Group. The African Group is pleased to participate in the second Session which is dedicated to conducting constructive deliberations on the content, scope, nature and form of a future international instrument.

Chairperson,

The primary purpose of this exercise as clearly outlined in framework resolution 26/9 is to regulate in a uniform manner the operational activities of TNCs and Other Business Enterprises that have a transnational character. The global reach of Transnational Corporations and other business enterprises in their operational activities have had social and political impacts, disproportionate to their legal and social obligations, nationally and internationally.

It is without a shed of doubt that Transnational Corporations and Other Business Enterprises are the key drivers of globalization and owners of a big share of the global wealth, thus able to dominate over the global economy and exert their influence over global policymaking. The operational activities of these entities have enormous potential to uplift the socioeconomic situation of communities in which they operate and ensure maximum promotion, protection and fulfilment of human rights for all.

The African Group underscores that in today’s day and age, it is unacceptable for transnational corporations to amass super profits while developing countries, including African member States and its people continue to live in abject poverty which is an affront to their human dignity. The sheer growth of TNCs in recent decades has had profound consequences for Africa. The tragic consequences of the illegal dumping of toxic waste calls to mind, the dangerous and life threatening effects these could have, even after environmental cleanup. The potential for adverse human health and environmental effects of transnational movements and dumping toxic and dangerous products and hazardous waste in Africa cannot be overemphasized.

Chairperson,

Human rights violations such as in the area of environmental degradation; dumping of toxic wastes; and child labour by TNCs and Other Business Enterprises affects marginalised and impoverished groups disproportionately and exacerbates existing human rights concerns in the continent.

The threat that the unaccountable power of TNCs and Other Business Enterprises presents to human rights is more pronounced in the extractive industries. While the investment of extractive industries is increasingly seen as a vehicle for development, the long-term impacts of the extractive industries on human rights has led to the establishment of the Working Group on Extractive Industries, Environment and Human Rights Violations by the African Commission on Human and Peoples’ Rights through Resolution 148 at the 46th Ordinary Session held in Banjul in 2009. Central to the mandate of this Working Group includes overcoming the human rights protection vacuum as well as analyzing and determining the direct accountability of corporations for human and peoples’ rights violations under the African Charter.

The continent also loses massive financial resources each year through illicit flows of TNCs. These resources, if retained in the continent, could be invested in productive sectors of these economies to uplift Africa’s growing population from under-development and poverty.

Chairperson,

In the African context, the Business and Human Rights agenda are closely linked to key socio-economic rights enshrined in the African Charter on Human and Peoples’ Rights. A new Protocol to the Statute of the African Court on Human and Peoples' Rights, which extends the jurisdiction of the court to corporate crimes has also been adopted at the 23rd Ordinary Session of the African Union in Malabo in June 2014.

While there are positive measures undertaken nationally and regionally, in order to assist the global compliance with a uniform standard, actions must be initiated for the development of an international legally binding instrument. This would thus be an effective response to many of the issues that arise in the context of the widely perceived inequality in rights and obligations that exist between TNCs and Other Business Enterprises on one side and the victims on the other side, whose plight must be at the center of our discussions.

The African Group remains committed to the letter and spirit of Framework Resolution 26/9, in particular in relation to the commencement of the negotiation of the instrument at the next Session of the Working Group. To this end, we encourage the Chairperson-Rapporteur to distill a draft base negotiating text based on the deliberations hitherto, including her own initiatives in this regard.

We thus look forward to engagement on these core issues.

I thank you.