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ECONOMIC, SOCIAL AND CULTURAL RIGHTS

**Written statement* submitted by World Federation of Trade Unions (WFTU), a non-
governmental organization in general consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[3 February 2005]

*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

CORPORATIVE SOCIAL RESPONSIBILITY

ILO Experts ask themselves in the introduction of the Compilation of the Annual Reports: *“What is the reality of the world today, according to the reports received, with respect to the year 2000, in which begins the putting in practice of the Declaration and its pursuit?”* answering themselves, in part; *“.....poverty and inequality of income has grown even more, and new forms of discrimination have appeared”..... and continued,” In such circumstances it worries us”* - say the experts - *“that in the difficult present economic situation and the increasing precariousness of labour, those who have the power tend to be able to harm the fundamental principles and rights of labour”*.

ILO has showed the conviction that *“the progress made by the Multinational Companies in the organization of their operations that transcend the national framework, can give rise to an abusive concentration of economic power and to conflicts with the objectives of national policy and with the interests of the workers”*.

The enormous economic power accumulated by the TNCs, fruit of the effort of those who do the work gives them an influence which allows them to determine the course of the present globalization, which, by its neoliberal character, has caused the well-known harmful effects that are suffered by the workers and their families.

The Sub-commission for the Promotion and Protection of Human Rights of the United Nations pronounced for a Project of Standards for the TNCs, taking into consideration the enormous changes and dislocation that the activities of the transnational corporations cause for the effective enjoyment of human rights: civil, political economic, social and cultural,.

TNCs constitute a phenomenon of contemporary society of enormous transcendence which causes economic, financial, juridical, social and human specific problems and that not the least of these problems are their transnational character, their economic and juridical versatility, their enormous economic and financial power and their great political and social influence, which constitute further important obstacles for the attempts to exercise a juridical and social control over them, and that this reality, together with the support of some great powers has permitted them to weave a planetary network of norms contrary to the public national and international rights, enforced in the form of bilateral treaties of protection, and foreign investment, regional treaties such as NAFTA and the projected FTAA, not to forget the WTO.

TNCs do not assume any responsibility for the violations to the labour rights and the norms of protection of the environmental in the countries where they outsource their production, putting themselves under the cover not only of not being responsible for the damages and costs that take place, but that obtaining guarantees by the State that welcomes the outsourced industry against of eventual lost of benefits derived from reforms in labour or environmental legislation thus setting up in fact a greater obstacle to such progressive reforms in the matter of human rights.

Not a few of the countries of origin of the TNCs maintain that, not only in reference to the environment as in work relations, those who must be responsible for the non-compliance with norms will not be the transnational companies, although are they

which cause the catastrophes and oppress labour, but the States, for not assuming the responsibility of controlling the fulfilment of the laws, because they do not assume its responsibility of supervise the respect of the laws, which tends to grant absolute impunity to the transnational companies in their effort to despoil the resources and squeeze the labour force, as occurs in the proposals contained in the proposed FTAA.

In it, if it is applied, no country will be able to demand that the transnationals fulfil the state norms and contract clauses and the transnationals will be able to demand of the countries when they consider that they are not fulfilling their obligation by any least effort by the governments to collect taxes. This capacity will also be affected by the elimination of tariffs, which the FTAA also demands.

The faculty of ubiquity (capacity to be at the same time present in several places and in none of them) of the TNCs allows them to elude the national jurisdictions.

Non-inclusion of the legal people and economic and environmental crimes in the competence of the International Penal Court has kept the TNCs safe from this international jurisdiction but that, nevertheless, they count on the system of the World Bank, and on an international arbitration court at their its service: the "*International Center for the adjustment of controversies related to investments*" whose President is the same of the WB, whose norms of reference do not include the ones that refer to human nor environmental rights.

That determines that when some states do not bend to the "liberalized exigencies" of international capital incarnated in the transnational societies, the pressures on them by international financial organisms are accentuated by being forced to resolve their controversies of equal to equal with the TNC by an arbitration court whose partiality in favour of private interest does not admit doubts.

