OPENING 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,

*Check against delivery*

06 JULY 2015
Chairperson,

Madam Chairperson, at the outset South Africa wishes to congratulate you on your election as chair of the newly established OEIGWG which is being inaugurated today. We thank you for your comprehensive statement. As partners in this initiative, please count on our unwavering support.

South Africa associates ourselves with the African Group statement delivered by Algeria on behalf of the African Group.

It is with great honor and gratitude that in the history of the United Nations human rights system, we are gathered here to deliberate on such a paramount issue, the inaugural session of the OEIGWG on the Elaboration of an International Legally Binding Instrument on Transnational Corporations and Other Business Enterprises with respect to Human Rights.

South Africa in joint partnership with Ecuador introduced the unprecedented and historic resolution 26/9, with a view to effectively regulate the operations of TNCs and Other Business Enterprises with respect to human rights. In essence the first two sessions will be dedicated to information gathering on the content, scope, nature and form of the future international instrument. These elements will be drawn in preparation for the draft instrument and substantive negotiations ahead of the third session in 2017.

We should therefore commit ourselves to having a series of constructive engagements, debates and work together to ensure that in the international UN system, human rights are respected, promoted, protected and fulfilled by all.

Chairperson,

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 fulfillment of human rights for all.

Currently, there are no provisions in International Human Rights Law and International Humanitarian Law comprehensively addressing the responsibility and
accountability of Transnational Corporations and Other Business Enterprises to respect, promote, protect and fulfill human rights.

Chairperson,

The United Nations Guiding Principles on Business and Human Rights, though a positive step on this thematic issue, do not get to the core of these discussions, which is the maximum protection of human rights as well as adequate remedies to victims thereof. In addition, the notion of “corporate social responsibility” has no force of law and cannot be used for legal remedies in litigation by competent courts.

Furthermore, the current status quo is that individual National Action Plans (NAPs) create a situation where there are gaps and TNCs can thus operate globally through different NAPs which are not integrated through similar standards. In this regard, uniform standards set forth in the instrument can feed into NAPs.

Chairperson,

In the spirit of ensuring universal human rights norms and standards in the operations and activities of Transnational Corporations and Other Business Enterprises across the globe, a complementary international standard, in the form of a legally binding instrument, is needed to among others (a) strengthen and complement weak national legislation, (b) ensure decent wages and uniform fundamental standards and rights at work, (c) guarantee effective remedies for environmental damage, and (d) to combat child labour and ensure that the best interest of the child is promoted and protected.

An international instrument in this regard would encourage these entities to impact positively to communities in which they operate in. In addition, the equal sharing of the benefits of globalization with regard to critical issues such as technology, infrastructure development, and market access will be ensured; therefore mitigating the challenges of poverty and making the Right to Development a reality for everyone.

It is in this context the growing call for holding TNCs and Other Business Enterprises responsible and accountable for their human rights violations must responded to.

For South Africa, human rights are an important pillar of both our domestic and foreign policy; and are deeply enshrined in our Constitution. In this regard, South Africa has terminated most of its Bilateral Investment Treaties and has, in 2013, introduced a draft Promotion and Protection of Investment Bill – which aims at achieving a balance between the rights and obligations of investors and Government,
particularly in respect of the Constitutional obligations to safeguard the public interest. The draft Bill confirms our commitment to a transparent environment for foreign investment that supports sustainable development and international human rights law.

Finally, Chairperson, the South African Government stands ready to actively support this process and looks forward to the deliberations of this Session.

I thank you.