



PERMANENT PEOPLES' TRIBUNAL

THE EUROPEAN UNION AND TRANSNATIONAL CORPORATIONS IN LATIN AMERICA:

POLICIES, INSTRUMENTS AND ACTORS COMPLICIT
IN VIOLATIONS OF THE PEOPLES' RIGHTS

DELIBERATING SESSION

Universidad Complutense de Madrid, Faculty of Mathematics Lecture Hall
Madrid, May 14-17, 2010

THE JUDGEMENT



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First and foremost, deep gratitude goes to the communities, organisations and individuals that struggle daily, often with their lives, against the systematic violations by Transnational Corporations of human rights against peoples, their livelihoods and the environment.

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PREFACE

The Madrid Judgement of the *Permanent Peoples' Tribunal* marks a milestone in the struggle to dismantle the power of Transnational Corporations (TNCs). It brings six years of comprehensive investigation and analysis on the operations of European TNCs in Latin America to a close and concludes that the "work of the movements that have put their testimony before this Tribunal highlights the broad guidelines for respecting and guaranteeing the rights they defend. We are not referring here to the concept, described as voluntary, of a self-regulated market based on a code of good practices, which defines corporations' social and environmental responsibility, but rather to a mandatory legal framework in the context of international law. This must be one of the first steps on the path to creating a different world order".

Social movements and civil society organisations from Latin America and Europe, connected by the Europe-Latin America and Caribbean bi-regional network *Enlazando Alternativas*, have repeatedly exposed how voluntary codes of conduct, which form part of the Corporate Social Responsibility (CSR) approach, have failed to tackle human rights and environmental violations of Transnational Corporations (TNCs). These movements denounce the current system of legislation, through which the rights of TNCs are guaranteed by the judicial fortress of the *Lex Mercatoria* – the body of norms and rules that has created the legal, economic and financial framework which protects TNCs and allows them to violate peoples' rights with impunity. This architecture of impunity is constituted by the WTO Agreements, Bilateral Free Trade and Investment Agreements, the International Monetary Fund (IMF) and the World Bank (WB) together with TNCs' investment and exploration contracts and the decisions of dispute settlement processes. In current approaches to TNCs, responsibilities and obligations are omitted and left to the good will of corporations. So far, the TNCs with the complicity of governments have successfully resisted any binding international code that includes obligations.

In the contexts of the Permanent Peoples' Tribunal (PPT) Sessions in Vienna (2006), Lima (2008) and Madrid (2010), the cases presented to the Tribunal have not only questioned the legitimacy of the operations of European TNCs for their systematic violations of human rights, but have also developed proposals for regulation and control of corporations. These proposed regulations aim to establish a system where corporations are made accountable, do not hold more power than states, can no longer define for themselves their responsibilities and where their profits are not being prioritised over the well-being of the people, the environment and the planet.

Just as the Madrid Session of the PPT concluded one phase of work, its Verdict opened a new chapter in terms of identifying the urgency and necessity of dedicated work to fundamentally reshape current economic governance and in particular to address the question of binding regulation for the operations of TNCs. Two key components are foreseen as central to this work: the need for an International legal binding code which addresses the Economic and Environmental Crimes of TNCs and the creation of an International Tribunal authorized to judge transnational corporations, and be responsible for defending the fundamental rights of peoples affected by TNC operations and to impose appropriate sanctions.

The *Enlazando Alternativas* network is committed to further advance work on the conceptualisation as well as campaigning for broad support for these proposals, which are understood as being part of a broader social and political strategy to dismantle the power of TNCs and as a way to guarantee the protection of the peoples and the planet on which we live.

Enlazando Alternativas – Europe-Latin America and Caribbean Biregional network



I. INTRODUCTION

1. History and legitimacy of the Permanent Peoples' Tribunal

This session of the Permanent Peoples' Tribunal (PPT) completes a process initiated in May 2006 in Vienna, where the PPT accepted the petition of the *Enlazando Alternativas Bi-Regional Network* for an investigation into how the policies of transnational corporations (TNCs) and the specific role of the European Union (EU) in its relations with Latin American and Caribbean countries gave rise to violations of human rights and the peoples' right to self-determination. After two years of intense work of gathering and documenting cases, the Lima session was held in May 2008, its timing coinciding, as usual, with the Peoples' Summits organized in parallel to the Summits of the Heads of State of the countries of the European Union, Latin America and the Caribbean. The Lima session focused and deliberated on the consequences and responsibilities arising from the actions of TNCs. The matters discussed at the Madrid deliberating session refer specifically to the responsibilities of the European Union, but also include the analyses and opinions already contained in the Lima Ruling.

The significance and framework of reference for this ruling can be more readily understood if we first refer to the doctrinal thinking accumulated by the Tribunal over its thirty years of work and through its relationship with the countries of Latin America and the Caribbean.

The central role of transnational economic powers and their structural links with State institutional actors is at the very center of the PPT's work. This is a manifestation and direct consequence of the Second Russell Tribunal on dictatorships in Latin America (1972-1975). This Tribunal devoted a session (in Brussels) to the role of transnational corporations, which resulted in the development of a body of thinking that was later taken into account for the drafting of the Universal Declaration of the Rights of Peoples (Algiers, 1976) and was finally adopted as the formal Statute of the PPT. The affirmation of the need for and the legitimacy of a peoples' law, capable of counteracting the trend in international law of denying the obligatory recognition of peoples as possessing and holding rights, is still highly relevant now and in the current context.

'We live at a time of great hopes and deep despair': the words in the preamble to the Universal Declaration of the Rights of Peoples seem to echo what Lelio Basso wrote about the findings of the Second Russell Tribunal's Brussels session. *'The directions in which the world is developing leave no doubt as to the fact that, if alternatives are not found to these trends, we are heading towards a world in which the power of a few hundred human beings (political, economic and military leaders), of Kafkaesque remoteness and inaccessibility, in many cases totally unknown, will leave the majority of people no option but to be slaves, to be eliminated or excluded.'*

Throughout its history, the Tribunal has borne witness to the accentuation of the diverse ways in which transnational corporations violate the peoples' fundamental rights and right to self-determination. And, at the same time, it has shown the ineffectiveness of international law which, when confronting economic crimes and their perpetrators, continues to reflect the ambivalence of its origins, which lie in the justification and legitimization of the Conquering of the Americas (addressed in the judgment on *The Conquest of America and International Law*, Padua-Venice, 1992). International law is still, without doubt, an imperfect system, particularly if one bears in mind that the International Criminal Court (ICC) has excluded economic crimes from its jurisdiction, which is the equivalent of making it impossible to effectively prosecute an immense number of acts that can be considered violations of the right to life.

In order to understand the framework of reference for this Session, attention must also be drawn to the case law developed in the following PPT Rulings: *The Policies of the International Monetary Fund* (Berlin 1988; Madrid 1994); *The Brazilian Amazon* (Paris, 1990); *Impunity for Crimes Against Humanity in Latin America* (Bogota, 1991); *The Conquest of America and International Law* (Bogota, 1992); *The Bhopal Disaster and Corporate Irresponsibility* (Bhopal,

1991, London, 1994); *Transnational Corporations and the Textile, Clothing and Sportswear Industry and Their Impact on Workers Rights and the Environment* (Brussels, 1998); *Global Corporations and Human Wrongs* (Warwick, 2001).

Lastly, it is important to place the cases examined, the analytical criteria and the decisions contained in this Ruling in the more immediate context of the very special attention the PPT has dedicated to Latin American countries in the last five years, through two lines of work that have developed independently, yet with clearly complementary methods and legal thinking, relating to:

- a) Colombia, an extreme 'testing ground' where substantial impunity for the worst crimes against humanity, including actual forms of genocide, exist and have been upheld despite the indisputable evidence, in the face of national and international indifference (*Session on transnational corporations and peoples' rights in Colombia, 2006-2008*);
- b) the realities of Latin America and the Caribbean, considered as a whole, that, through a diversity of political and social contexts, illustrate the systemic nature and the general equivalence of European policies on trial.

As for the methodology used in the preparation and assessment of all the cases, it is important to note that:

- close links with local communities, which have played a fundamental role as eyewitnesses, have been maintained;
- data has been verified at different moments in time (also through the analysis of cases already examined in earlier sessions);
- specific analyses of individual cases have been carried out from a comparative perspective (in each country and between countries), from both a factual and legal point of view;
- written and visual documentation has been gathered, expanding on and enriching what had been presented at previous stages of the process, all of which has been used by the PPT in this session.

Therefore, the cases presented here as empirical grounds for the judgment (see the table below) should not be considered in isolation or in terms of their individual implications. Instead, they must be considered as an expression of a very wide spectrum of violations and responsibilities which, due to the systemic nature of the practices involved, form an overall situation that illustrates with absolute clarity the real role played by European transnational corporations, the European Union (and its Member States), and the States of Latin America. Accordingly, the findings in this judgment are equally relevant to each and every one of the cases. An even more specific assessment in terms of violations and liability is contained in the case summaries in Annex 2, which form an integral part of this judgment.

Cases presented to the PPT in Vienna (2006), Lima (2008) and Madrid (2010)

Case	Country of origin of corporation	Country or place of impact	Sector	PPT session in which case examined		
				Vienna	Lima	Madrid
Agrenco Group	Netherlands	Mato Grosso, Brazil	Agro-industry, agrifoods and agro-chemicals			●
Aguas de Barcelona	Spain	El Saltillo, Mexico	Water	●	●	●
Andritz AG	Austria	Southern Cone	Engineering	●		
Aracruz	Norway	Brazil	Paper and cellulose	●		
Banif, Santander, GDF-Suez	France, Belgium, Portugal, Spain	Río Madeira (Amazon), Brazil and Bolivia	Financial and electricity (dams)		●	●
Bayer	Germany	Tauccamarca community, Peru	Agro-industry, agrifoods and agro-chemicals	●	●	●
BBVA (Bancomer)	Spain	Mexico	Financial	●		

Case	Country of origin of corporation	Country or place of impact	Sector	PPT session in which case examined		
				Vienna	Lima	Madrid
BBVA, HSBC, Santander	Spain and United Kingdom	Peru and Brazil	Financial		●	
Benetton	Italy	Argentina	Land	●		
Boehringer, Roche	Germany	Brazil	Pharmaceuticals		●	
Botnia - Ence	Finland and Spain	Rio de la Plata, Uruguay and Argentina	Paper and cellulose	●	●	
BP	United Kingdom	Casanare, Colombia	Extractive industries: oil and gas			●
British Tobacco	United Kingdom	Brazil	Agro-industry, agrifoods and agro-chemicals	●		
Calvo	Spain	El Salvador	Agro-industry: fisheries	●		
Camposol	Norway	Peru	Agro-industry, agrifoods and agro-chemicals		●	
Canal de Isabel II	Spain	Barranquilla and Santa Marta departments, Colombia	Water			●
Carbones del Cerrejón Ltd.	Switzerland and United Kingdom	Guajira, Cesar and Antioquia departments, Colombia	Extractive industries: coal			●
Cargill and Bunge	United States and the Netherlands	Brazil	Agro-industry, agrifoods and agro-chemicals	●		
Continental	Germany	Mexico	Tires			●
Endesa - Enel	Italy, Spain	Patagonia, Chile	Electricity (dam)			●
GoldCorp Inc.	Canada, Ireland, Norway and Sweden	Department of San Marcos, Guatemala	Extractive industries: mining			●
GTZ – cooperation agency	Germany	Bolivia	State technical cooperation agency	●		
Hanes Brands Inc. (HBI)	United States	Honduras	Clothing and textiles			●
Holcim	Switzerland	Bogota (Colombia), San Juan de Sacatepéquez (Guatemala) and Atotonilco de Tula (Mexico)	Extractive industries: mining			●
Impregilo S.P.A.	Italy	Río Sogamoso, Colombia	Electricity (dam)			●
Ing, Rabobank, ABN Amro	Netherlands	Europe	Financial	●		
Louis Dreyfus Commodities	France	Brazil	Agro-industry, agrifoods and agro-chemicals			●
Marine Harvest/Cermaq Mainstream	Norway	Chile	Agro-industry: fisheries	●	●	

Case	Country of origin of corporation	Country or place of impact	Sector	PPT session in which case examined		
				Vienna	Lima	Madrid
Monterrico Metals, formerly Majaz	Formerly United Kingdom, now China	Piura region, Peru	Extractive industries: mining	●	●	●
Nestlé	Switzerland	Switzerland	Agro-industry, agrifoods and agro-chemicals			●
OCP	Germany, Spain, Italy and others	Amazon, Ecuador	Gas pipeline	●		
Perenco Group	France and United Kingdom	Amazon, Peru	Extractive industries: oil and gas			●
Pescanova	Spain	Estero, Nicaragua	Agro-industry: fisheries			●
Pluspetrol Resources Corporation NV	Argentina, headquartered in the Netherlands	Amazon, Peru	Extractive industries: oil and gas			●
Proactiva Medio Ambiente, Veolia and FCC	Spain	Colombia and Guayaquil, Ecuador	Water		●	●
Repsol YPF	Spain	Bolivia, Ecuador and Argentina	Extractive industries: oil and gas	●	●	●
Riu Resorts, Iber Star, Melià, Oasis, Gala and Viva	Spain and Italy	Mexico	Tourism	●		
Shell	Netherlands and the United Kingdom	Ireland	Extractive industries: oil and gas		●	
Skanska	Sweden	Argentina and Ecuador	Gas pipeline and sanitation services		●	
Stora Enso	Finland and Sweden	Brazil and Uruguay	Agro-industry, agrifoods and agro-chemicals			●
Suez	France	Argentina, Uruguay, Bolivia and Brazil	Water and sanitation	●		
Syngenta	Switzerland	Parana, Brazil	Agro-industry, agrifoods and agro-chemicals		●	●
Telecom Italia	Italy	Bolivia	Telecommunications		●	
Telefónica	Spain	Peru, Chile	Telecommunications	●		●
Thyssen Krupp, Vale do Rio Doce	Germany	Rio de Janeiro, Brazil	Steel		●	●
Unilever	United Kingdom – Netherlands	Brazil	Consumer goods	●	●	
European Union/potential beneficiary pharmaceutical companies: DuPont, MerckSharp & Dohme, Sanofi-Aventis, Eli Lilly & Co., Novartis, GlaxoSmithKline, Warner Lambert, Pfizer	Various countries	Brazil, Colombia, Peru, Ecuador	Pharmaceuticals			●
Unión Fenosa	Spain	Guatemala, Mexico, Nicaragua and Colombia	Electricity	●	●	●

2. Procedure

2.1 The PPT session was held between May 14 and 17, 2010. In accordance with the program (Annex I), witnesses and experts made oral presentations of the selected cases and submitted supporting documents, which are available on the website: www.internazionaleleliobasso.it

The session also received contributions from experts, appointed by the PPT as *amici curiae*: Juan Hernández Zubizarreta (Spain), lawyer and professor of employment law at the University of the Basque Country; Alejandro Teitelbaum (Argentina), lawyer and expert in international law, former President of the American Association of Jurists; Irene Caratelli (Italy), expert in the European Union's trade policies.

