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ECONOMIC, SOCIAL AND CULTURAL RIGHTS

**Written statement* submitted by the 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.

[7 February 2006]

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

Action of the transnational enterprises and its effects for the rights of the workers and the people

Transnational Enterprises (TNE) are a phenomenon of contemporary society of huge impact which causes specific economic, financial, legal, social and human problems.

Such problems include their transnational nature, economic and legal versatility, their huge economic and financial power, and their great political and social influence.

These are characteristics that constitute important obstacles to the attempts to exert legal and social control over them.

These realities- compounded with the assistance by some major powers- have enabled TNE to weave a worldwide network of norms contrary to national public law and international law.

They are force in the form of bilateral treaties on protection to foreign investments, regional treaties such as TLCAN and the proposed FTAA including the WTO.

The non-inclusion of legal persons and of economic and environmental crimes in the competence of the International Criminal Court has put the TNE under the coverage of such international jurisdiction.

TNE had, within the World Bank (WB), an international arbitration Court at their service: The International Center for the settlement of disputes relating to investments.

Its President is the President of the WB and whose norms of reference do not include those referring to human rights or environmental right.

Thus determining that when some states do not yield to the "liberalizing" demands of the transnational capital deep-rooted in transnational societies, the pressures of international financial bodies increase, causing them to settle their disputes on an equal footing with the TNC in front of an arbitration court whose partiality in favor of the private interest is unquestionable.

TNE's are legal persons with private right and, as all physical and legal persons; they should respect the law which, in fact, includes the international norms in force in terms of human rights: civil, political, economic, social, cultural and environmental rights. The gift of ubiquity (the ability to be in two places or elsewhere at once) of TNE's enables them to escape the national jurisdictions.

Is practice that TNE's do not assume any responsibility for violations of labor right and of environment protection norms in countries where they dislocate their production trying to avoid to responding for the damages that arise, but also they obtain guarantees from the State that receives the dislocating industry against eventual losses of benefits derived from reforms to labor or environment legislation. This poses a bigger obstacle to such progressive reforms in terms of human rights.

Not few of countries where TNE's emerged argue that both in environment issues and work relations, those who should be accountable for the non-compliance with norms will not be the trans-nationals although they are the ones that cause catastrophes and squeeze the labor force but the States for not assuming their responsibility for the control over compliance with laws. This offers total impunity to transnational enterprises in their attempt to plunder resources and suppress the labor force.

The practice shows that conciliations tending to endorse in a way the action by Transnational Enterprises, do nothing but sweeten their image without radically transforming the nature and objectives for which they were created, and they act on a daily basis. We know this because an International Labor Organization study –which includes around 215 behavioral codes, and 12 socially-labeled programs relating to labor practices pursuant to principles and internationally recognized fundamental rights- revealed that these codes were extremely selective as regards the incorporation of such principles.

This asseveration was proved with the fact that the effective eradication of children's labor was included in less than half of the codes; wage-levels were estimated in a bit less than 40 percent and the elimination of forced labor or denial to hire productions or services from enterprises which use them was reflected only in the fourth part of the behavioral codes examined by the ILO.

Called the attention in the research, the fact that freedom of association and the right to collective negotiation- which are fundamental for the development and functioning of trade unions- barely accounted for 15 per cent of all codes under study. In addition, the study showed that a lot of these codes intended to do away with trade union activities in order to eliminate oppositionists to their pillaging labor policies.

On the other hand, the study referred that the content of codes was decided in non-transparent and non-participatory processes which are handled privately in a room at consultative council or through negotiations between parties with different degrees of information and negotiating power. Likewise, conclusion was reached that it was not strange that a code which was launched with so much publicity in an industrialized country was unknown, that it was not available or had not been translated at the production centers or services- rendering centers belonging to the transnational. If it were available - as shown by the ILO study- it was common that workers were not able to read these norms or to notify their non-compliance without running the risk of suffering disciplinary measures.

The Tripartite Declaration of Principles on the Multinational Companies and Social Policy of the ILO is already an instrument which urges these institutions to act consistently with the respect to the society in which they act.

Although efforts have been made to promote the knowledge of the Tripartite Declaration of principles on Multinational Companies and Social Policy, including the work conducted by International Trade Union Organizations, this purpose will be supported in a greater scale if the ILO find new more practical methods to increase the knowledge of the Tripartite Declaration on the basis of critically observing its compliance.

The efforts that in the Human Rights Commission frame had been doing for creating as Social Code in the behavior of TNEs, should, for being really effective, contributes to stopping the unlimited action by Transnational Enterprises, which in their endeavor for luxury not only they increasingly plunder the wealth of workers and peoples where they operate; but also they use- as at present, whatever resource including war, for which we call for:

- Oppose, in a more effective way, the violation by Transnational Companies of workers' rights achieved in most of cases- after painful and even bloody struggles for tens of years. This will be instrumental in uniting the international trade union movement action in such a way, that it forces transnational societies to respect international norms in terms of labor rights.
- We will continue to support the establishment of a working group – as is proposed in Resolution 2003/16 of the Sub-Commission on the Promotion and Protection of Human Rights- that improves the draft norms on international societies, except for obvious omissions, and studies the follow-up on what was agreed in line with the huge impact of the activities carried out by transnational societies on the effective enjoyment of human rights: civil, political, economic, social and cultural rights.

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