The ILO "Tripartite Declaration of Principles on the Multinational Companies and Social Policy" is already an instrument that insists to these institutions that they act consequently with respect for the society in which they operate.

TNCs are legal persons of private rights and, like all physical and legal persons, must respect the law which certainly includes the standing international norms in the matter of human rights: civil, politics, economic, social, cultural and environmental.

Practice shows that the conciliations tending to warrant, to a certain extent, the action of the Transnational Companies, do not contribute any other result than to redecorate their image without transforming radically the nature and objectives for which they were created and daily act thus a study by the International Labour Organization of about two hundred fifteen codes of conduct and twelve programs of social conduct relative to labour practices in the light of the internationally recognized principles and fundamental rights, it is revealed that these codes were extremely selective as concerns the incorporation of such principles.

This asseveration is shown when the effective eradication of child labour appeared in less than half of such codes; the wage levels were met in a little less that 40 percent and the elimination of the forced labour or the refusal to contract to productions or

services of companies that use it, was reflected in only one-fourth of the codes of conduct examined by the ILO.

Call attention in the study to the fact that freedom of association and the right of collective negotiation - fundamental for the development and operation of the unions - were represented in hardly 15 percent of all the object codes in the study.

In addition, the research showed that a not few of such codes aspire to end union activities to eliminate opponents to their plundering labour policies.

On the other hand, the study revealed that the content of the codes was often decided in non-transparent and non-participative processes transacted between the four walls of the room of a consultative agency or by means of negotiations between parties with unequal degrees of information and negotiating force.

Also reached was the conclusion that was not unusual that a code launched with much publicity in an industrialized country was not known, was not available, or had not been translated in the centres of production or services pertaining to the transnational company. If it was – it was found in the ILO study - it was common that the workers could not read these norms or notify of their breach without running the risk of undergoing disciplinary measures.

Efforts have been made to promote the knowledge of the Tripartite Declaration of principles for the Multinational Companies and Social Policy including the work carried out by International Trade Union Organizations to promote respect for this Declaration

Nevertheless it has become evident that it will be supported in greater measure if the ILO finds new, more practical methods to increase understanding of the Tripartite Declaration on the basis of observing its fulfilment.

Taking in consideration what previously had been said World Federation of Trade Unions state:

- *For the union movement it is vital to maintain and to increase its opposition to everything in the performance of the Transnational Companies that harmfully affects the interests of the workers and their families.*
- *Strategy of perpetuation of the impunity of transnational corporations must be confronted.*
- *We must oppose, in a more effective way, the violation by the TNCs of the rights obtained by the workers conquered, in not few occasions, after painful and even bloody fights during tens of years, to which struggle it will contribute decisively to unite the actions of the international union movement in such a such way, that it forces the transnational corporations to respect the international norms in the matter of labour rights.*

- *The pressure on those who are suffering the effects of the activity of the TNCs is such, that it is necessary that we move with urgency from understanding the Tripartite Declaration of the ILO regarding the TNCs to demanding, in a precise manner, its application and respect by those who are transgressing it.*
- *Efforts must be directed, essentially, to reach tripartite agreements in which the Transnational companies assume the obligation to make known, in their annual reports, how they have acted to make effective the application of the Declaration; what they have done to respect the principal ILO standards especially the conventions 87 and the 98.*
- *“Social auditory” institutions must be established, qualified to observe the social consequences of the economic decisions of the Companies and the Governments, presenting reports containing their appraisals to the parliaments and elected officials.*
- *TNCs, their suppliers, subcontractors and licentiates and “other companies” (its affiliates in fact and of right) must recognize the principle of the primacy of human rights and the public interest over their individual economic interest.*
- *We support the suggestion of Europe Center – Third World (CETIM) and American Association of Jurists (AAJ) to the Commission of Human rights to constitute a work group of open composition, as is proposed in Resolution 2003/16 of the Sub-Commission on Promotion and Protection of the Human Rights, to improve the project of norms for the transnational societies, to save evident omissions and study the continuity of what was decided.*
- *That it must be demanded of the United Nations that that it contribute effectively to seeing that the transnational societies respect human rights and are sanctioned in case that they violate them.*