2.2. As established in the Statute of the Permanent Peoples' Tribunal, the Presidency of the European Commission and the European Parliament, the Council of the European Union, the High Representative for Foreign Affairs and the Representation of the European Union in Spain were made aware of the session's conceptual framework and were notified that it was being held. The Tribunal also notified the legal representatives of the transnational corporations headquartered in European Union Member States that the session was being held. During the session, documentation pertaining to the case against the Holcim mining company was submitted to the firm's legal representative who attended one of the sessions.

3. The jury

The jury was composed of the following members:

Perfecto Andrés Ibañez (Spain), Supreme Court Judge, who acted as the president of the Jury.

Marcos Arruda (Brazil), economist and educator, current Coordinator of the Instituto Políticas Alternativas para o Cone Sul (Alternative Policies for the Southern Cone) (PACS).

Judith Brown Chomsky (United States), senior lawyer specializing in corporate crime and human rights, Center for Constitutional Rights, New York.

Blanca Chancosa (Ecuador), human rights defender, former leader of the Confederación de Nacionalidades Indígenas de Ecuador (Confederation of Indigenous Nations of Ecuador) (Conaie).

Nora Cortiñas (Argentina), human rights activist, co-founder of the Asociación de Madres de Plaza de Mayo, Línea Fundadoras.

Sara Larrain (Chile), ecologist and Chilean politician, director of Programa Chile Sustentable (Sustainable Chile Programme) and current coordinator of the Programa Cono Sur (Cono Sur Programme).

Gustave Massiah (France), economist, urbanist and political analyst.

Francesco Martone (Italy), former Italian senator, activist and environmentalist.

Antoni Pigrau Solé (Spain), Professor of Public International Law at the Roviri i Virgili University in Tarragona.

Roberto Schiattarella (Italy), economist and researcher, Professor of Political Economy at the Camerino University.

Carlos Taibo Arias (Spain), writer and Professor of Political Science and Administration at the Autonomous University of Madrid.

Alirio Uribe Muñoz (Colombia), Executive Director of the Colectivo de Abogados José Alvear Restrepo (José Alvear Restrepo Lawyers' Collective).

Gianni Tognoni (Italy), physician and researcher in public health and Secretary General of the PPT.



II. THE CASES AS EVIDENCE OF A MODEL

At its Madrid session, the Permanent Peoples' Tribunal (PPT) looked at the cases already presented at the sessions held in Vienna (2006) and Lima (2008), as well as cases presenting new denunciations, with the specific goal of identifying the consequences and shared legal responsibilities arising from EU policies that support transnational corporations (TNCs).

The cases examined at this session constitute a highly representative sample of the conduct of European TNCs and of their rights-violating practices. This Tribunal affirms the persistence of the systematic violations of fundamental rights by European TNCs in Latin American countries, which motivated the condemnations and recommendations made at the Lima session. Spanish corporations, which represent more than 50% of European private investment in Latin America, have been found to be particularly responsible.

All these cases demonstrate that a regime of widespread permissiveness, unlawfulness and impunity exists and is manifested, in the behaviour of European TNCs in Latin America. This regime is fostered by the institutional policies of the multilateral development banks (Inter-American Development Bank, World Bank, European Investment Bank), the international financial institutions, such as the International Monetary Fund, and regional institutions such as the EU and its various institutions. In particular, the PPT has confirmed the tolerant and even complicit attitude of the EU, which directly serves to promote the interests of its TNCs as the main actors in its economic expansion in terms of international competitiveness.

Among the instruments designed to achieve the globalisation of the interests of the EU and European corporations, the Association Agreements, investment promotion agreements and free trade agreements should be highlighted. A number of EU internal policies, such as the directives on agrofuels, biotechnology and intellectual property, translate into processes that threaten and undermine rights in Latin America and that generate enormous economic benefits for European corporations in areas such as biological fuels, genetically modified organisms, basic water and energy services, financial services and pharmaceuticals.

Evidence was also provided on the significant role of European development agencies and pension funds in backing the corporate interest agendas of TNCs in Latin America, as well as that of the European Investment Bank loans, more than 90% of which are aimed at supporting TNCs.

In general terms, it has been shown that the European Union, through the Lisbon Treaty and all its rules, provisions and directives, has created an international legal system that serves to provide a framework of legality in which TNCs (including publicly owned ones) can pursue their individual goals in various areas of strategic interest, such as natural resources, energy, trade, public services and investment. At the same time, the promotion of the principle of corporate social responsibility helps to provide an image of legitimacy and an ethical masking for TNCs' activities, hindering any binding initiative to enforce compliance with the human rights obligations enshrined in international legislation.

In the association agreements and free trade agreements, an absence of instruments such as the democratic clauses, aimed at promoting governance and justice, has also been found. This omission by European Union institutions must be understood as the result of the political will to make those instruments serve solely and exclusively the economic priorities of the corporations.

In the light of the cases examined by the PPT, a close functional relationship can be identified between the public policies of the EU and the interests of TNCs in strategic sectors. It is evident that the European institutions are permeable to the action of business lobbies, and that there is a relationship of interdependence and influence peddling

between the public and private sectors, which is manifested in appointments to office and in the obvious existence of 'revolving doors'. This alliance is reflected in a dismantling of the institutional architecture of Latin American States and in the progressive weakening of mechanisms designed to safeguard the exercise of their political, economic, social and environmental sovereignty, seriously violating the rights of peoples in areas such as those summarised below (see Annex II):

1. DAMAGE TO LIFE

(A) *Physical integrity.* Denunciations, based on serious and well-grounded evidence, have been made concerning the use of military, police and paramilitary forces and private security companies in cases such as those of Impregilo at Sogamoso River (Colombia), Carbones de Cerrejón in La Guajira, Colombia (controlled by the BHP Billiton plc, Anglo American plc and Xstrata plc consortium), Monterrico in Peru, BP in Colombia and Syngenta and TKCSA (ThyssenKrupp-Vale) in Brazil. In other cases, kidnappings (Holcim and Monterrico), assassinations of social and community leaders (Unión Fenosa and Holcim in Guatemala and Colombia), and the forced disappearance of persons have been denounced. There have also been complaints about the criminalisation of communities that oppose the exploitation of natural resources (mining, cement and energy resources) in the cases of Holcim and Gold Corp. (Guatemala), and even complicity in imposing states of emergency and suspending rights, such as the 'states of siege' and arbitrary detentions in the cases of Unión Fenosa, Pluspetrol (Peru) and BP (Colombia). In the specific case of Nestlé, strategies of intimidation and control of social organisations were denounced, which had gone so far as infiltrating those organisations.

(B) *Public health.* The PPT has examined cases relating to European policies on intellectual property rights and customs regulation, which are claimed to hinder access of the peoples of Latin America to generic medicines (as in the cases of Aventis, Novartis, Pfizer, Warner Lambert and DuPont). In these cases, it is notable that the TNCs, through their lobby organisations, play a fundamental role in formulating and implementing EU policies. It has also been noted how the privatisation of water (Proactiva Medioambiente case, Ecuador) has caused a reduction in the water supply and a deterioration in water quality, resulting in adverse impacts on public health. The case of Bayer in Taucamarca, Peru, demonstrates the toxic contamination of aquifers used for drinking water supply and food production - a situation that has not changed since it was presented at the Lima session in 2008.

The PPT has also received complaints concerning the impact of hydroelectric plants on the Madeira River in Brazil, which adversely affect public health (water contamination by heavy metals, destruction of the water supply system and forced displacement of the population), in the case against Santander Bank, the multinational company Banif and the French company GDF-Suez).

The covert privatisation of public services has also been confirmed, namely in the water and energy sectors (Aguas de Barcelona in Mexico, Canal de Isabel II in Barranquilla and Santa Marta, Colombia), with increases in tariffs, reconnection penalties and electricity cuts (Unión Fenosa in Nicaragua, Colombia, Mexico and Guatemala).

2. INDIGENOUS PEOPLES

The PPT examined denunciations of cultural aggression against and the invasion of the territories of indigenous peoples, in addition to the destruction of their environment and traditional means of living. In the specific case of Perenco and Repsol in Peru, the activities of these TNCs threaten the survival of indigenous peoples in voluntary isolation. These activities have been facilitated by the complicity of the Peruvian Government, which has failed to implement the legislation in force. Similar violations have been verified in the cases of Endesa/Enel in Chile, Repsol in Argentina, Pluspetrol in Peru, and Agrencia and Louis Dreyfus in Brazil, in the energy and oil exploration sectors and the expansion of monocultures for agrofuels. Furthermore, cases of violations of the right of indigenous peoples to be consulted and to express, where appropriate, their free, prior and informed consent were also examined (as in the case against Goldcorp in Guatemala).

3. LABOUR RIGHTS (trade union freedom and right to work)

Other notable complaints are those relating to Telefónica de Chile for anti-union practices, mass layoffs and threatening job security; to Pescanova for infringing labour rights in Nicaragua; to Hanes Brands for violating the rights of female workers; and to Continental in Mexico for mass layoffs and for threatening to bring criminal charges against workers and their families.


4. DESTRUCTION OF THE ENVIRONMENT AND VITAL RESOURCES

The PPT has examined cases on the destruction of the environment and vital resources through the overexploitation of ground water resources (Aguas de Barcelona in Mexico), the construction of hydroelectric plants on rivers in Brazil (GDF Suez, Banif-Santander) and Chile (Endesa/Enel), and the planned construction of a dam on the Sogamoso River (Impregilo in Colombia). Environmental destruction was also found in the cases of Canal de Isabel II in Colombia, Pescanova in Nicaragua, Holcim in Colombia, Mexico and Guatemala, Pluspetrol and Perenco in Peru, Repsol in Argentina, and Louis Dreyfus and Syngenta in Brazil, whose activities led to deforestation and contamination by fumigation with toxic agrochemicals. Reference should also be made to the production of agrofuels (Agrenco), genetically modified organisms (Syngenta) and cellulose (Stora Enso). Infringements of the right to food sovereignty were also identified, *inter alia*, in activities by Pescanova in Nicaragua (harming small-scale fishermen), Agrenco (appropriation of land), Dreyfus and Syngenta (land expropriation and contamination in Brazil), and GDF Suez (reduction in the fish population and flooding of land caused by a number of hydroelectric plants built in Brazil).

5. ENERGY POLICIES, ECOLOGICAL DEBT AND CLIMATE JUSTICE

The Tribunal has considered in many cases - in particular those relating to the exploration of hydrocarbons, hydroelectricity, wind power and agrofuels, coal (Louis Dreyfus), oil (Perenco, Repsol), hydroelectric plants (Endesa/Enel and Sogamoso Colombia), agrofuels (Brazil) - the appearance of a new category of rights violations relating to nature and to harm to future generations, based on the concepts of ecological debt and climate justice. At the same time, the existence of a legislative vacuum has been observed in the failure of codification of these types of conduct, which prevents infringement proceedings from being brought and liabilities from being established. In some cases, like the Clean Development Mechanism (CDM), they have been found to be false solutions, which result in further violations of peoples' rights.





