**Open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights**

***Second session, 24 – 28 October 2016***

**FORM for NGOs and other relevant stakeholders submitting a written contribution**

Please note that the written contribution is formatted and issued, unedited, in the language(s) received from the submitting organization (it should be submitted in one of the official UN languages).

In order for your contribution to be published on the OEIWG web page prior to the session, the deadline for submission is 30 September 2016. All submissions are final.

Please fill out **this** FORM and CHECKLIST to submit your written contribution and send it to the address indicated below. Your information goes after each arrow.

**1.** Please indicate the contact information for the representative submitting the written contribution (i.e. name, mobile, email) here:  **Melik ÖZDEN (0797288058,** **contact@cetim.ch****), Gonzalo Berron (+55 11 964262381, gonzalo.berron@tni.org)**

**2. (a)** If this is an individual contribution, please indicate here your organization's name (kindly state in brackets whether your organization has ECOSOC consultative status (i.e. General, Special, or Roster). 

or,

**2. (b)** If this is a joint contribution including ECOSOC NGO(s), list here the co-sponsoring ECOSOC NGO(s) as they appear in the ECOSOC database and their status (in brackets): Group all General NGOs first, group the Special second, group the Roster third**. Europe-Third World Centre (CETIM), non-governmental organization in general consultative status, Institute for Policy Studies/Transnational Institute, non-governmental organizations in Special consultative status**

**3.** Indicate here any non-ECOSOC NGO(s) supporting the joint contribution (they will appear as a footnote to the title – unless it is a joint contribution from non-ECOSOC stakeholders only): 

**4.** Indicate the TITLE for the written contribution (in original language) here:  **Theme 5.a): Obligations of International Financial Institutions (IFIs), Regional Banks and other financial instruments**

**Please make sure that:**

* The written contribution is in MS WORD document format (Font Times New Roman 10; no bold; no underline; no italics).
* Please use the Spell/grammar check on your text. (Go to Tools, Spelling & Grammar)
* Different language versions of one statement should be sent in the same email, but using **a separate form** for each.
* Email the document to: igwg-tncs@ohchr.org

**PLEASE PASTE THE FINAL TEXT BELOW**:

The Global Campaign to Reclaim Peoples Sovereignty, Dismantle Corporate Power and Stop Impunity(Global Campaign) facilitated the written submission of six points for consideration of the 2nd Session of the “Open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights” taking place in Geneva during October 24-28, 2016. It is part of the Campaign’s contribution to the work of the Working Group mandated to develop a “legally Binding International instrument on TNCs and other business enterprises with respect to Human Rights”. It expresses in its diversity the conviction that such a legally Binding Instrument is essential for two dimensions of the Campaign’s work: to end corporate impunity and address the systemic power of TNCs which has reached unprecedented impacts on the daily lives of affected communities.

International Financial Institutions (IFIs)

The future legally binding international instrument must include provisions on the obligations of the IFIs and related instruments as well as on the conduct of the Trade and Investment regime.

The economic policies imposed by the International Monetary Fund (IMF), the World Bank (WB), regional banks and other Financial instruments (Export Credit Agencies etc) contribute to the architecture of impunity of transnational corporations (TNCs) and lead to responsibility for human rights violations. The conditions demanded by the international financial institutions on the countries of the Global South through structural adjustment policies and the demands of liberalisation through free trade agreements, operate as mechanisms that oblige states to open up their countries and economies to TNCs.

Multilateral organizations, particularly the WB, IMF and the WTO, as subjects of international law, are linked not only by the rules derived from its statutes or international agreements to which these institutions are parties, but also to all relevant norms and rules of international law in general[[1]](#footnote-1). In addition, the WB and IMF, as specialized UN agencies, are bound by the general objectives and principles of the United Nations Charter, which include respect for human rights and fundamental freedoms[[2]](#footnote-2).

The International Monetary Fund (IMF) and the World Bank (WB)

In order to be effective, the future international binding treaty needs to address the policies of those IFIs that violate human rights. In 72 years since their creation in Bretton Woods in 1944, the WB and the IMF have never been held to account. Their legal status could be qualified as a “human rights-free zone”, as pointed out by UN expert Philip Alston[[3]](#footnote-3).

