

**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 III: obligations AND RESPONSIBILITIES OF TNCS AND OTHER BUSINESS ENTERPRISES WITH RESPECT TO HUMAN RIGHTS**

**EXAMPLES OF INTERNATIONAL INTRUMENTS ADDRESSING OBLIGATIONS AND RESPONSIBILITIES OF PRIVATE ACTORS**

***Check against delivery***

**26 OCTOBER 2016**

Chairperson,

Thank you to the distinguished panelists for their presentations which has been illuminating and insightful. Their inputs will go a long way towards a meaningful contribution in the future programmes of this Working Group, especially as we enter the negotiation phase.

Despite references across a range of fragmented international instruments, there is no single comprehensive instrument addressing corporate liability in respect of human rights violations by TNCs and Other Business Enterprises. The existing vacuum and protection gap for victims of human rights violations at the hands these entities need to be attended to as a matter of priority, urgency and necessity. The UN System has for decades listened to the lived experiences and voices of victims who have suffered grave human rights abuses at the hands of these entities with impunity.

Chairperson

In the modern world of globalization and the common global village, every organ of society must be accountable. We all have duties and obligations to contribute towards the global common good and the attainment of universal justice. My delegation has on numerous occasions underlined the fact that the TNCs and OBEs, the PMSCs and the extractive industries are key drivers of globalization and owners of global wealth. This role comes with responsibilities, in particular to do no harm. Where harm has been done to be subject to accountability mechanisms and ensure redress.

Earlier this year, the United Nations Permanent Forum on Indigenous Issues recounted systematic and orchestrated patterns of violations of human rights and fundamental freedoms of Indigenous Peoples conducted on their ancestral lands. It was saddening to learn of consistent patterns of violations by the TNCs, particularly at the closure of their operations, leaving no means of sustainable livelihood behind for the communities. Amongst others, the envisaged instrument must ensure that consultations with local communities are carried out and respect for the fundamental principles of Free, Prior and Informed consent is ensured.

A plethora of voluntary principles that have been produced remain totally inadequate and lack enforceability. These mechanisms cannot be equated with the wide reaching impact of binding mechanisms, particularly in providing effective legal accountability and effective recourse to victims. The WHO Framework Convention on Tobacco Control serves as a useful basis to be emulated by this Working Group for the elaboration of a legally binding instrument on TNCs and OBEs.

Additionally to addressing extra-territorial obligations, South Africa shares the view that the envisaged instrument should dedicate a chapter to the obligations of TNCs and Other Business Enterprises which would explicitly recognize their direct international human rights law obligations.

I thank you.