III. THE VICTIM, THE MAIN ACTOR IN THE FIGHT AGAINST TRANSNATIONAL CORPORATIONS' ABUSES AND FOR THE TRANSFORMATION OF THE LEGAL FRAMEWORK WHICH MAKES THE VIOLATIONS POSSIBLE

In conventional mechanisms of justice, there is a long-established tendency to treat the victim as 'the injured party', where 'injury' is, above all, damage susceptible to pecuniary reparation. This way of seeing things is clearly reductive, since it fails to take into account the moral dimension of the problem created by the wrongful action, here, the crime upon the victim. It is also true, however, that these mechanisms of justice, usually operate in the conceptual and legal framework of models of domestic law in which the norm, in general, is the prosecution of criminal actions by an official agency. It should therefore be understood that the practical nature of this option and the resulting 'justiciability' of the wrongful actions should give a minimum satisfaction to the first requirement of the person as subject. This means the recognition of this characteristic of the person and that any aggression harms the dignity of the victim. It is on this level that the corrective response is most needed.

However, it is well-known that there is widespread awareness that heavily bureaucratic, conventional criminal justice systems still do not treat victims appropriately. This has also given rise to a broad current of opinion calling for reform.

In these circumstances, no great leap of imagination is needed to put oneself in the place of the victims of the very serious actions carried out by transnational corporations, which are extremely harmful to fundamental rights and have been brought before this session of the Permanent Peoples' Tribunal. That is to say, to put oneself in the place, for example, of the families of the twenty four children who died in Taucamarca as a result of the actions of Bayer, of the female Honduran employees of Hanes Brands, or of the Ecuadorian customers of Interagua (subsidiary of Proactiva Medioambiente) who have suffered.

In those cases, as in the other cases brought before the PPT, according to the logic of the transnationals' *modus operandi*, the people affected are condemned to remaining invisible, to non-existence even as victims. This is precisely because earlier, when their living environment was radically changed, they were denied the status of persons with dignity and rights. Indeed, because of the tight web of acts, omissions and complicity integrating the economic strategies in question and because of the virtual legal vacuum which is their main breeding ground, those affected have actually had absolutely no possibility of being heard. The degrading policies the people endure, illicitly funded for that purpose by the transnationals, have resulted in the systematic failure to of the constitutional responsibility of protecting rights and preventing potential attacks on them.

Thus, unlike the victims of crimes in conventional legal proceedings, the victims of the large-scale atrocities referred to in the cases brought in these proceedings before the PPT are, in general, even deprived of the right to be formally treated as victims, to deserve, at least, the symbolic recognition conferred by being a party in proceedings before the courts of their own country.

But there is one particular element that should be noted: these are collective victims, of actions executed by transnational corporations on a truly immense scale that impact heavily not only on a few individual lives, but on the very foundation of the ways of life of rural communities – on the land they till, the air they breath, the water which has for centuries supplied their basic needs. They impose on them suffering which, in addition to the disruptive consequences in material and practical terms, brings other, very serious impacts on culture, as a result of the effects on the intense spiritual relationship between these populations and the environment that nourishes them. And, they are right: their lot today is that of victimisation of the already victimised - that is to say, of communities already historically established in the painful position of victim-peoples: victims of predatory actions that enjoy major impunity, as the victim-complainants of the TNC's business activities and policies have very rightly presented to this Tribunal on various occasions.

The dignity and freedom of an individual, and his or her capacity for self-determination in his or her relations with others, are a value which is inherent in a person solely because he or she exists and makes that person an end in itself, excluding, as illegitimate, any use of that person for other ends. Dignity is the sentiment on which the relationship between autonomous subjects in modern society is founded, because it generates and requires reciprocity of treatment and mutual recognition between holders of equal dignity.

Dignity is the prime value, the main good under attack by the forms of behaviour being judged here. Because the transnational corporations, through their practices under examination, have brutally mistreated the human beings concerned, denying them their status as subjects with rights and reducing them to mere objects, on the same level as the earth moved by bulldozers and trees felled by chainsaws. This assertion is in no way metaphorical in these cases, as evidenced by the savage job cuts, the removal of traditional means of life and the displacements that, in all cases, affect thousands of families.

Hence - and this is something which has been apparent in the sessions of the PPT - the extraordinary and emblematic protagonism of dignity as a value, which invariably takes centre stage in these cases. From there emanates the calm confidence and persistence with which the victim-witnesses bring their cases before the judges of an ideal and non-institutional justice, knowing that, at this moment, its intention and the reparation at play are of a moral nature: the kind that can be granted by ethical bodies, such as this Permanent Peoples' Tribunal.

This is the reason for the impressive seriousness that distinguishes complainants presence in these symbolic proceedings, which are, therefore, much more than a parody of those who are scandalously absent in official courts. This is because the victims - who are victims of multiple victimisation - are seeking, by reasonably discussing the injustice suffered, to make that injustice visible and to be publicly vindicated, entirely and solely as a means of restoring their dignity and self-esteem which have been so violently shattered.

This attitude gives the collective victims of those tremendously unjust actions a new and relevant subjectivity, which goes far beyond that of mere 'injured parties' in the legal sense of the term. It makes them the true historical agent of a difficult yet vital transformation: the agent of the necessary processes of change, destined to influence their countries of origin and the centres of decision-making which conceive and plan the soulless economic policies from which they suffer.

Once more, this assertion is in no way metaphorical. For one, because the victims of those corporate activities and their grassroots organisational structures are the protagonists of the demand for justice. Of a demand that, precisely because it is being brought against the economic and political operating modes now at the very heart of modern capitalist exploitation, goes far beyond the personal interests of those immediately affected and thus combats global injustice for the benefit of all. This is indeed what occurs with the exemplary presentation of the well-documented denunciations, supported by facts, put before the PPT. The PPT, which is thereby rendered eminently reasonable, aims to eliminate situations of concrete injustice, but also to implicitly and directly force transnational corporations and institutions, from Europe and their countries of origin, to subordinate in their operating modes the soulless logic of the markets to the logic of rights. In the case of the European Union, this means making it subject to the requirements of this 'inviolable human dignity' which is situated in Article 1 of the Charter of Fundamental Rights, and which, as an inalienable attribute of a human being, the Union is bound by law to safeguard in all the political and economic spheres in which it acts or has influence.

Victims are entitled to reparation for all damage, whether physical, material or emotional, but first they are entitled to official recognition of the violations they suffer and to the identification of their causes. Reparation does not solely mean trying to alleviate the suffering of the individuals and communities affected; the reparation approach requires social action to transform the socio-economic conditions that have been the breeding ground for the victimisation of entire sectors of the population. The pursuit of comprehensive reparation requires the democratisation of society and its institutions and the adoption of preventive measures to ensure that deeds that cause death and destruction never happen again. In short, the right to reparation includes the effective recognition of the rights to truth and to justice and is radically incompatible with situations of impunity and neglect.



IV. THE ECONOMIC POLICIES OF THE EUROPEAN UNION

All of the testimonies presented and the cases examined reveal the importance of the support the European Union and its Member States give to European TNCs. It is vital to understand what this support means. It is therefore important to take into consideration, albeit briefly, certain relevant EU policies and measures, as well as the role played by the public financial institutions that operate in the sectors of activity that have been examined.

With regard to the former, among the most important ones are the Free Trade Agreements / Partnership Agreements signed by the European Union with Chile and Mexico. These agreements facilitated European TNCs' entry into the continent, giving priority to their commercial interests over and above the rights of the majority of the population in basic sectors. This is the case, for example, in privatisations such as that of the telecommunications sector in Chile (Telefónica), the electricity sector (SME and Tehuantepec), water (AGBAR) and Foreign Direct Investment (Continental) in Mexico.

The European Parliament has approved a quota for the use of agrofuels in land transport in the EU, which must reach 10% by 2020. This makes it obligatory to produce biofuels, using raw materials whose production causes grave impacts on the rights of the people affected, particularly their right to food. Agribusiness thereby reduces their possibilities to enjoy food sovereignty, as demonstrated by the cases of Louis Dreyfus Commodities and Agrenco in Brazil.

Spain supports the internationalisation of Spanish companies by providing them with public funds through the DAF credits. These are partly registered in the accounts as Official Development Aid, when in reality they generate external debt in the recipient countries. In the case of Proactiva-Interagua in Ecuador and Unión Fenosa in Nicaragua, Spain used this instrument to finance the construction of infrastructure projects that were later transferred in one way or another to the private Spanish operators.

Furthermore, European institutions have adopted border measures to control merchandise that could violate intellectual property rights, thereby allowing customs authorities in EU countries to seize generic drugs in transit through European ports under the pretext that they infringe European patents. By acting in this way, the European Union is violating international rules in order to benefit the private interests of European companies, to the detriment of the human rights of the populations of the countries concerned in the seizures, and for the benefit of European TNCs such as MerckSharp & Dohme, Sanofi-Aventis, Novartis and GlaxoSmithKline, and United States TNCs such as DuPont, Eli Lilly & Co., Pfizer and Warner Lambert. In addition to this, the EU is a consumer of genetically modified crops produced in Latin America, which is why it designs policies favourable to the power of the transnationals in the biotechnology sector. In this context, the WTO plays a key role in imposing international agreements on patents, as clearly demonstrated by the Syngenta case in Brazil.

Similarly, the role played by the public financial institutions that finance investment projects and commercial operations is of the greatest importance here. The institutions in question are the European Investment Bank (EIB), the International Financial Institutions (IMF, World Bank, IDB) and the export credit agencies. It is equally necessary to stress the role played by certain pension funds in this same area.

With regards to the IFIs, it must be remembered that the possibility of LAC countries to renegotiate their external debt in the 1980s and 1990s was conditioned on their adoption of the World Bank and IMF structural adjustment programmes (SAPs), which mandated the privatisation of public services (water, electricity and telecommunications): Telefónica and Endesa-Enel in Chile, Canal de Isabel II in Colombia, Banif, Santander and GDF-Suez in Brazil, and Unión FENOSA in Colombia, Guatemala and Nicaragua and, Iberdrola in Mexico. These SAPs also obliged countries

to make labour and environmental standards more “flexible,” to the evident benefit of companies such as Holcim in Colombia, Guatemala and Mexico; open up their borders to trade, as in the case of Hanes Brands in Honduras; introduce development models based on agro-exports, as in the case of Stora Enso in Brazil; and privatise public enterprises and access to natural resources, as in the case of REPSOL YPF (Argentina).

The European Investment Bank (EIB) finances projects with grave negative impacts on the environment and human rights, such as the construction of the Veracel pulp mill by Stora Enso in Brazil. Furthermore, it supports operations that generate external debt that is illegitimate as it is elite debt, resulting from financial support provided for the construction of infrastructure used by the TNCs and that does not benefit the population, as in the case of Hanes Brands in Honduras.

The Swedish pension funds Första AP-fonden, Tredje AP-fonden, Fjärde AP-fonden and Sjunde AP-fonden, together with Norway’s SPU and Ireland’s National Pensions Reserve Fund (NPRF) are shareholders in Goldcorp (Canada). The ownership of shares by these funds makes them directly responsible for the infringements of human rights committed by the Goldcorp company.

The foreign direct investment made by the European TNCs is guaranteed through the World Bank’s export credit agency, the Multilateral Investment Guarantee Agency (MIGA), as in the case of Unión Fenosa in Guatemala and Nicaragua.

What has just been briefly summarised proves that the European Union and its Member States have accepted the idea that the market is key, and accordingly to this idea, they operate as though the safeguarding and protecting of rights were consequences which result from unrestrained economic growth. As such, economic policies based solely on the logic of the market subordinate the fulfilment of rights to an economic rationale, exclusively for the benefit of those private interests incarnated by TNCs.

The European Union and the Member States regard TNCs as the driving forces of economic action and the vanguard of economic and social progress. Their support for TNCs corresponds to their concept of development and their singular way of defining the interest of the EU, as evidenced in the European Commission’s *Global Europe: Competing in the World* (2006) document.

This explains how the EU and the Member States support and promote European TNCs: by subordinating their institutions to TNCs’ interests, setting up services to defend those interests, and permitting all kinds of irregularities and abuses.

This notion of development gives clear priority to economic growth and to the irrational rationale of the world of finances. Economic growth requires the expansion of the global market and the imposition of the logic of the international capital market as the general logic of the economy. Priority is then given to the expansion in international transactions, over domestic ones, and to the growth of financial investments, over investments in production or for generating demand. In economic policies, the fight against inflation, intended to safeguard the profits that supposedly allow for further investment, has substituted the priority that should be given to full employment and to the equitable distribution of the benefits of economic growth.

TNCs are the current leading players in the global market - the bodies that enable it to expand. The EU and the Member States identify the competitiveness of European TNCs and of the economy of the Union as being one and the same, which does not prevent competition between the TNCs of the various Member States. The policies of the Member States, through free trade agreements (FTAs), ensure TNCs full freedom of movement, which enables them to invest as they see fit and to withdraw profits at will. The reduction of social expenditures and privatisations intensify commodification, increase and concentrate income and strengthen regulations that are linked to the demands of the global capital market. Competition between TNCs increases a form of productivity that exclusively benefits the oligopolies and fosters financialization of the economy. It accentuates overproduction and consumerism, which are contradictory to the sustainability of the global ecosystem.

