



PRESS RELEASE
FROM THE EUROPE - THIRD WORLD CENTER (CETIM) AND
THE AMERICAN ASSOCIATION OF JURISTS (AAJ)

***DRAFT NORMS ON THE RESPONSIBILITIES OF TRANSNATIONAL CORPORATIONS
AND OTHER BUSINESS ENTERPRISES WITH REGARD TO HUMAN RIGHTS***

The ability of transnational corporations to be both in several places and nowhere at the same time allows them to escape from the purview of national jurisdictions. Their own immense power, the support given them by powerful governments and the complicity of numerous governments on the sidelines, allow them to violate – often with complete impunity – national and international laws.

The Europe – Third World Center (CETIM) and the American Association of Jurists (AAJ) have been carefully following the subject of transnational corporations (TNC) within the various United Nations bodies and have actively participated, through interventions and publications¹, in the sessions of the Working Group set up in 1998 within the Sub-Commission for the Promotion and the Protection of Human Rights. Moreover, the AAJ and the CETIM organized last year a two-day meeting with the experts of the Working Group and various specialists in order to discuss the Draft Norms and to propose amendments.

Initially, the Working Group wanted to adopt a voluntary code of guidelines for TNCs. It was persuaded to change its position following a mobilization by the CETIM and the AAJ, supported by numerous other NGOs and social movements.

The Draft Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights, adopted on 13 August 2003 by the Sub-Commission, differs radically from the initial draft in that it is not at all a voluntary code. This is a major step forward. However, amendments are necessary in order to deal with specific problems posed by TNCs regarding their responsibilities and to create an effective mechanism for monitoring TNCs.

For example, the joint and several liability TNCs share for violations of human rights committed by their affiliates, de facto or de jure, and by their suppliers, sub-contractors and licensees, is not dealt with by the current Draft Norms. Yet this principle of joint and several liability of TNCs is an essential question, if we bear in mind TNCs' regular practice to externalize costs and risks as well as the consequent responsibilities – that are assumed exclusively or almost exclusively by suppliers, subcontractors, licensees and branches.

TNCs' strategies for externalizing costs and risks include moving production facilities to countries where wages are low, where worker-protection legislation leaves much to be desired or is downright inexistent, where norms for environmental protection are lacking or left unenforced. The absence within the Draft Norms of the principle of joint and several liability is a major omission allowing widespread impunity for TNCs that violate human rights.

It is for these reasons that the AAJ and the CETIM urge the Commission on Human Rights to set up a Working Group of unrestricted composition, as proposed by the Sub-Commission in its resolution 2003/16.

Geneva, 29 March 2004

¹ All the statements and publications of the AAJ and the CETIM on the responsibility of transnational corporations regarding human rights are available at the following address : www.cetim.ch including our most recent written statement submitted to the Commission on Human Rights, E/CN.4/2004/NGO/122.