



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/Sub.2/2005/NGO/22
15 July 2005

ENGLISH, FRENCH AND SPANISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on the Promotion
and Protection of Human Rights
Fifty-seventh session
Item 4 of the provisional agenda

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Joint written statement* submitted by Europe-Third World Centre (CETIM), a non-governmental organization in general consultative status, and the American Association of Jurists, a non-governmental organization in special consultative status

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

[1 July 2005]

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

Transnational corporations and human rights

I. The mandate of the Working Group on transnational corporations

The resolution 2005/69 of the Commission on Human Rights (CHR) totally ignores the work accomplished since many years by the Sub-Commission for the Promotion and Protection of Human Rights, including the Draft "Norms" adopted in 2003. Both the AAJ and CETIM have serious reservations concerning this draft because it contains flaws, but then until now there has been no other instrument of reference on the international level to control the activities of transnational corporations harmful to human rights.

The Resolution 2005/69 proposes to nominate a special representative whose mandate was inspired by the Global Compact. We shall return to this point later.

The vast majority of Member States of the Commission on Human Rights have yielded to the pressures of transnational corporations, whose agenda is clearly formulated in a document¹ signed by the International Chamber of Commerce (ICC) and the International Organisation of Employers (IOE). This documents "suggests" that the CHR ignore the Draft "Norms" adopted by the Sub-Commission. In fact such corporations are totally opposed to the idea of any restrictive instrument that would control their activities².

In order to prevent anyone from thinking that the Sub-Commissions Draft could constitute an international standard to be put into force, the CHR has taken the precaution of specifying in the last paragraph of it's resolution 2004/116 that "...as a draft (ie the draft Norms of the SDCH) has no legal standing, and that the Sub-Commission should not perform any monitoring function in this regard."

This does not stop the Working Group of the Sub-Commission from studying or making proposals as to how to apply to transnational corporations the norms in force under international law regarding human rights, the right to work, and environmental rights which also apply to transnational corporations. Moreover the mandate of the Working Group on Transnational Corporations of the Sub Commission includes several items. One of them is to examine, receive and collect information related to the effects the working methods and the activities of transnational corporations have on the enjoyment of all human rights.

II. The role of transnational corporations in the United Nations

For several years now the United Nations has opened its doors to transnational corporations, presented under the name of "social actors". In doing this the UN is following a general world trend that consists of yielding decision making to giant economic and financial conglomerates to the detriment of states, governments and civil society in general.

¹ International Chamber of Commerce, International Organisation of Employers, *Joint views of the IOE and ICC on the draft*, "Norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights", www.iccwbo.org.

² See our document "The need for international procedures to apply to transnational corporations the rules with regard to human rights currently in force" (E/CN.4/2005/283).

The idea of incorporating the "social actors" under the roof of the United Nations was officially adopted by the Secretary-General on July 25th 2000 at the headquarters in New York with the launching of the Global Compact in which 44 big transnational corporations and other "representatives of civil society" participated. The declared objective of the Global Compact is that companies agree voluntarily to respect ten principles of human rights law, labour law, environmental law and oppose corruption.

Among the companies linked with the Global Compact are British Petroleum, Nike, Shell, Nestlé, Rio Tinto and Novartis. Many studies relate extensively of violations of human rights, of labour laws and environmental laws by some of the above-mentioned companies. The Lyonnaise des Eaux (today the Suez Group) also participates in the Global Compact. And its activities involving the corruption of civil servants in order to obtain the monopoly over drinking water are well known, especially in Argentina, in France, and more recently in Chile³.

This alliance between the United Nations and large transnational corporations has created a dangerous confusion between, on the one hand, a public international political institution such as the UN which, according to its Charter, represents "the peoples of the United Nations" and, on the other hand, a group of entities that embodies the private interests of an international economic elite. **Such an alliance is completely contrary to the process necessary to undertake for democratizing the United Nations.**

The Global Compact was first introduced in 1998 by the Secretary-General of the UN in a report entitled "Entrepreneurship and privatization for economic growth and sustainable development" (A/52/428), a report intended for the General Assembly. In this report the Secretary General wrote that "deregulation" represents the procedure for any reform of a state (para.50). In addition he pleaded in favour of the sale of public companies by yielding over the "ownership and management to investors who have the experience and skills to upgrade the performance, even if this means at times selling assets to foreign buyers" (para.29).