This economic policy is highly effective and meets its main objective: the expansion of the global market and growth of the European economies. Yet its consequences are dramatic. Growth and productivity are accompanied by marked social inequalities and an increase in poverty and discrimination. The European post-war social pact has been put into question by this redistribution of income and wealth for the benefit of the few. Access to rights linked to the domestic market has been denied due to the increase in unemployment. Wages, which had become a motor for driving demand, have been converted into costs that must be reduced. The denial of rights, taken up by an ideology that makes

security the main concern, has reduced the space for freedoms and has been accompanied by the criminalisation of social movements. Concentration and the lack of transparency in the capital markets facilitate the contamination of capitalism by organised crime mafias.

International competition fosters conflict and instability, which prove that the system is not effective in its own terms. Furthermore, it increases the contradictions – that are particularly visible in Latin America – in the social, ecological, democratic and geo-strategic model, which were made more evident by the crisis that began in 2008. The global structural crisis, which officially commenced that year, has revealed the need to rethink the foundations of the global economy. That crisis immediately requires, as a first step, the deployment of new forms of public regulation at the international level, at the State level and at the level of the major regions.

That crisis opens up the possibility of defining new paths for the economy and a new model for society based on respect for fundamental rights, solidarity, the protection of the general interest, self-management and access to rights for all as the foundation for economic policies and establishing objectives and indicators of measurement that guarantee the observance of those rights.

In the overall context of the need to redefine the rules, the establishment of a new legal framework that imposes binding norms on TNCs' actions has become, in the short-run, an urgent task. The work of the movements that have put their testimony before this Tribunal highlights the broad guidelines for respecting and guaranteeing the rights they defend. We are not referring here to the concept, described as voluntary, of a self-regulated market based on a code of good practices, which defines corporations' social and environmental responsibility, but rather to a mandatory legal framework in the context of international law. This must be one of the first steps on the path to creating a different world order.

The European Union and the Member States must redefine their policies, in particular their relationship with Latin America. In the international sphere, the EU and the Member States must adopt measures that, despite not being fully adjusted to a concept of the economy based on respect for rights, do constitute a step in this direction. Those measures include:

- Establishing a legal framework of reference that defines in strict terms the social and environmental responsibility of TNCs. That framework must be imposed both by States and by international institutions.
- Redefining the role of the banking and financial sectors as a public service, at both the international and State level.
- Eliminating tax and legal havens, combating impunity and removing the control over the global economy exercised by organised transnational crime.
- Establishing an international taxation system that fights speculation and favours the redistribution of resources and access to rights.
- Incorporating ecological and environmental justice imperatives in economic policies, including the principle of isonomy in relation to the behaviour of TNCs in their countries of origin and in host countries.
- Recognizing, through a comprehensive audit, the historical social and ecological debt, resolving the new crisis linked to public debt and cancelling the illegitimate debt of the countries of the South.
- Making international community actors responsible for ensuring that international institutions – including the World Bank, the European Investment Bank, the International Monetary Fund, the Inter-American Development Bank and the World Trade Organisation – comply with their duty to uphold the Universal Declaration of Human Rights and its extensions, in particular the International Covenant on Economic, Social and Cultural Rights, and all international conventions, extending this rule to cover European institutions.



V. LEGAL ASSESSMENT OF THE FACTS

1. General observations on TNCs

In recent decades, the colossal growth in corporations' economic power has made them larger than many national economies, making it very easy for them to avoid legal and political control by States. This situation has been reinforced by the European Union's policies of support in the framework of market liberalization.

TNCs' political, economic and legal power allows them to act with a remarkable degree of impunity, given the weakness of the legal framework and the widespread prevalence of a *lex mercatoria*, comprised of the ensemble of contracts, multilateral, regional and bilateral trade and investment agreements and the decisions of arbitration tribunals and the World Trade Organisation's Dispute Settlement System.

TNCs' rights are indeed protected by a global legal order based on mandatory, coercive and enforceable trade and investment rules, whereas their obligations are overseen by national legal systems submitted to neoliberal logic, by a manifestly fragile international human rights law and by corporate social responsibility which is voluntary, unilateral and not legally binding.

The partnership agreements, free trade agreements and bilateral investment treaties between the European Union and Latin America are governed by principles favouring the European corporations. In fact, under free trade agreements, all commercial and financial activity of TNCs is based on clauses on: national and most favoured nation treatment (any advantage given to national companies must also be given to foreign companies and there can be no State aid to its national companies); fair and equal treatment (there can be no discrimination against a foreign corporation); most favourable treatment (the national or international provision most favourable to the international economic transaction prevails); the absence of performance requirements (the foreign investor cannot be obliged to act in favour of nationals); and indemnities and compensation for losses that favour the TNCs. All these principles have contributed directly to strengthen global trade law and have displaced international human rights law and international labour law in the hierarchy of norms.

With the endorsement of the EU, the TNCs have freed themselves from State legal systems and the system of international supervision, through the WTO Dispute Settlement System and arbitral tribunals, like the World Bank's ICSID, responsible for resolving disputes between TNCs and host States from a supposedly neutral position. The decisions are usually accompanied by measures which erode State sovereignty through legislative amendments, commercial penalties and fines, and failure to comply with them can give rise to much harsher economic consequences than compliance with the arbitration decision itself. These are decisions with legally effective penalties.

The EU, which has not developed effective ways of holding TNCs liable, promotes instead corporate social responsibility (CSR) and voluntary codes of conduct. While these codes are understood as being complementary to legal provisions, their apparent 'benevolence' and their normative 'neutrality' are cancelled out by their ultimate purpose. These codes aim to replace the foundations of national legal systems – that is to say, those mandatory, coercive rules subject to judicial supervision – with voluntary, unilateral rules. At the most, they propose specialised hearings that are not subject to the rules governing the functioning of the judicial system. CSR and codes of conduct are grounded only on the values of business 'ethics'.

The EU should reaffirm the existence of a hierarchy of norms, based on the principle that the rights of human beings are at the highest point of the normative pyramid and private rights and interests are subordinate to them. The sovereignty of peoples and the right to self-determination must prevail in the normative framework of international relations.

Although human rights have a key role to play in guaranteeing dignity and are superior to the property rights of the powerful and to economic freedom, the state of affairs brought about by the action of the TNCs gives priority to private interests at the expense of human rights.

National and international public institutions, such as the EU, must enforce effective compliance with existing rules, making them internationally binding to ensure that TNCs apply the same standards of respect for human rights, regardless of the country in which they operate.

It is essential to limit the TNCs' areas of operation and to prohibit their activity in indigenous territories - if it takes place without the full, free and informed consent of the communities - and in zones producing water, protected forests, areas declared as national heritage and world heritage sites designated by UNESCO.

Safeguarding human, economic, social, cultural and environmental rights is a fundamental obligation of the State and of multilateral institutions such as the EU, which must design adequate public policies, taxation formulae and legislative, judicial, administrative and other measures to guarantee respect for, the ability to exercise and protection of all human rights. This requires exerting effective control over TNCs' operations.

The PPT considers that, under international human rights law, responsibility for promoting, observing, guaranteeing and ensuring compliance with human rights lies principally with States and with multilateral bodies such as the EU, and recognises that, on the basis of the cases presented before this Tribunal, there are private actors, such as the TNCs, which have shown themselves to be systematic human rights violators.

The public bodies which support direct investment, such as the European Investment Bank, must provide control mechanisms using social and environmental impact assessments, consultation processes with the communities concerned, public consultations, transparency procedures and, in short, formulae which incorporate human rights philosophy into private investments. The European Union's existing sustainability impact assessments do not take human rights into consideration.

The economic model must be subject to the principles of international law, in that the right of ownership must be limited and made subordinate to the general interest so that it performs its social and ecological function. International standards of human rights and the rights of indigenous peoples must be approved and applied in a binding and effective way, whilst rules on investment and trade must be made subject to international human rights law.

In order to implement the principles of the European Charter, the EU must ensure that the State reduces its authority in all matters involving social control, military control and preparation for war. However on the basis of participatory democracy, the State ought to expand its role in the field of public policy relating to education, health, culture, respect for identity and food sovereignty, and the offsetting of the historical and ecological debt, so as to ensure that civil, political, economic, social, cultural and environmental rights have full force.

TNCs must also respect the legal arrangements of the States in which they operate and all international treaties ratified by those countries. These include the Slavery Convention (1926), the Convention on the Prevention and Punishment of the Crime of Genocide (1946), the Universal Declaration of Human Rights (1948), the American Declaration of the Rights and Duties of Man (1948), the ILO Conventions on freedom of association (1948), Convention 98 on the Right to Organise and Collective Bargaining (1949), the Geneva Conventions on International Humanitarian Law (1949), the International Convention on the Elimination of all Forms of Racial Discrimination (1965), the International Covenant on Economic, Social and Cultural Rights (1966), the International Covenant on Civil and Political Rights (1966), Convention 135 on Workers' Representatives (1971), the Universal Declaration on the Eradication of Hunger and Malnutrition (1974), the Declaration on the use of scientific and technological progress in the interests of peace and for the benefit of mankind (1975), the Universal Declaration of the Rights of Peoples (1976), Convention 151 on public service employment relations (1978), the Convention against Torture (1984), Convention 87 on freedom of association and the protection of right to organise (1984), the Declaration on the Right to Development (1986), the Additional Protocol to the American Convention on Human Rights in the area of economic, social and cultural rights (1988), Convention 169 concerning indigenous and tribal peoples in independent countries (1989), the Convention on the Rights of the Child (1989), the Inter-American Convention on the Forced Disappearance of Persons (1994), the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (1994), the Inter-American Convention against Corruption (1996), the European Criminal Law Convention on Corruption (2002), the Declaration on the Rights of Indigenous Peoples (2007) and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (2009).

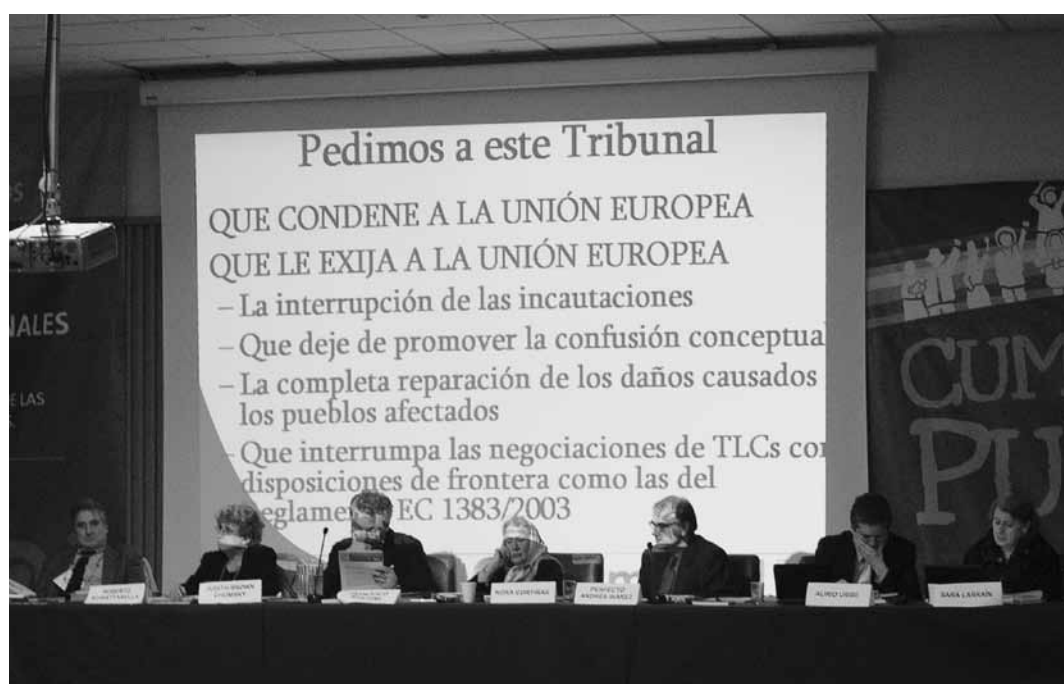
The EU must act to ensure that all individuals and peoples are entitled to having their rights guaranteed. The State is obliged under international law to guarantee the right to justice, that is to say, to ensure sufficient resources for an efficient judicial system and the independence of judges from other powers, in particular economic powers. The State must prevent, investigate and punish offences by means of an independent system of justice capable of judging and enforcing national and international laws. The State cannot avoid performing its duty to try crimes by means such as amnesties or other mechanisms of impunity. Victims and society are entitled to know the truth and to reparation in full. The Tribunal notes that in many of the cases examined, the justice system did not act independently, impartially, swiftly and effectively to guarantee the rights of the victims affected by the unlawful conduct of transnational corporations.

In response to the practices of the TNCs, the whole of society must adopt an ethical and legal position of rejecting hunger and the lack of housing, of defending education, health and employment, of promoting food security and, in general, of eradicating the subhuman conditions of poverty and absolute deprivation which prevent the development of individuals and peoples in dignity. In legislative terms, it must adopt an attitude similar to that taken against acts such as torture or extrajudicial executions, forced disappearances or arbitrary detention.

Civil society must, for example, refuse to allow pharmaceutical companies to protect their enormous profits at any price, relying on patents. Intellectual property law cannot prevail over the human rights of a major part of the population of Africa and Latin America, which is being decimated by disease, all the more so if one takes into account that the price set by the big transnational laboratories which own the patents is several times higher than the price of the same drugs produced in Brazil, India, South Africa and Thailand.

