Open-ended Inter-Governmental Working Group on transnational corporations and other business enterprises with respect to human rights
Oral Statement

By **AL-HAQ, BFTW** (Bread for the World)**, CIDSE** (International family of Catholic social justice organisations), **FIDH (**International Federation for Human rights)**, IBFAN-GIFA** (International Baby-Food Action Network)**, ICJ** (International Commission of Jurists), **SOMO** (Centre for Research on Multinational Corporations)

Panel IV: Open debate on different approaches and criteria for the future definition of the scope of the international legally binding instrument

Thank you Madam Chairperson.

FIDH, IBFAN, ICJ, CIDSE, AL-HAQ, SOMO and BFTW, all members of the Treaty Alliance, firmly believe that a legally binding instrument must address the human rights violations arising from the activities of all business enterprises.

All businesses, including State-owned enterprises and local businesses, have the potential to negatively impact on human rights and, as a result of governance gaps, deficiencies and inadequate enforcement of national laws, those violations often remain unpunished. From the perspective of victims of abuses, the formal character of a business is irrelevant; what they need is access to effective remedy and full reparation for the harms they have suffered.

However, transnational corporations pose particular and complex challenges in relation to accountability for business-related human rights abuses. These challenges are created by the complexity of their structure, which include subsidiary companies, contractors, sub-contractors and all other business enterprises associated with their operations, products, services, sourcing or with their business relationships, and the fact that they operate across borders in different jurisdictions with, many times, very divergent legal systems and levels of enforcement. The future binding instrument should therefore include specific measures to address these particular TNC-related challenges, and not allow existing regulatory loopholes to continue for the benefit of TNCs that cause or contribute to human rights abuses.

Our experience in documenting business related human rights abuses and working with affected communities in all regions of the world has shown the necessity of addressing all business enterprises. Situations we investigate are often complex and involve both domestic and transnational corporations. In the past years our organizations have investigated countless cases of corporate involvement in violations of International Humanitarian Law, in human rights abuses, labor rights abuses, armed conflict, land grabbing, illegal resource extraction and environmental destruction, and found that the transnational and local companies involved often operate in and benefit from a regulatory and enforcement void leaving the victims of this abuse without access to effective remedy.

The treaty could address this issue by adopting a 'hybrid option' in order to bridge the gap between the need to have a treaty that applies to all enterprises and the intent of Resolution 26/9. The treaty should therefore confirm that, while all business enterprises can violate human rights, TCNs and other business enterprises with transnational operations pose special regulatory challenges that should be addressed.

The treaty should provide clarity and broad consistency around States' obligations to respect, protect and fulfill human rights in connection with corporate activities. Furthermore, it gives States the opportunity to set a binding framework that facilitates a consistent approach to address the particular challenges posed by transnational corporations, providing the necessary protection to victims of human rights abuses, including Human Rights defenders and whistle blowers who are targeted for their work and opinion.

Finally, we would like to call for a continuing dialogue on this issue with a view to maintain the existing consensus on scope and to ensure that the affected people and communities have access to justice.

Thank you.