In 2004, Georg Kell, the executive director of the Global Compact, wrote in the introduction of an article entitled "The NGO of the XXI century, in the market for change", published by the organisation *SustainAbility*: "Furthermore, given the supremacy of demand of the market, it is necessary that the social actors get their agenda up to date with regard to the structure of today's market if they want to meet their objectives. The Global Compact constitutes an ambitious experiment of collaboration between different interest groups aiming to incorporate the universal principles of human rights, labour and the environment into global markets"⁴ (our emphasis).

³ Concerning the privatization of drinking water, refer to the March 1st 2002 report of Mr. Miloon Kothari, special Rapporteur on adequate housing, as an element to the right for an adequate standard of living (E/CN.4/2002/59, par 55 to 65, submitted to the 58th session of the CHR. Also see the report from El Hadj Guissé, special Rapporteur to the SCHR on the right to drinking water, par. 58, 59, and 60 (E/CN.4/Sub.2/2004/20).

⁴ www.ecoles.org/documentos/resumen_siglo_XXI.pdf. The front page picture of this documents leaves no doubt as to the ideology of its contents: Beautiful shining shopping carts are on display. One paragraph of this document dispels any last doubts: "The NGO of the XXth century have spent the second half of the century as outsiders, defying the system. The NGOs of the XXIst century will progressively integrate the system. The NGOs of the XXth century concentrated on problems that were considered to be symptoms of the failure of the market. NGOs of the XXIst century will seek solutions with the help of the market (and often across its disorder). Many NGOs of the XXth century began as small institutions and slowly they grew. They continue to grow but the NGOs of the XXIst century will invest a lot into their networks. A large part of the financing of the NGOs of the XXth century came from feelings of anger or guilt. The NGOs of the XXIst century will try to convince their clients and donors that they are good investments." (Translation CETIM)

Manifestly the market, and not human beings, is the principle concern of the Global Compact. Moreover the Secretary-General encourages this neo-liberal crusade by promoting the establishment of branches of the Global Compact in different countries, made up of entrepreneurs and governments.

This new orientation in policy follows the suppression in 1993 of certain bodies of the United Nations that had tried to establish a social control over the activities of transnational corporations, in particular the Commission on Transnational Corporations, established by the Economic and Social Council in December 1974 by Resolution 1913 (LVII). It was composed of 48 Member States and, one of its priorities, was to look into the activities of transnational corporations and elaborate a Code of Conduct that would apply to these corporations⁵. However this code never materialized.

The turn toward neo-liberal positions manifests itself in different ways, some more apparent than others, in the different specialized agencies, (World Health Organization (WHO), Food and Agriculture Organization (FAO), United Nations Conference on Trade and Development (UNCTAD), Educational, Scientific and Cultural Organization (UNESCO), International Labour Organization (ILO). Sometimes this "aggiornamento" allows these organizations to obtain funding from some states or private sources; if it is not included in the general budgets, it is at least given for specific programs that interest the donors.

In October 2002, UNESCO and the Suez Company (which merged with the Lyonnaise des Eaux) signed an agreement to cooperate in order to improve access to drinking water worldwide. However, the mission of this huge transnational corporation looks more like the privatization of the water distribution by obtaining concessions to manage water resources throughout the world. According to certain sources this transnational corporation has resorted to bribing public officials to achieve its ends, but this allegation remains difficult to prove. For a few hundreds of thousands of Euros, the Suez Corporation acquired the right to intervene in the international hydrological program of UNESCO. This program is responsible for the scientific and educational studies in order to improve the management of water resources in all countries throughout the world.

A paradoxical case: On 20 November 2002, the thirteenth anniversary of the International Convention on the Rights of the Child was celebrated under the name of "McDonald's World Children Day" after an agreement had been reached by Carol Bellamy, the executive director of UNICEF, and the transnational corporation, McDonald's. Ms Bellamy had the support of Kofi Annan.