The same can be said about the criminalisation of protest. On occasion, communities opposing TNCs' operations have been repressed by security forces or paramilitary militias. In many cases, the corporations directly infringe the fundamental freedom of movement of local populations and use paramilitary forces and militias to provide 'security' for their operations, posing a risk to the physical integrity of communities and workers, often through torture and murder. This must be repudiated outright and unreservedly by national and international public opinion.

Civil society must organise in the struggle to defend human, social, and environmental rights. This is a struggle for a new model of development that, both in Latin America and in Europe, is based on social justice, respect and harmonious co-existence with nature, so that life, and not profit, is the central tenet of all economic activity.



2. Attribution of liability

The PPT demands that the European Union and its Member States respect the right to self-determination of peoples in order to generate development models compatible with the protection of life and of fundamental rights.

With regards to TNCs' conduct in relation to human rights, the PPT has identified various levels of liability. On the one hand there are the European States, the American States and the EU itself, which have a duty to protect human rights, preventing and punishing violations of those rights, in particular violations by private agents such as the powerful TNCs. Failure to fulfil this duty gives rise to a liability for failure to act and an active liability for encouraging the presence of these TNCs by granting operating licences or increasing the flexibility of labour, environmental and tax standards and norms that favour the interests of the corporations.

The greatest responsibility lies with the State of origin of the TNC or of its parent company (whether it be the State where its headquarters is located or that in which the majority of its capital is held), the State or States where it carries on its activities, and also with multilateral bodies such as the European Union.

Although the international system integrated by the UN and the EU defends human rights and measures its legitimacy by the achievement of peace and the effectiveness of those rights, there are bodies in the system itself whose practices openly contradict this. This is the case with the World Bank, the European Investment Bank, the International Center for Settlement of International Disputes (ICSID) and the International Monetary Fund (IMF), which are governed by rules that prevent human rights from having full force, as well as other bodies, like the World Trade Organisation (WTO), that are governed exclusively by market rules and do not take human rights into account.

At the same time, there is very flagrant liability of the European TNCs themselves, which, through their behaviour, as manifested in the cases examined by this Tribunal, cause significant violations of those very rights. Those agents must be held responsible for their acts, and assume all the consequences thereof, before the national courts of each country.

It is very important that States, the international community and the institutions of the European Union hold the transnational corporations, together with their *de facto* or *de jure* subsidiaries and their suppliers, contractors and subcontractors, liable, lifting the corporate veil and treating all those parties as a single economic unit. To do otherwise would prevent prosecution of the wrongful practices, and thereby generate impunity.

The Member States of the EU must recognise the right of those who are affected by or are victims of "development" to dispose of efficient access to legal courts in order to bring proceedings to determine liability and seek reparation for any violations of rights caused by TNCs. They must also be able to do so before the courts of the State where the corporation has its parent company, applying the criteria of extraterritoriality.

European Union Member States and the American States must foresee penalties for transnational corporations. Those penalties may be administrative, civil or even criminal. Penalties for legal persons must be established, such as fines, confiscation of the instrument of the crime or its products, or dissolution of the corporation and the final decision must always be made public. The sentence must include an obligation to make full reparation for the damage caused. Under no circumstances may the existence of a legal person serve as an alibi to be used by natural persons who are perpetrators, co-perpetrators or accessories to evade their liabilities.

TNCs are not persons governed by international law, such as States and a number of other public law entities, but they can be holders of international rights and duties, in the same way as natural persons, as evidenced by the fact that natural persons can be subject to proceedings before the International Criminal Court (ICC) and can file complaints before various international organisations.

As for international instruments that establish the criminal liability of legal persons, it is possible to cite the European Criminal Law Convention on Corruption of 1999 and the Optional Protocol to the Convention on the Rights of the Child relating to child trafficking, child prostitution and the use of children in pornography.

In relation to the States of the European Union and the States in which TNCs operate, there is complicity by either action or by omission. The implication of governments in the human rights violations committed by the TNCs may even extend to providing necessary cooperation, when they pass legislation or sign agreements (free trade agreements, investment promotion agreements) that directly facilitate the unlawful activities of those companies.

VI. VERDICT

The Permanent Peoples' Tribunal, following a long process of investigation and public hearings that began in Vienna in mid-2006, continued through various thematic hearings held in Colombia between 2006 and 2008, in Lima in 2008, and culminating in Madrid in May 2010;

After having heard, in a public hearing, the social and workers' organisations, non-governmental organisations, representatives of indigenous peoples and victims;

After having analysed the accusations, testimonies and petitions;

After having observed the enormous paradox of witnessing that the appropriation and economic exploitation of natural resources by European transnational corporations in Latin America has not only failed to bring any improvement in the quality of life of the communities in whose environment the said activities are carried out, but has also often caused them direct harm in the form of denial of access to basic resources and limitations on their human rights, including the right to life;

Under the Universal Declaration of the Rights of Peoples, the relevant international conventions and declarations and the general principles and provisions of public international law; and using the powers established by its Statute and by the disposition and authorisation of the peoples, organisations, communities and peoples participating in this session;

HEREBY RESOLVES:

1. To morally and ethically sanction and denounce in the international arena the political, economic, financial, productive and judicial conduct and practices of the neoliberal model, promoted and developed by the most industrialised States and international institutions such as the International Monetary Fund, the World Bank and the World Trade Organisation which, under the aegis of promoting growth and economic development to combat poverty and achieve sustainable development, are the cause of the increase in inequalities between a powerful minority and an extraordinary majority who suffer the adverse consequences of globalisation; they encourage and permit the legal invisibility of multinational corporations, making it extremely difficult to hold them liable under national and international law;

2. To morally and ethically sanction and denounce in the international arena the attitude of the European transnational corporations examined in these proceedings and referred to in this judgment for the serious, clear and persistent violations of human rights and the international principles, laws, conventions and covenants that protect the civil, political, economic, social, cultural and environmental rights of persons;

3. To morally and ethically sanction and denounce in the international arena the involvement of the European Union, through the acts and omissions described in detail in other parts of this document, in promoting and maintaining this state of affairs. This involvement is equivalent to its complicity in causing serious adverse effects on the quality of life of many communities in various parts of the world, in denying the basic resources necessary for a life with dignity and even, in some of the cases examined, in the commission of very serious human rights violations that must be regarded

as crimes against humanity. Given its position as a global economic power and as the location of the registered offices of all the corporations examined, it must also be held liable for failing to adopt the measures available to it that could radically change this situation.

4. To morally and ethically sanction and denounce in the international arena the attitude of the European Union Member States in which the aforementioned corporations have their registered offices, on account of their policies of unconditional support for those corporations through the various measures examined. Those policies increase the relative power of the TNCs in relation to the host States and reinforce their impunity, also rendering those States complicit in the human rights violations committed by those corporations.

5. To remind the European Union and its Member States that the discourse on building Europe has traditionally been linked to the respect for human rights, which is clearly reiterated in the Charter of Fundamental Rights of the European Union and, indeed, in Article 10A of the Treaty on European Union, as amended by the Lisbon Treaty, which stipulates that the Union's action on the international scene will be guided by the principles of "democracy, the Rule of Law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law". This is why it is necessary to stress that this commitment must inform all EU policies and that the EU has a responsibility to correct the policies denounced herein to stop the 'Europe of economic interests' from destroying the 'Europe of human rights'.

6. To morally and ethically sanction and denounce in the international arena the attitude of the States that host the activity of the transnational corporations for establishing legal and institutional frameworks so favourable to those corporations that they permit the violation of the human, civil, social or labour rights of their own population and the degradation of their own environment; in other words, everything that those States have an obligation to protect. Those legal and institutional frameworks also make it impossible for the victims to prevent or stop the said violations and to obtain reparation for their consequences.

7. To acknowledge that communities, indigenous peoples and all victims of the development model imposed by the TNCs have a right to resist, organise and mobilise in defence of their territory, their self-determination, their culture and their way of life, and their civil, political, economic, social, cultural and environmental rights.

HEREBY DECIDES:

On the international level,

in which the Member States of the European Union have high level capacity for economic and political influence and, therefore, a special responsibility in making these proposals possible:

1. To call on the United Nations Human Rights Council to draw up a compulsory code of conduct for transnational corporations, which takes into account the provisions of the ILO, the OECD and the UN, and the United Nations draft compulsory codes from the 1970s, incorporating the liability of the parent company for the conduct of its subsidiaries, suppliers and subcontractors, enshrining the subordination of TNCs to the sovereignty of the host States and the concept of the interdependence, indivisibility and permeability of the international human rights provisions which the corporations must observe, and the submission of TNCs to the national courts of States. Likewise, to request the provision of an appropriate international mechanism to monitor compliance, which could take the form of an International Economic Court that deals with human rights violations in any shape or form and awards reparations for these by determining liability; and, when relevant, criminal liability. A body, in short, before which individual or collective victims could bring their claims and demands for justice.

2. To call on the Assembly of the States Parties to the Rome Statute of the International Criminal Court to amend the Statute in order to extend its jurisdiction to legal persons and include the most serious crimes against the environment, in addition to those already provided for crimes against human rights.

3. To reiterate the request to the United Nations Human Rights Council to designate a Special Rapporteur who will submit as soon as possible to the General Assembly a report containing a proposal to actuate the concept of illegitimate social, ecological and historical debt.

4. To call on the Human Rights Council's Special Rapporteurs bearing responsibilities in the matters denounced at these hearings to intensify their activity in denouncing violations and protecting the victims.

5. In particular, to call on the Special Representative of the Secretary-General for transnational corporations and human rights to include in his proposals not only national measures, but also specific international law measures, such as those proposed here.

6. To call on the international economic institutions (IMF, World Bank, WTO and regional financial institutions) to commit to enforce on a compulsory rather than a discretionary basis, under citizen control, a policy that primarily respects the international juridical framework on human rights.

7. To call on the States-Parties to the United Nations Framework Agreement on Climate Change and to the Kyoto Protocol not to accept as appropriate, those projects presented in the framework of the Clean Development Mechanism (CDM), or projects of transnational corporations that have an adverse impact on the human rights and development of the communities for which they are planned, or that will not produce a clear reduction in emissions as compared to the situation prior to the implementation of the project. To also demand, that TNC projects executed outside the EU, which involve "dirty development" and an increase in real greenhouse gas emissions as compared with the prior situation, that these emissions be passed on as an addition to the actual emissions of greenhouse gases of the Member State where a transnational corporation has its registered office.

At the level of the European Union:

1. To call on the EU institutions, in accordance with Article 10A of the Treaty on European Union, as amended by the Lisbon Treaty, to subject their international economic relations and decisions on economic policy and international cooperation to the international rules for the protection of human rights and the environment, with the assistance of the European Agency for Fundamental Rights, created in 2006.

2. To call on EU institutions to safeguard the rights of victims of human rights abuses committed outside the European Union by a corporation established in the European Union or by one of its subsidiaries, and to guarantee those victims access to the national civil and criminal courts of any Member State in which that corporation has its registered office.

3. To call on EU institutions to set up a Centre for Transnational Corporations, responsible for analysing, investigating and inspecting the practices of transnational corporations in the field. That Centre could be managed with the participation of trade union entities, social and citizens' movements, businesspersons and government officials. It would have two primary functions: firstly, to evaluate the compliance with corporations' voluntary commitments in relation to human rights and the environment and, where the assessment is positive, certifying compliance by means of a European label; and, secondly, investigating denunciations submitted by groups and organisations affected by the practices of the transnationals and examining them in the light of the social responsibility reports presented by corporations, with the possibility, where appropriate, to withdraw a European label granted previously, without prejudice to any other consequences in terms of liability.

4. To call on the EU institutions to set up, within the framework of the EU, a system of mandatory periodic reporting on compliance with basic human rights and environmental protection provisions, for corporations which establish contracts with the EU or which receive any form of aid from it in order for the development of their operations outside the Union. Such reports would be examined by an independent body, before which non-governmental organisations or concerned individuals could present accusations. A negative result of the evaluation process would be made public, prohibiting the company from attributing to itself positive behaviour in the area of activity; and so long as the evaluation remains in force, it will entail prejudicial consequences for the corporation, such as being barred from contracting with or receiving aid of any kind from the EU.

5. To call on the European institutions to guarantee that the dispute resolution systems in force within the World Bank and the WTO, are compatible with and uphold the pre-eminence of international human rights law.

6. To call on the European institutions to assess the changes needed for the effective enforcement of the democratic clause in the FTA and Partnership Agreements they promote: applying it to sectoral agreements (textiles, fisheries etc.); applying it to OECD countries; making the clause binding so that the suspension of the clause can be applied; imposing on the States Parties an obligation to report non-compliance; allowing individuals and civil society organizations to invoke the said clause; and applying it to the States Parties and to TNCs.

7. To call on the European Investment Bank to put in place, as a prerequisite for granting any kind of financial support for a project, a procedure for assessing its impact on human rights and the environment, which has been elaborated independently.

8. To call on EU institutions to amend Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability in relation to the prevention and remedying of environmental damage, so as to clarify that its obligations in preventing and remedying and the mechanisms for action foreseen under the directive are extended to the activities of corporations with registered offices in the European Union that are carried on outside of its territory.

