**5th Session of IGWG on TNCs and OBEs with respect to Human Rights**

**Comments on Article 3 and 4**

**Permanent Observer Mission of The State of Palestine**

Thank you, Mr. Chair for giving me the floor and we would also like to thank the panelists for their insightful input.

**Article 3 – Scope**

In our view, the Treaty must maintain a strong focus on the accountability of TNCs as a primary objective. The Treaty to regulate business activity must ensure that States are adopting domestic legislation, mechanisms, and policies towards corporate accountability for violations and / or abuses resulting from business activity, particularly business activity of a transnational character.

To further improve and strengthen the text of this Treaty we propose the following amendment to Article 3(1).

**Current text** – Art 3(1): This (Legally Binding Instrument) shall apply, except as stated otherwise, to all business activities, including particularly but not limited to those of a transnational character

**Proposed text for amendment:** This (Legally Binding Instrument) shall apply to all business activities and business relationships, particularly but not limited to those of a transnational character.

**Article 4 – Rights of Victims**

With the definition of human rights violations and abuses in Article 1 of the revised Draft, the text of a final negotiated Treaty must reflect the protection of victims against both violations and abuse. This must be streamlined throughout the text. In ART4(1), ART4(3), ART4(12e) and ART4(14).

**Current text** - Art 4(1): Victims of human rights violations shall be treated with humanity and respect for their dignity and human rights, and their safety, physical and psychological well-being and privacy shall be ensured.

**Proposed text for amendment:**Victims of human rights violations and abuses shall be

treated with humanity and respect for their dignity and human rights, and their safety, physical and psychological well-being and privacy shall be ensured.

**Current text** - Art 4(12)(e): In no case shall victims that have been granted the appropriate remedy to redress the violation, be required to reimburse any legal expenses of the other party to the claim. In the event that the claim failed to obtain appropriate redress or relief as a remedy, the alleged victim shall not be liable for such reimbursement if such alleged victim demonstrates that such reimbursement cannot be made due to the lack or insufficiency of economic resources on the part of the alleged victim.

        **Proposed text for amendment**: In no case shall victims that have been granted the appropriate remedy to redress the violation or abuse, be required to reimburse any legal expenses of the other party to the claim. In the event that the claim failed to obtain appropriate redress or relief as a remedy, the alleged victim shall …..

**Current text** - **Art 4(14): “**States Parties shall provide effective mechanisms for the enforcement of remedies for violations of human rights, including…”

**Proposed text for amendment**: **“**States Parties shall provide effective mechanisms for the enforcement of remedies for violations and abuses of human rights, including…”

In Article 4(3), the Treaty must explicitly highlight the duty of the State to protect individuals and groups against from any unlawful interference against their security and from intimidation or retaliation during any proceedings with regards to corporate activities.

Current text – Art 4(3): Victims, their representatives, families, **communities** and witnesses shall be protected by the State Party from any unlawful interference, whether by State or non-State actors, against their privacy and from intimidation, and retaliation, before, during and after any proceedings have been instituted.

**Proposed text for amendment:** State parties shall fulfil their obligations under international law to protect victims, their representatives, families, communities, and witnesses from any human rights violations or abuse whether by State or business enterprises, against their privacy and from intimidation, and retaliation or reprisals, before, during and after any proceedings have been instituted.

I thank you.