



GENERAL STATEMENT DELIVERED BY SOUTH AFRICA

**3RD SESSION OF THE OPEN-ENDED INTERGOVERNMENTAL WORKING
GROUP ON TRANSNATIONAL CORPORATIONS AND OTHER BUSINESS
ENTERPRISES WITH RESPECT TO HUMAN RIGHTS,**

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23 OCTOBER 2017

Chairperson,

South Africa aligns itself with the statement delivered by Tunisia on behalf of the Africa Group and is pleased to participate in the third session of this Working Group.

We welcome Minister Maria Fernanda Espinosa and congratulate her on her appointment. We congratulate you Excellency, Ambassador Long, on your nomination as Chair-Rapporteur.

We thank Minister Espinosa for her keynote address and Mr Potier for his wisdom.

The issue of ensuring accountability, the right to remedy and the right of access to justice and redress for human rights violations committed by these entities is of critical importance to South Africa, the African region and developing countries in general.

The establishment of this Working Group stems from a long history spanning over 40 years of concerted efforts to address the current gaps in international law by developing binding international norms and standards to regulate TNCs and Other Business Enterprises for human rights violations. For decades we have listened to the lived experiences and voices of victims who have suffered grave human rights abuses at the hands of these entities with impunity arguing that voluntary initiatives are just not enough.

At the same time the envisaged instrument is not anti-business. On the contrary, if human rights standards for TNCs and Other Business Enterprises become widely accepted, these entities will enjoy greater certainty, predictability and consistency with regards to their operations and profit making. Thus a global standard for preventing human rights abuses and violations will ensure that their responsibilities are clear and unambiguous and a level playing field is established for businesses globally and it will offer much needed predictability which is a basic foundation for sustainable development and prosperity and completely in line with the fundamental tenets of the free market and profit making.

We believe that we must have a legally binding instrument that is comprehensive for individuals and particularly the poor in developing countries, where damage has been caused to get redress.

As we have heard over the years, the current regulatory environment for transnational corporations has its own challenges, and further, the international mechanisms currently in place, while useful, because of their voluntary nature, are limited in cases where litigation is required for effective legal remedies in the cases of grave and serious violations.

At the heart of the legally binding instrument will be Access to Remedy as a fundamental right and the requisite enforcement mechanism. In our view when we speak of the operationalisation of “prevention” and “preventive remedies” in the mandate of the HRC as well as contained in existing human rights legal instruments and Covenants, we are speaking directly to the envisaged instrument.

South Africa feels very strongly that the mandate of the Working Group and its outcome cannot be so generalised such that the pain of the poorest of the poor is trivialised in a context where quite rightfully the UNHRC is deepening its by addressing the specific needs for vulnerable groups eg women, children and persons with disabilities etc.

Going forward we thank the Chair-Rapporteur for the elements document which should form the basis of the envisaged comprehensive treaty and leave it in our capable hands to craft the report. We do not consider it appropriate to issue threats on how you should manage your work and compile your report.

I thank you. .