9. To call on EU institutions to apply the precautionary principle under Article 191 of the Treaty on the functioning of the European Union and to impose a moratorium on the increase in the use of biofuels, suspending the 2003 and 2009 directives which promote biofuels, until the impacts of the said decisions on food production and deforestation, among others, have been assessed in detail.

10. To call on EU institutions to recognize that the use of generic medicinal products is fundamental to guarantee access to medicines to the poorest; to eliminate patents on basic medicinal products and to stop its practices of seizing medicines in transit and generating confusion by alleging that generic medicines are of poor quality.

11. To call on EU institutions to adopt the United Nations Declaration on the Rights of Indigenous Peoples (Resolution A/RES/61/295 of 13 September 2007) as binding and to demand compliance for any TNC projects with a registered office in the European Union carried out in any territory where indigenous peoples live.

At the level of the Member States of the European Union:

1. To call on the EU Member States to make their international economic relations and their decisions on economic policy and international cooperation subject to international rules for the protection of human rights and the environment.

2. To call on EU Member States to set up, for corporations that establish contracts with them or receive any form of official aid to carry on their operations abroad, a system of mandatory periodic reporting on their compliance with basic human rights and environmental protection norms. These reports would be examined by an independent body, before which non-governmental organisations or concerned individuals could present complaints. A negative result of the evaluation process would be made public, prohibiting the company from attributing to itself positive behaviour in the area of activity; and so long as the evaluation remains in force, it will entail prejudicial consequences for the corporation, such as being barred from contracting with or receiving aid of any kind from the EU.

3. To call on the Member States for the legislative reforms needed to guarantee access to their national, civil and criminal courts for the victims of human rights abuses or environmental crimes, which were committed outside the European Union by a corporation or one of its subsidiaries which has a registered office in a Member State.

4. To call on Member States to bring into operation the National Contact Points (NCPs) established in the OECD Guidelines for Multinational Enterprises, to publicise their existence and to establish a system for monitoring compliance with those guidelines.

At the level of the States of Latin America and the Caribbean:

1. To call on the States of the region, in the framework of their cooperation and economic, commercial and business integration relations with the EU, to guarantee the primacy of the sovereignty and dignity of the peoples over the economic interests of private sectors, preventing the privatisation of resources that are fundamental to life such as water, air, land, seeds, genetic heritage and medicines, and ensuring universal access to public services.

2. To call on the States of the region to ensure rapid and efficient access to justice, and respect for and priority enforcement of international provisions protecting human rights, including labour rights and the rights of indigenous peoples and rights to protection of the environment.

3. To call on the States of the region to promote the legal system and to support it with all necessary resources to ensure that it carries out and finalizes processes of investigation and punishes offences, especially those committed in violation of the rights of peoples and communities, ensuring full material and moral reparation for the serious harm and damages caused to the many victims of rights violations;

4. To call on those States to implement measures inspired by the internationally recognised principle of the *free, prior and informed consent* of social actors, local communities and indigenous peoples, and by the *precautionary principle*, when they plan on implementing development and capital investment agreements and policies which may have adverse effects on land, living space and fundamental rights.

5. To call on the States in the region not to ratify any new trade or investment agreement proposed on the basis of asymmetric bargaining positions and without regard for human rights norms, and not to renew existing agreements of this kind when they expire.

6. To call on the States in the region to study the possibility of withdrawing from the International Centre for the Settlement of Investment Disputes (ICSID), due to the failure of this system to apply international human rights norms.

HEREBY RECOMMENDS

To social movements

1. That they take advantage of the possibility already offered by the Statute of the International Criminal Court to denounce before it the executives of transnational corporations who may have participated in any way in crimes under the jurisdiction of the Court, as foreseen by Article 25 of its Statute.

2. That they make use of the legislative initiative under the Lisbon Treaty (Article 8B of the Treaty on European Union), which requires 1 million signatures throughout the EU in order to make specific legislative proposals on the control of TNCs in the EU.

3. That they encourage cooperation by corporations willing to effectively commit to respecting human rights and the environment, giving value to such a commitment.

4. That they seek the cooperation of citizens of the EU, and other political, trade union, social or religious entities, in order to prevent their shares in corporations or funds deposited in public or private banks or their pension plans from being used to finance projects that have negative impacts on human rights and the environment; and to withdraw their money from those corporations or financial entities that generate these kinds of effects, and move them to other corporations or financial entities that effectively follow criteria of respect for human rights and the environment.

LASTLY, PROPOSES THE FOLLOWING PREVENTIVE MEASURES

1. Effective protection of defenders of human rights in accordance with the relevant UN resolutions and an end to all the acts of intimidation, persecution, stigmatisation and abuse of law of which they are victims. This protection is an obligation of all States and of the European Union.

2. The suspension of all projects planned for implementation in indigenous peoples' territories, which have not been subject to the prior, informed consent of these peoples, until this consent has been obtained through the appropriate procedure.

3. The suspension of major projects and megaprojects such as that of Endesa/ENEL in Patagonia in Chile, the dam project on the Sogamoso River in Colombia promoted by Impregilo, the coal mine project driven by Unión Fenosa/Gas Natural in Guatemala, the steel plant promoted by Thyssen-Krupp in Río de Janeiro, Brazil, or the expansion of the open cast coal mine at La Guajira, Colombia, promoted by Carbones del Cerrejón, BHP Billington, Anglo-American and Xtrata, as they will have enormous negative impacts on the lives of the people and the environment, without generating, in return, any significant benefits for the development of the affected communities.

4. The suspension of the ongoing negotiating processes to conclude trade or investment agreements, until they have been submitted to a process to assess their social and environmental impacts, with real participation of the communities and populations concerned.

Madrid, May 16, 2010

PERMANENT PEOPLES' TRIBUNAL DELIBERATING SESSION

Madrid, May 14-17, 2010

THE JUDGEMENT

ANNEX I PROGRAMME OF PERMANENT PEOPLES' TRIBUNAL - MADRID SESSION

ANNEX II CASE SUMMARIES

ANNEX III PARTICIPANT ORGANISATIONS

ANNEX I

PROGRAMME OF PERMANENT PEOPLES' TRIBUNAL - MADRID SESSION

FRIDAY 14 MAY, Universidad Complutense de Madrid, Lecture Theatre of the Faculty of Mathematics					
10:00-11:00	OPENING OF THE TRIBUNAL SESSION				
	Introduction and opening address by the President of the Permanent Peoples' Tribunal, Perfecto Andrés Ibañez				
	Introduction to the Tribunal and presentation of the overall indictment, by Enlazando Alternativas				
11:00-14:00	SECTION 1: COMPLICITY OF THE EUROPEAN UNION, ITS MEMBER STATES AND INTERNATIONAL INSTITUTIONS IN THE ACTIVITIES OF THE TRANSNATIONALS				
	Presentation of the Report by the Panel of Experts				
		<i>COUNTRY OF ORIGIN OF TNCs</i>	<i>COUNTRY OF IMPACT</i>	<i>SECTOR</i>	<i>ORGANISATION AND/OR MOVEMENT PRESENTING THE CASE</i>
POLICIES AND INSTRUMENTS OF THE EU AND ITS MEMBER STATES: Lisbon Treaty, "Global Europe: competing in the world" strategy, Lisbon Strategy (EU 2020), Common Agricultural Policy (CAP), Common Fisheries Policy (CFP), Partnership Agreements/EPAs and Bilateral Investment Treaties.	Telefónica S.A.	Spain	Chile	Tele-communications	Instituto de Ciencias Alejandro Lipschutz (ICAL)
	Pescanova	Spain	Nicaragua	Agro-industry, agrifoods and agrotoxic substances	Movimiento Social Nicaragüense "Otro Mundo es Posible", Alianza Social Continental Capítulo Centroamérica and Jubileo Sur América
	Canal de Isabel II	Spain	Colombia	Water	ATTAC Madrid
	Águas de Barcelona - Suez	Spain	México	Water	Asociación de Usuarios del Agua de Saltillo (AUAS)
	Holcim	Switzerland	Mexico, Guatemala and Colombia	Extractive industries: mining	Otros Mundos Friends of the Earth Mexico, CENSAT - Agua Viva, Friends of the Earth Colombia, Asociación Ceiba and Friends of the Earth Latin America and the Caribbean
	Hanes Brands Inc. (HBI)	United States	Honduras	Clothing and textiles	Colectiva de Mujeres Hondureñas (Codemuh) and War on Want
	Louis Dreyfus Commodities	France	Brazil	Agro-industry, agrifoods and agrotoxic substances	Rede Social de Justiça e Direitos Humanos e Comissão Pastoral da Terra (CPT)
	Agrenco Group	The Netherlands	Brazil	Agro-industry, agrifoods and agrotoxic substances	CEIBA (Spain)
	Continental	Germany	Mexico	Tyres	Sindicato Nacional Revolucionario de Trabajadores de la Compañía Hulera Euskadi (SNRTC); AHORA Cooperativa TRADOC; Sindicato de Continental Tire, Mexico; France Amérique Latina, France

14:00-
16:00 LUNCH16:00-
18:00 **SECTION 1: COMPLICITY OF THE EUROPEAN UNION, ITS MEMBER STATES AND INTERNATIONAL INSTITUTIONS IN THE ACTIVITIES OF THE TRANSNATIONALS**

Presentation of the Report by the Panel of Experts

		<i>COUNTRY OF ORIGIN OF TNCs</i>	<i>COUNTRY OF IMPACT</i>	<i>SECTOR</i>	<i>ORGANISATION AND/OR MOVEMENT PRESENTING THE CASE</i>
EUROPEAN INSTITUTIONS , such as the Council of Europe, the European Commission and its various DGs (trade, investment, development, etc)	European Union / potential beneficiary pharmaceutical companies: DuPont, MerckSharp & Dohme, Sanofi-Aventis, Eli Lilly & Co., Novartis, GlaxoSmithKline, Warner Lambert, Pfizer	Various countries	Brazil, Colombia, Peru, Ecuador	Pharmaceuticals	Red Brasileña por la Integración de los Pueblos, Working Group on Intellectual Property, IFARMA, Fundación Misión Salud, Mesa de ONGs que trabajan con VIH/Sida, Red Colombiana de Personas viviendo con VIH/Sida, Health Action International – Latin America and the Caribbean, Coalición Ecuatoriana de Personas Viviendo con VIH/ Sida
	Syngenta	Switzerland	Brazil	Agro-industry, agrifoods and agrototoxic substances	Terra de Direitos, Via Campesina Brasil
PUBLIC FINANCIAL INSTITUTIONS that finance investment projects and commercial operations, such as the European Investment Bank (EIB), the International Financial Institutions (IMF, World Bank, IDB) and export credit agencies	Stora Enso	Finland and Sweden	Brazil and Uruguay	Agro-industry, agrifoods and agrototoxic substances	Via Campesina Brasil, Friends of the Earth Brasil, Friends of the Earth Uruguay (REDES), CEPEDS (Centro de Estudos e Pesquisas e para o Desenvolvimento do Extremo Sul da Bahia), CEA (Centro de Estudos Ambientais), Instituto Biofilia, SEMAPI (Sindicato dos Empregados em Empresas de Assessoramento, Perícias, Informações e Pesquisas e de Fundações Estaduais do RS), SINDBANCÁRIOS (Sindicato dos Bancários e Trabalhadores no Sistema Financeiro do Extremo Sul da Bahia), CIMI (Conselho Indigenista Missionário), Centro Agroecológico Terra Viva, World Rainforest Movement
	Banif, Santander, GDF-Suez	France, Belgium, Portugal, Spain	Brazil and Bolivia	Financial and electricity (dams)	Movimiento de los Afectados por Represas (MAB), Foro Boliviano de Medio Ambiente y Desarrollo (FOBOMADE), SETEM
	GoldCorp Inc.	Canada, Ireland, Norway and Sweden	Guatemala	Extractive industries: mining	FREDEMI (Frente de Defensa Miguelense), Collectif Guatemala (France), Ayuda de la Iglesia de Noruega (AIN), Solidaridad Suecia-América Latina (SAL), Consejo de los Pueblos de Occidente

SATURDAY 15 MAY, Universidad Complutense de Madrid, Lecture Theatre of the Faculty of Mathematics

10:00 – 11:15 SECTION 1: COMPLICITY OF THE EUROPEAN UNION, ITS MEMBER STATES AND INTERNATIONAL INSTITUTIONS IN THE ACTIVITIES OF THE TRANSNATIONALS