The WB adopted instruments called “safeguard policies” which claimed to avoid or limit negative socio-environmental impacts arising from its projects. In addition, the private lending framework within the WB, controlled by the International Finance Corporation (IFC, member association of the World Bank Group), has the function to examine a number of "rules on income" that share the same goals as protection of investment policies. The IFC’s resorting to financial intermediaries and its policies on private loans are a matter of grave concern as are those on public loans of the International Bank for Reconstruction and Development (IBRD) and the International Development Association (IDA).

Despite these policies, it has been proven that several projects financed by the WB and related international financial organizations have led to serious violations of human rights – as for example land grabbing, repression, arbitrary arrests and murder in order to silence protest movements. The WB itself admitted in March 2015 that “oversight of those projects often had poor or no documentation, lacked follow through to ensure that protection measures were implemented, and some projects were not sufficiently identified as high-risk for populations living in the vicinity”[[4]](#footnote-4).

The founding rationale of the IMF claimed to stabilize the international financial system by regulating the flow of capital. In fact, the IMF’s operational policy contradicts this claim and its statutes, especially article 1 (par.2)[[5]](#footnote-5). The IMF, under the influence of the United States and other northern countries, has become a major player in the international economic (and political) system. One of its main objectives is to promote the free trade and investment regime all over the world, through its Structural Adjustment Programs (SAPs), accelerating the full liberalization of the movement of capital and promoting transnational corporations as main actors of the neoliberal economic system.

Additionally, the IMF has an undemocratic mode of operation. Any country that joins the IMF must pay an membership fee or "share", calculated according to the economic importance of the country. This explains why the board of the IMF is in fact controlled by the United States (which holds 16.75% of voting rights), followed by Japan, Germany, France and United Kingdom. In reality the OECD countries have 63.09% of voting rights in the IMF while representing 45.6% of global GDP.

Proposals

The future legally binding instrument on TNCs must require of these international and regional financial and economic institutions to contribute to the implementation of the treaty and refrain from taking measures contrary to its objectives and provisions. Therefore, the following proposals are made:

1) IFIs should be obliged to abstain taking steps that threaten the ability of States to meet their national and international obligations related to Human Rights. Furthermore, IFIs should not promote regulations that contradict the respect of human rights and should not place conditionalities on their loans.

2) These IFIs should be obliged to conduct ex-post evaluations of the projects they finance and policies they recommend to States. These assessments should include clear reference to the international instruments on human rights. They should also be responsible for reparations for damage caused and states should be obliged to enforce this.

3) The WB should be obliged to refrain from participating, in the extraction of fossil fuels through the investments of the IFC in private companies dealing with extractives.

4) The IFC should be obliged to not resort to financial intermediaries - commercial banks, private equity funds and hedge funds. The IFC should reject loan requests from TNCs and enterprises belonging to TNCs that are convicted of human rights violations in other cases.

5) In the case of violations of human rights by IFIs (through the conditions attached to loans, the social and environmental impact of their policies and projects funded), the controversial loan should be cancelled without conditions. The IFIs should reject loan applications from States that failed to regulate TNCs in proven cases of violations of human rights.

6) In case of violations of human rights by these IFIs or related regional development banks (through the conditionalities imposed), these entities must submit to national courts and answer for the impacts of their actions.

1. International Court of Justice, interpretation of the 25th of March 1991 agreement between WHO and Egypt, advisory opinion of the 20th of December 1980, ICJ Rec. 1980, par.37, pp. 89-90. [↑](#footnote-ref-1)
2. United Nations Charter, articles 57, 63, 1(3) et 55(3). [↑](#footnote-ref-2)
3. OHCHR, “The World Bank is a Human Rights-Free Zone”. Source : http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=16517&LangID=E [↑](#footnote-ref-3)
4. World Bank, “World Bank acknowledges shortcomings in resettlement projects, announces action plan to fix problems”, Press release. Source : http://www.worldbank.org/en/news/press-release/2015/03/04/world-bank-shortcomings-resettlement-projects-plan-fix-problems [↑](#footnote-ref-4)
5. “The purposes of the International Monetary Fund are : […] ii) To facilitate the expansion and balanced growth of international trade, and to contribute thereby to the promotion and maintenance of high levels of employment […]”. Source : https://www.imf.org/external/pubs/ft/aa/ [↑](#footnote-ref-5)