



**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 V: OBLIGATIONS OF STATES TO GUARANTEE THE RESPECT OF  
HUMAN RIGHTS BY TNCs AND OTHER BUSINESS ENTERPRISES, INCLUDING  
EXTRATERRITORIAL OBLIGATIONS**

*Check against delivery*

**08 JULY 2015**

Chairperson,

Thank you to the distinguished panelists for their presentations this morning.

As the benefits to host countries are not automatic, it is indeed so that regulations are needed to balance the economic requirements of investors with the need to ensure that investments make a positive contribution to sustainable development and human rights standards are upheld while governments retains the policy space to regulate in the public interest.

In my own country, human rights are an important pillar of both our domestic and foreign policies and enshrined in our Constitution. The application provisions of the Constitution determine its reach in relation to the conduct of both corporate and natural persons. Allow me to also underline that in recent times our judicial system has been able to adjudicate successfully on cases involving corporate sector and big conglomerates whose actions have compromised and led to human rights violations. Significantly a new generation of investment policies is emerging, including South Africa, with governments now placing the promotion, protection and fulfilment of human rights, inclusive growth and sustainable development at the centre of efforts to attract and benefit from investment. This approach aims to achieve an appropriate balance between the rights and obligations of investors, the need to provide adequate protection to foreign investors, while most importantly ensuring that human rights obligations are upheld, and that governments retain the policy space to regulate in the public interest.

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.

Notwithstanding existing mechanisms should be strengthened such as the role and capacity of regional mechanisms and institutions to be able to effectively deal with the activities of TNCs and Other Business Enterprises with respect to human rights, and the treaty would thus be complementary and reinforce weak national legislation, the success of the international treaty cannot only lie in the State's duty to protect alone. There is a need to ensure a comprehensive and balanced manner of addressing the obligations of TNCs and Other Business Enterprises with respect to

human rights, including their adherence to existing regulations and policies and extra-territorial obligations.

This important step would make a difference in closing the governance gap to ensure that TNCs and other Business Enterprises are held accountable for human rights violations. Even more—importantly, the victims of corporate violations and abuse would have maximum protection, access and provision of adequate remedies. This will also ensure universal application of uniform standards, on a global scale and address the widely perceived inequality in rights and obligations.

I thank you.