Presentation of the Report by the Panel of Experts

		<i>COUNTRY OF ORIGIN OF TNCs</i>	<i>COUNTRY OF IMPACT</i>	<i>SECTOR</i>	<i>ORGANISATION AND/OR MOVEMENT PRESENTING THE CASE</i>
PUBLICLY FUNDED INSTITUTIONS AND POLICIES to promote privatisation	Proactiva Medio Ambiente	Spain	Ecuador	Water	Grupo Nacional Contra la Deuda de Ecuador
	Unión Fenosa (and other companies: Preneal, Acciona, Gamesa, Endesa and Iberdrola)	Spain (other companies: UK)	Guatemala, Mexico, Nicaragua and Colombia	Electricity	Asociación para la Promoción y el Desarrollo de la comunidad CEIBA – Friends of the Earth Guatemala, Frente Nacional de Lucha, Associació d'Amistat amb el Poble de Guatemala, Observatório de la Deuda de la Globalización (ODG), Movimiento Social Nicaragüense "Otro Mundo es Posible", Centro de Estudios para la Justicia Social - Tierra Digna, Colectivo de Abogados "José Alvear Restrepo" and Red de Usuarios de Servicios Públicos, Sindicato Mexicano de Electricistas, Centro de Derechos Humanos Tepeyac del Istmo de Tehuantepec. A.C., Alianza Mexicana por la Autodeterminación de los Pueblos (AMAP), Unión de Comunidades Indígenas de la Zona Norte del Istmo (UCIZONI), Asamblea en Defensa de la Tierra y el Territorio, Red Mexicana de Acción Frente al Libre Comercio (RMALC)

11:30 – 14:00 SECTION 2: VIOLATIONS OF THE RIGHTS OF PEOPLES BY TRANSNATIONAL CORPORATIONS

Presentation of the Report by the Panel of Experts

	<i>COUNTRY OF ORIGIN OF TNCs</i>	<i>COUNTRY OF IMPACT</i>	<i>SECTOR</i>	<i>ORGANISATION AND/OR MOVEMENT PRESENTING THE CASE</i>
Endesa - Enel	Italy, Spain	Chile	Electricity (dam)	Greenpeace Spain, Greenpeace Chile, Ecosistemas Chile, Corporación privada para desarrollo de Aysén (CODESA) and Consejo de Defensa de la Patagonia (CDP)
Impregilo S.P.A.	Italy	Colombia	Electricity (dam)	Centro Legale pro Afro Discendente e Indigeni (CLAI) and Campagna per la riforma della Banca Mondial (CRBM/Mani Tese)
Carbones del Cerrejón Ltd.	Switzerland and United Kingdom	Colombia	Extractive industries: oil, gas and coal	Movimiento Fuerza de mujeres WAYUU (Colombia) ; ONIC (Colombia) ; France Amérique Latine (France)
Monterrico Metals	Formerly United Kingdom, now China	Peru	Extractive industries: mining	Confederación Nacional de Comunidades de Peru afectadas por la Minería (CONACAMI) and Entre Pueblos

11:30 – 14:00	Presentation of the Report by the Panel of Experts				
	<i>COUNTRY OF ORIGIN OF TNCs</i>	<i>COUNTRY OF IMPACT</i>	<i>SECTOR</i>	<i>ORGANISATION AND/OR MOVEMENT PRESENTING THE CASE</i>	
	Pluspetrol Resources Corporation NV	Argentina, headquartered in the Netherlands	Peru	Extractive industries: oil, gas and coal	CONACAMI, Federación de Indígenas Quechuas del Pastaza (FEDIQUEP) and SOMO
	Perenco Group	France and United Kingdom	Peru	Extractive industries: oil, gas and coal	CEIBA (Spanish State)
	Repsol YPF S.A.	Spain	Argentina	Extractive industries: oil, gas and coal	FISyP, Confederación Mapuche de Neuquen (CMN)
14:00-16:00	LUNCH				
	Presentation of the Report by the Panel of Experts				
16:00-18:00	<i>COUNTRY OF ORIGIN OF TNCs</i>	<i>COUNTRY OF IMPACT</i>	<i>SECTOR</i>	<i>ORGANISATION AND/OR MOVEMENT PRESENTING THE CASE</i>	
	British Petroleum	United Kingdom	Colombia	Extractive industries: oil, gas and coal	COSPACC (Corporación Social Para la Asesoría y Capacitación Comunitaria) and Colombia Solidarity Campaign UK
	Nestlé S.A.	Switzerland	Switzerland	Agro-industry, agrifoods and agrototoxic substances	ATTAC Vaud/Multiwatch
	Bayer S.A.	Germany	Peru	Agro-industry, agrifoods and agrototoxic substances	Red de Acción en Agricultura Alternativa – RAAA
	Companhia Siderúrgica do Atlântico (TKCSA)	Germany	Brazil	Iron and steel industry	AAPP Guaratiba, PACS – Instituto Políticas Alternativas para o Cono Sul, Comité a Baía de Sepetiba pede Socorro
18:00-20:00	CONCLUSION OF THE TRIBUNAL SESSION				
	Strategic proposals for potential mechanisms to control transnational corporations: towards a new legal and regulatory framework that enables economic crimes to be dealt with as crimes against humanity				
	Closing address by the Permanent Peoples' Tribunal				
MONDAY 17 MAY, Círculo de Bellas Artes, Calle de Alcalá 42, Madrid					
11:00	Public presentation of the final report and conclusions of the Permanent Peoples' Tribunal				

ANNEX II

CASE SUMMARIES



THE DESTRUCTION OF INDIGENOUS TERRITORY BY THE DUTCH MULTINATIONAL AGRENCO IN MATO GROSSO, BRAZIL

The EU is responsible for allowing the production of agrofuels to impinge upon the rights of indigenous peoples. The operations of the Agrenco Group, headquartered in Holland, and a subsidiary company, Agrenco do Brasil, represent such a case. Financed by European banks, Agrenco violates human rights and provokes environmental deterioration and the displacement of local populations in the state of Mato Grosso, Brazil.

Although the rights of indigenous peoples are recognized by international legislation, such as the International Convention on Civil and Political Rights, the International Convention on Economic, Social and Cultural Rights, the ILO Convention 169 and the United Nations Declaration on the Rights of Indigenous Peoples, the company systematically violates those rights by destroying the environment where communities live. The deforestation and contamination of water and soil provoked by single crop farming of soy beans all impinge on the right to food, water, a healthy environment, health, self-determination, etc.

The EU, through its internal objectives of compulsory use of agrofuels, has caused an increase in the demand for products such as soy, jatropha, palm oil, etc. On the other hand, it gives incentives to the producers in the sector without establishing sufficient sustainability prerequisites. The EU also puts pressure on these countries to sign bilateral and bi-regional agreements, thus favouring the entry of European transnational companies.

The European Union has allowed the activities of Agrenco do Brasil to develop in a favourable framework thanks to agreements with Brazil, which date back to 1992. This preferential treatment has been strengthened by the 2003 Directive related to the promotion of the use of biofuels and the 2006 Communiqué, which establishes the threshold of 5.7% for biofuel use within the Union. And since this quantity is not produced within its borders, the EU imports agrofuel from regions such as Mato Grosso, without considering the social dimension of sustainability and the protection of human rights.

The company also benefits from Brazilian government programmes, and those of the state of Mato Grosso, related to the production of biodiesel. In order to evaluate the issue it is important to point out that the governor of the state, Blairo Maggi, is one of the major producers of biodiesel worldwide and that he has received financing from the Inter-American Development Bank.

For all these reasons it is essential that the EU adopt a moratorium on incentives for agrofuel and the agroenergy produced in large-scale monocultures.



THE IMPACT OF THE MANAGEMENT OF SPANISH-FRENCH MULTINATIONAL AGUAS DE BARCELONA IN MEXICO

Agua de Barcelona has had various impacts in Mexico through its subsidiary company Agua de Saltillo. The private management of this multinational has caused the over-exploitation of the aquifer in the Municipality of Saltillo, resulting in the deterioration of the water quality and affecting the economic, social and cultural rights of the poorest sector of the population by making their supply of drinkable water inaccessible.

In 2001, Agua de Barcelona acquired its subsidiary in Saltillo (Coahuila State, Mexico), under the name Agua de Saltillo. In spite of the fact that the private management of this company has caused over-exploitation of the aquifers, Agua de Saltillo (Agsal) cancelled the conservation and water saving campaigns of its users, and is still exploiting the same wells, which will eventually lead to serious supply problems.

A deterioration of the quality of water is also a consequence of the over-exploitation of the aquifers. In fact, Agsal has not obtained the "Certificate of Sanitary Quality of Drinkable Water" demanded by the Secretary of Health. The distribution net-

work is in very poor condition and there is a registered 40% leakage of transported water.

Domestic users from the low income sector, 92% of total users, have suffered the most from the negative aspects of the company's management, which has increased its earnings by implementing measures such as increasing the prices above inflation limits and not respecting the association contract. Neither does it comply with the agreements established between the company and the local government to charge lower prices to the poorest communities. There are excessive charges for connecting to the water and sewer services. Water is also systematically cut off from those who cannot afford the bills, and the fines charged for reconnection are superior to the maximum established by the Law of Waters of the State of Coahuila for users of medium to high income. There is also an excessive charge for water supplied to non-regularised settlements, where the company ensures users sign agreements for credit payments with high interest rates that they cannot afford to pay. In many cases the accumulated debts become unpayable and Agsal suspends the services.

Also, as mentioned earlier, Agsal has acted illegally, with total impunity and protected by its main partner, the Municipality of Saltillo. When information is requested from the company, Agsal claims their right to privacy. This fact has obliged several members of the Association of Water Users to present "demands for review", which have been resolved by the Access to Information Institute of Coahuila (ICAI) in favour of the claimants. However, the definitive responses of the company to such demands, and the data on their web page or in public documents, are false, incomplete or irrelevant.



THE EXPANSION OF MONOCULTIVATION BY THE FRENCH MULTINATIONAL LOUIS DREYFUS THREATENS THE SURVIVAL OF THE GUARANI KAIOWÁ PEOPLE IN BRASIL

The French multinational Louis Dreyfus has rapidly expanded in various Brazilian States, acquiring sugar mills and extending the boundaries of sugar cane single crop plantations. This situation has had a serious impact on the Guarani Kaiowá people, increasing the level of violence they are subjected to by plantation owners. There has also been an impact on the conservation of such valuable ecosystems as el Pantanal, a UNESCO world heritage site.

In 2005 the company expanded throughout various Brazilian states, such as Sao Paulo, Minas Gerais and Mato Grosso do Sul. In 2009 it acquired shares in the second biggest sugar and ethanol producer in the world (LDC-SEV Bioenergia) along with other multinationals such as Basf, Bayer and Syngenta.

In parallel with the increase in available land for single crop sugarcane farming in Mato Grosso, violence against the Guarani Kaiowá people increased. They now live confined to their territory and without rights. According to the Indigenous Missionary Council (CIMI), the Guarani-Kaiowá communities exist in a state of extreme precariousness and a lack of land

is creating serious social problems, such as the deaths of children resulting from malnutrition, suicides (mainly amongst young people between 12 and 18 years old), alcoholism and murder. These communities have long been the object of violence by the plantation owners and there have been incidences of murder and slave labour in sugar cane cutting. According to a testimony by the CIMI in 2007, "there is evidence of four murders of indigenous people that have occurred in sugar mill accommodations".

What is more, there is pressure on the government to lift the boundaries on indigenous territories so as to be able to change the legislation to allow new sugar mills to be installed in the region between the basins of the Paraguay and Paraná rivers. The activity of the multinational exacerbates the land conflicts and increases the destruction of the Cerrado in Mato Grosso; an ecosystem known as the "country of water" because it supplies water to the country's main river basins. These basins contain many species in danger of extinction. Louis Dreyfuss has also contaminated underground water sources, including the Guarani aquifer.

In Minas Gerais the activity of company actually managed to divert the course of the San Francisco river without an environmental licence or technical studies. What is more, the sugar cane farming expansion process is so intensive in this State that it reaches the Buffer zone of Sierra de la Canastra National Park, considered by the Biodiversity Atlas in Minas Gerais as one of extreme biological importance.

With regard to the issue of labour, the region's sugar mills have a long history of slave labour and assassinations of workers. The majority of the cane cutters are immigrants or indigenous peoples



TELEFONICA IN THE DOCK FOR VIOLATING TRADE UNION FREEDOMS AND THE FUNDAMENTAL RIGHT TO DIGNITY AT WORK IN CHILE

The Permanent Peoples’ Tribunal will hear the case presented against Telefonica Chile for violation of trade union freedoms, and the fundamental right to work and decent working conditions. This transnational company’s practices are at odds with the international agreements disseminated by the International Labour Organisation and ratified by Chile.

Telefonica Chile is a subsidiary of Telefonica S.A. (the Telefonica group in Spain) which owns 97.89% of shares in the company. Telefonica has had a presence in the country since 1990, when national telecommunications and public services in Chile were privatised. Structural adjustment policies introduced by the Pinochet dictatorship and imposed on the Latin American economy by the World Bank and the International Monetary Fund, under US guidance, were exploited by Spanish transnationals to become the leaders in Foreign Direct Investment (FDI) in Chile and Latin America.

The Pinochet State fired workers and fragmented the trades unions, and in that way “disciplined” the labour force. Telefonica Chile, as a subsidiary of Telefonica Spain, was backed by Spanish governments while they were setting up inside the country. The Spanish State reached agreements with the *Concertación* governments, with whom they shared a neo-liberal position. The relationship between the Spanish State and the transnational

corporation allowed the investments to be made with full economic and legal guarantees. Telefonica installed themselves in Chile, hegemonizing the telecommunications sector, and creating a monopoly.

