**5th Session of the IGWG on TNCs and OBEs**

**Comments by the State of Palestine on Articles 7, 8 and 9**

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

**Article 7 – Adjudicative Jurisdiction**

In our view we believe it’s important to add in this article a paragraph to specify that in instances of international crimes, State Parties will have adjudicative jurisdiction based on universal jurisdiction. Furthermore, this article should include provisions to encourage forum necessitatis, particularly in situations of conflict and occupation where access to remedy and justice is often deliberately hindered and denied when corporate abuse occurs.

**Article 9 – Applicable Law**

This Article must also emphasize the primacy of human rights over all international agreements. It is of great importance to have a specific focus on the Primacy of human rights particularly when there are growing trends of undue corporate influence or corporate capture of government institutions and decision, which often leads that policies and legislations tend to have the interest of corporate actors instead of respecting, protecting and fulfilling human rights obligations, embodied in international treaties.

States must reaffirm the primacy of human rights in line with their obligation to protect and fulfil human rights when negotiating trade and investment treaties. To this effect, the treaty should include a provision to ensure that commercial, trade and investment treaties do not restrict states to protect human rights. In this regard we would like to suggest the addition of the following paragraph:

**Proposed text to add as Article 9 (5) bis:** In all agreements with other States relating to business activities, States shall affirm the primacy of human rights and their obligations under this agreement. States shall review existing agreements to ensure consistency with human rights and humanitarian law and this agreement, and revise these agreements to achieve consistency, if necessary. States shall ensure that all disputes involving human rights and business activities are adjudicated by entities with competence in international human rights and humanitarian law.

Also, in **Article 9(2)(a)** to ensure that all human rights standards and guarantees are covered within this context – and as reflected in the rest of the legally binding instrument.

We suggest the following amendment to the paragraph to read: “the act or omissions that result in violations of human rights covered under this (Legally Binding Instrument) and international law have occurred”