**26 October 2016**

**Statement by the State of Palestine at the OEWIG on TNCs and OBEs**

Thank you Madame moderator,

We would like to thank the panellists for their insightful and comprehensive presentations.

There have been much discussions in recent years about international humanitarian law violations by states and the question of individual criminal liability for such violations. The issue of corporate liability is likewise bringing so much attention. Criminal liability of companies and violations of international humanitarian law are therefore familiar concepts for legal specialists and also for the public, however, they are rarely addressed together, and yet companies are increasingly operating in places of conflict affected areas.

For instance, following a case brought by Dutch lawyers against Dutch multinational company Lima Holdings, that had been operating unlawfully in occupied territory through its subsidiary, the Dutch Public Prosecutor raided the offices of the company and took it seriously to investigate involvement in international law violations such war crimes. While the Prosecutor eventually announced a decision to dismiss the case against the company for involvement in war crimes because it was a minor contribution, the case is still of significance as it clearly recognised that Dutch persons and legal entities are required to refrain from being involved in any manner with violations of international humanitarian law.

So the question is, given the heightened risk of human rights abuse in conflict-affected areas, how do we ensure that such cases are taken into account in the process of building a treaty and how do we ensure that states adequately respond to such risks. A new national legislation must be introduced to ensure corporate accountability - including in all cases of contribution in IHL violations. The fact that the Dutch Prosecutor dismissed the Lima Holdings case is a testament that more should be done to ensure States implementations of measures that ensure that corporations and private actors under their jurisdiction do not contribute in any way to violations of international law.

By incorporating references to human rights and international law in national legislation, as well as vigorously enforcing legality and lawfulness criteria in existing legislative instruments, the Treaty can ensure that that TNCs and OBEs are required to carry out mandatory due diligence prior to beginning their operation in conflict affected areas. As such, a lot more than reputational and economic risks will be at stake when corporations become involved in the internationally-unlawful acts of another state or non-state actors."

In this regard we would like to ask the panellists on their views on which relevant criminal and civil liability standards and procedural elements would be applicable under the domestic laws of the State Parties, on how the prospective Instrument can require states to take such legislative measures in order to efficiently address involvement of companies in violation of IHL.

Thank you,