**5th Session of the IGWG**

**Comments by the State of Palestine on the preamble Part and Article 1**

Thank you and we would also like to thank the panelists for their presentations

We acknowledge the changes made in the revised draft, however, we believe that it still needs further strengthening. The preamble part requires adding language in several provisions that encompasses wider protection of human rights violations resulting from corporate activities.

In this sense we would like to propose the following:

**Pp4**

**Current text:** “Reaffirming the fundamental human rights and the dignity and worth of the human person, the equal rights of men and women and the need to promote social progress and better standards of life in larger freedom while respecting the obligations arising from treaties and other sources of international law as set out in the Charter of the United Nations

**Proposed text for amendment:** “Reaffirming fundamental human rights – including the rights to life, liberty and security of person, and the right to self-determination, non-discrimination and permanent sovereignty over natural resources –  and the dignity and worth of the human person, the equal rights of men, women and , and the need to promote social progress and better standards of life in larger freedom while respecting the obligations arising from treaties and other sources of international law as set out in the Charter of the United Nations

 **Pp6:**

**Current text:** “Reaffirming that all human rights are universal, indivisible, interdependent and inter-related;” it should expand to highlight all attributes of human rights which includes that they are inalienable, equal and non-discriminatory.

**Proposed text for amendment:** “Reaffirming that all human rights are universal, inalienable, indivisible, interdependent, equal and non-discriminatory”

**Pp8:**

**Current text:** “Stressing that the primary obligation to respect, protect, fulfil and promote human rights and fundamental freedoms lie with the State, and that States must protect against human rights abuse by third parties, including business enterprises, within their territory or otherwise under their jurisdiction or control, and ensure respect for and implementation of international human rights law”

**Proposed text for amendment:** “Stressing that the primary obligation to respect, protect, fulfil and promote human rights and fundamental freedoms lies with the State, and that its failure to comply with such obligations amounts to human rights violations”.

**Proposed text for adding**: “Recalling that States’ obligation to protect includes protection against human rights abuse by business enterprises, within their territory and/or otherwise under their jurisdiction or control, and ensure respect for and implementation of international human rights and humanitarian law”.

**Pp12:**

**Current text:** “Underlining that all business enterprises, regardless of their size, sector, operational context, ownership and structure have the responsibility to respect all human rights, including by avoiding causing or contributing to adverse human rights impacts through their own activities and addressing such impacts when they occur, as well as by preventing or mitigating adverse human rights impacts that are **directly** linked to their operations,”

**Proposed text for amendment:** “Underlining that all business enterprises, regardless of their size, sector, operational context, ownership and structure have the responsibility to respect all human rights, including by avoiding causing or contributing to adverse human rights impacts through their ~~own~~ activities, and addressing such impacts when they occur, as well as by preventing or mitigating adverse human rights impacts that are ~~directly~~ linked to their operations,”

We believe that a distinction must be made between human rights violations and abuses to ensure that international responsibility is not undermined when states fail to fulfill their primary obligations, in this regard we would like to propose the following:

**Current text – Art 1(2):** “Human rights violation or abuse” shall mean any harm committed by a State or a business enterprise, through acts or omissions in the context of business activities, against any person or group of persons, individually or collectively, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their human rights, including environmental rights.

**Proposed new text in substitution to current art. 1(2)** - a split in the Article.

Art. 1(2) “Human rights abuse” shall mean any harm committed by business enterprises through acts of commission or omission, against any person or group of persons, individually or collectively, that produces an impairment of their human rights, including environmental damage. This must include but is not limited to the impairment of civil, political, economic, social and cultural rights.

Art. 1(2) bis “Human Rights violation” shall refer to State’s international responsibility for failing to fulfill their primary obligation to respect, protect, fulfill and promote human rights and fundamental freedoms, including protection against human rights abuse by business enterprises and encompassing civil, political, economic, social and cultural rights.

In article 1(3) In the definition of “business activities,'' it should be clear in the treaty that such activity can be more than economic. It must also include both acts of commission or omission to ensure protection of victims in either case.

**Current text – Art 1(3)**: "Business activities" means any economic activity of transnational corporations and other business enterprises, including but not limited to productive or commercial activity, undertaken by a natural or legal person, including activities undertaken by electronic means.”

**Proposed text for amendment:** "Business activities" means any economic or other activity, particularly of transnational corporations and other business enterprises, including but not limited to productive or commercial activity, undertaken by a natural or legal person, including activities undertaken by electronic means and including both acts of commission or omission.

In article 1(4)The definition of what is in this current draft “contractual relationship” should be replaced by “business relationship.” A wording already used by the UNGPs and OECDs guidelines

**Current text – Art 1(4):** “Contractual relationship" refers to any relationship between natural or legal persons to conduct business activities, including but not limited to, those activities conducted through affiliates, subsidiaries, agents, suppliers, any business partnership or association, joint venture, beneficial proprietorship, or any other structure or contractual relationship as provided under the domestic law of the State.

**Proposed text for amendment:** “Business relationship” refers to any relationship between natural or legal persons to conduct business activities, including but not limited to, those activities conducted through affiliates, subsidiaries, agents, suppliers, any business partnership or association, joint venture, beneficial proprietorship, or any other structure or contractual relationship as provided under the domestic law of the State.