The wave of protest from different organizations including specialists in child health and nutritionists emphasized the fact that UNICEF must not associate itself with the symbol "par excellence" of deficient infant diets. But even these protests were not sufficient to convince Ms Bellamy to revoke the agreement with McDonald's. Thus UNICEF sold its image to McDonald's for a fistful of dollars. Something to consider: the director of UNICEF, Carol

⁵ U.N. Economic and Social Council, Commission on Transnational Corporation: Report of the First session, document E75655;E/C.10/6 (New York, 1975, par. 6 and 9).

Bellamy, is an American citizen, the United States being one of the two countries in the world, along with Somalia, that has not ratified the Convention of Children's Rights⁶.

UN specialized agencies hope also to obtain funds from the World Bank (their hope is generally disappointed). This pushes them to engage in joint activities with this international financial institution.

It can be confirmed today, without fear of making a mistake, that the influence of the transnational corporations on the decisions of the organs making up the United Nations has contaminated the entire system. It is possible to see representatives of the World Bank involved in discussions related to education in meetings convened by UNESCO.

Under the banner of the participation of the private sector, meetings on diverse matters are organized with private companies as guests of honour. Such was the case of a seminar of indigenous peoples and private companies (Geneva, 5-7 December 2001) or the general debate of the Committee on the Rights of the Child concerning the participation of the private sector in the fulfilment of children rights (Geneva, 20 September 2002), etc.

The World Health Organization should have an independent and decisive role in dealing with the epidemics striking the planet. The former WHO director, Gro Harlem Brundtland said in Davos on 29 January 2001: "We must protect patent laws ... Industry has made an admirable effort to fulfil its obligations by its gifts of drugs and by the lowering of prices." Her former cabinet director justified this declaration of faith by the need to obtain private financing given the fact that States contributed little, and by the need to please the United States which holds the purse-strings of the world⁷. All the other bodies in the United Nations System are in the same position: looking for funds and focusing on programs that interest corporations and the United States.

Another worrisome case: two thirds of the budget of the Office of the High Commissioner for Human Rights is financed by voluntary contributions from governments, NGO's, foundations and other private donors. Inevitably this makes the Office vulnerable to pressure. Gone is the time when the UN Centre for Human Rights refused the gift of computers from a government in order not to compromise its independence and not to go against the UN norms.

The "world summits" are more and more under the influence of the huge transnational corporations. Such was the case of the Johannesburg Summit for Sustainable Development which took place in September 2002. The agenda was "sequestered" by the big corporations. This was confirmed by an article that appeared in *The Guardian* on 9 August 2002 which relayed the opinion of Christian Aid, an NGO: "The transnational corporations have sequestered the summit's agenda ... while the measures destined to help the poor have been forgotten."⁸

⁶ Since January 2005, Ana Margaret Veneman, also an American citizen, is the new director of UNICEF. In 1993, she worked for the legal firm and lobbyists, Patton, Boggs and Blow. She also belonged to the Board of directors of Calgene, one of the biggest companies in the field of genetically modified food. One of the clients of Patton, Boggs and Blow was Dole, the world's biggest producer of fruits and vegetables. In 2001 Bush appointed Veneman as secretary of Agriculture and then in January 2005, she was appointed to the role of director of UNICEF.

⁷ Jean-Loup Mochtane, "Quand l'OMS épouse la cause des firmes pharmaceutiques" in *Le Monde diplomatique*, July 2002.

⁸ Terry macalister and Paul Brown, *The Guardian*, London, August 9th 2002, Christian Aid, www.christian-aid.org.uk.

The World Summit for Information is another case. This summit is held in two stages: the first was held in Geneva in 2003 and the second will take place in Tunisia in 2005. The private corporate sector was doubly represented in the preparatory committee of August 2002: by the direct representatives of companies (including Sony, Alcatel, Deutsche Telecom, Japan Telecom, Swisscom) and by representatives of international associations of enterprises, such as the World Economic Forum (which brings together the thousand biggest corporations in the world), the International Chamber of Commerce, the International Association of Broadcasting etc. Dozens of delegates were accredited as representatives of "non governmental organizations from the civil society".

III. Conclusion

The American Association of Jurists and CETIM recommend that the working group, in the framework of its mandate, **examine the effects of the work methods and the activities of transnational corporations on the functioning of United Nations bodies.**

- - - - -