Capital flight in the 1990s had a huge impact on labour relations within the company. Telefonica has promoted a massive flexibilisation of production conditions, increasing their profits in exchange for increased externalisation of functions, which has allowed a great rise in the profit margins. For three consecutive years (2006, 2007 and 2008), Telefonica Chile has been sanctioned by the Work Directorate, for their practices of union persecution against the organised workers who stand up against the restructuring.



THE VIOLATION OF THE RIGHT TO HEALTH AND LIFE IN LATIN AMERICA BY THE EUROPEAN UNION

The civil societies of Brazil, Peru, Colombia and Ecuador, whose countries have been affected by the confiscation of generic medicines in European harbours, are reporting the EU for violating the human rights to health and life of the affected populations by creating illegitimate and illegal obstacles to access to generic medicines used to treat diverse illnesses.

The application of EU standards for customs measures against products that may violate intellectual property rights has allowed customs authorities at ports in member countries to seize generic medicines in transit, under the accusation of violating European patents. This has

provoked the seizing of at least 18 cargos of legitimate generic medicines exported mainly from India to developing countries, most of them in Latin America. However, the pharmacological products complied with the legislation of producer/exporter countries, as well as with multilateral agreements that regulate international trade and the protection of intellectual property rights.

The confiscation is therefore being carried out under groundless legal justifications, accusing companies that produce generic medicines of infringing patents, when in fact the medicines were protected by patents in European countries, but not so in the countries of origin and destination.

As there was no possibility of entry for these medicines in the European market, pharmaceutical companies would not have been commercially affected in those countries where their patents are recognized. This is the way in which the EU is trying to impose the patents of pharmaceutical transnational companies on those countries where the products are not under the protection of these patents. With this attitude, the European Union is violating international rules in order to favour the private interests of its companies and is damaging the human rights of the peoples of those countries affected by the confiscation.

Also, the EU is deliberately encouraging confusion between falsified and generic medicines in order to remove the latter from the market.

For this reason, the civil societies of Brazil, Peru, Colombia and Ecuador, countries affected by the confiscation of generic medicines in European ports, are denouncing the EU for violating the human rights to health and life of the people of the affected countries, through the creation of obstacles, both illegitimate and illegal, to access to generic medicines used for the treatment of several illnesses which affect these populations.



SWISS MULTINATIONAL SYNGENTA HIRES MERCENARIES FOR ITS INVESTMENTS IN BRAZIL WITH THE COMPLICITY OF THE EU AND THE WTO.

Swiss multinational Syngenta has been accused of violating human rights in Brazil by hiring mercenaries, polluting soil with agro-toxic substances, criminalizing social protests and contaminating agro-biodiversity with their genetically modified seeds, amongst other impacts.

Syngenta produces, distributes and promotes the use of genetically modified seeds and agro-toxic substances. It also acts to privatize the right to free use of agro-biodiversity in order to gain a worldwide monopoly of agricultural production. The multinational, through its predecessors Novartis and Zêneca, has been operating in Brazil since 1970.

The production, commercialisation and consumption of Syngenta's genetically modified corn (Bt 11) was approved in Brazil in 2007. However, the impacts deriving from this decision, such as genetic pollution, the violation of farmers' rights to freely choose their productive and technological agricultural systems as well as the right of consumers to be informed about the origin of the product, were not taken into account. It also provokes irreversible damage to the biological diversity

of the country. This approval was therefore the result of the multinational's lobbying, since no studies were carried out on the genetic pollution of conventional corn or the effect of pollenisation on other varieties of genetically modified corn. Therefore Syngenta did not comply with the precautionary principle established in Brazil.

The main environmental impacts due to intensive use of agro-toxic substances are the pollution of water, soil and air. Both genetic and environmental pollution undermine the rights of farmers, rural communities and the traditions of indigenous peoples. Farmers have the right to agriculture free from genetically modified crops, to nutritional and biological diversity as well as to agricultural and technological decentralization.

The EU and the World Trade Organization (WTO) have a direct responsibility for this matter and are also accomplices of these reported cases of violations of human rights. The EU is a consumer of genetically modified products grown in South America and implements policies that favour the power of the transnationals in the biotechnology sector. The EU is a large consumer of genetically modified animal feed: it buys 80% of the GM feed produced by Brazil.

As for the WTO, this organization is key for the imposition of international agreements on patents. At the WTO, the European Commission actively promotes TRIPS negotiations, which provides legal guarantees for the patenting of seeds. Brazil, for its part, has passed legislation that supports the interests of transnational companies in the sector and has also limited farmers' rights to use, keep, exchange and sell seeds and other reproductive material.



THE ENVIRONMENTAL AND SOCIAL IMPACTS OF THE SANTANDER FINANCIAL GROUP FROM SPAIN, THE BANIF MULTINATIONAL AND THE FRENCH COMPANY GDF-SUEZ ON THE BRAZILIAN AMAZON

Santander bank, its Brazilian subsidiary Banif, the French company GDF-Suez and the French government, as a shareholder of the latter multinational company, have not respected human, social, cultural or environmental rights by constructing the hydroelectric power stations of Santo Antonio and Jirau on the river Madeira in the Brazilian Amazon. The European Union and Brazilian, French, Portuguese and Spanish governments are also accused of not providing protection mechanisms for the victims of this infrastructure.

The mentioned companies have taken part in or are currently taking part in the building of the huge hydroelectric power stations that have caused severe environmental damage, such as mercury pollution, loss of water quality and the destruction of the valuable ecosystems of the river Madeira. It must not be forgotten that the building work is situated on the Amazon's second largest river, considered a treasure of biodiversity, home to over 750 species of fish and 800 species of birds, many of whom are threatened species and several others unknown.

The work has also contributed to the increase of illnesses such as malaria, yellow fever and dengue, due to the change in the aquatic ecosystems and the proliferation of mosquitoes. All of the above

consequences added to the loss of natural resources and hence the livelihoods of the local population, and the expulsion of indigenous peoples and farmers, who had confirmed land entitlement processes, from the land now occupied by the project. The European Union and the French, Spanish, Belgian, Portuguese and Brazilian governments, countries in which the headquarters of the accused multinationals are based, have not provided protection for the inhabitants or the environment. Rather the opposite, they have promoted measures that favour the investments of these transnational companies without assessing whether they have respected and are respecting the basic rights of the inhabitants, a clear example of "anti-cooperation".

The case is an important and paradigmatic example of the impacts of energy and infrastructure projects that are part of IIRSA. It also highlights the lack of cross-border legislation in South America, as the impacts of the project on the Bolivian side were not taken into consideration by the Brazilian legal framework. Bolivian organizations denounced Brazil at the Inter-American Court of Human Rights.



SWISS TRANSNATIONAL CEMENT COMPANY, HOLCIM, VIOLATES ENVIRONMENTAL AND SOCIAL RIGHTS IN COLOMBIA, MEXICO AND GUATEMALA

The Swiss cement company Holcim is to be held responsible for environmental and social damages caused by their extraction activities in the city of Bogotá (Colombia), the municipality of

San Juan de Sacatepéquez (Guatemala) and the municipality of Atotonilco de Tula (Mexico). The socio-economic and cultural impact on the inhabitants of the three regions named in the accusations include direct and indirect loss of life and the contamination or complete disappearance of water catchments.

Holcim's victims in these cases are rural communities that have been able to coexist in their natural surroundings for decades, but who are now faced with an industrialised model that is being imposed by force. This also affects urban communities fighting for their existence amidst extreme poverty and exclusion.

Holcim is a leading opencast mining company, whose operations consist of the extraction of minerals such as sand, limestone, gravel for the production of cement and aggregate. It produces a quarter of the cement in Mexico, amounting to more than 40 million tonnes.

The transnational operates in 16 countries in Latin America. In Colombia, Guatemala and Mexico it is not only present under its corporate name, but also participates as a shareholder in other cement manufacturers, gaining double benefits: as a transnational they benefit from the legal security these countries offer them (in Colombia President Uribe guaranteed 20 years of tax reductions - they pay only 15%, half of what national industry does); as a national company, they benefit from the flexible mechanisms in the Kyoto Protocol in terms of the right to pollute.

The pressure that Holcim's extraction operations exert on the inhabitants and ecosystems turns the territory into an uninhabitable place where, in addition to the loss of their economic livelihood and cultural traditions, the natural riches, appropriated and commercialised by capital, fill the pockets of the few, with no benefits for the region, and even less for the State.



ITALIAN MULTINATIONAL IMPREGILO IN COLOMBIA

Isagen Colombia and the Italian multinational Impregilo are participating in a joint venture to build a hydroelectric reservoir on the Sogamoso River in the northeast of Colombia. The management of the project has been highly opaque so far and the repression, persecution and murder of social leaders opposed to the project has already been reported. Also, strong social and environmental impacts are foreseen during its construction and implementation.

The hydroelectric project of the Sogamoso river is located in the Northeast region of Colombia and the company in charge of building the plant is Isagen, a mixed public service enterprise. The Italian firm Impregilo, through its subsidiaries Conalvias and Técnica Vial, is also involved in carrying out a part of the construction works. The project has had a strong impact in the area, with the more serious consequences being reported homicides of social and community leaders known for their defence of natural resources and communities, such as Honorio Llorente Meléndez.

The company is also accused of a lack of transparency, since the affected communities have not been informed of the total area covered by the project or when the environmental licence was given. Isagen has not had meetings with these communities in order to negotiate their relocation and compensation.

At the very centre of the project site there is a low-lying area known as the *Flexión del Chucurí* which increases the risk of floods in the case of earthquakes, and the project itself is located near *Nido de Bucaramanga*, a highly seismic area.

As with all major works involved in the construction of a hydroelectric plant, there are serious environmental impacts on the river where the dam will be located: not only is the ecosystem preserved by the river destroyed but also that of the river banks. The climate will be modified and therefore the agriculture of neighbouring villages will be damaged, not to mention the de facto privatization of the Sogamoso river, used exclusively by the managing company. All of these elements will cause deterioration or loss of the commercial networks of the products generated in the area.

As well as accusing the companies and the states of Colombia and Italy for supporting these companies, it is also worth pointing out the involvement of several financial entities in this project, such as Crédito Andino de Fomento, Bancolombia, Banco de Bogotá, Davivienda, Banco Popular, BCSC, Banco Santander, amongst others.

The company has just started the construction of the dam, which means a unique opportunity exists for the Permanent Peoples' Tribunal to start a worldwide awareness campaign in order to avoid further damage to human and environmental rights.



THE CORRUPTION OF THE SWEDISH-FINNISH MULTINATIONAL COMPANY STORA ENSO IN BRAZIL AND URUGUAY

The Swedish-Finnish transnational company Stora Enso is accused of causing major impact on environmental, social and labour spheres in Brazil and Uruguay through its operations related to the increase of monoculture forest plantations for the paper industry. It has promoted the criminalization of social organisations and behaved in a corrupt manner in the states of Bahia and Río Grande do Sul in Brazil.

Stora Enso's expansion throughout the state of Bahia caused the deforestation of an ecosystem as valuable as the Atlantic forest and it continues to cause devastation as it carries out an intensive tree felling operation in an area of woodland reclamation. The working conditions of its employees have also deteriorated and cases of corruption through the bribery of politicians have been exposed in the municipality of Eunápolis. The impact has not only been felt in Bahia but also in Río Grande do Sul, where the company illegally obtained borderlands. In this same state it colluded with the government of the State of Río Grande to fiercely suppress the social groups that reject the multinational Stora Enso's activity and occupy its lands.

In Uruguay, the activity of the European multinational, in partnership with the Chilean company Arauco, has accessed a large concentration of land ownership for monoculture forest plantations. The consequences severely affect the food sovereignty of the local populations who can no longer use the land for their crops.

All these operations have received the direct and indirect support of the European Union as well as the Brazilian, Uruguayan, Swedish and Finnish governments, who prioritise business interests over social justice and environmental issues.



THE VIOLATION OF LABOUR RIGHTS BY THE GERMAN MULTINATIONAL CONTINENTAL AG IN MEXICO

The German multinational Continental AG has violated the labour rights of 1,164 workers of its Mexican subsidiary company Hulera Euzkadi, by illegally closing down the company. It has also infringed on labour rights in other subsidiaries in Ecuador and France. As well as dismissing all workers, the company ignored their trade union, attempted to impede their right to strike, threatened to bring criminal charges against the workers and their families and deprived them of basic services such as health.

On December 16th 2001, the multinational Continental AG closed down the plant of one of its subsidiaries in Mexico, the Compañía Hulera Euzkadi, illegally dismissing its 1,164 workers. This action violated the Federal Labour Law. The company did not notify the trade union representatives of the closure; it simply gave the workers their dismissal notices, indicating that they could claim their redundancy payment. It also infringed the Contract Law for the Rubber Processing Industry. This led the National Revolutionary Union of Hulera Euzkadi Company Workers (SN-RTE) to launch a strike within two months of the plant closure.

With no legal justification, the strike was declared inadmissible, which demonstrates the Mexican Government's complicity with the transnational. To increase pressure on the workers, they and their families were no longer permitted to access the Social Security service. The tragic consequence of this measure was the death of 4 people due to the lack of medical care. The company even sent out letters threatening to bring criminal charges against anyone who did not accept the redundancy package "offered."

All these acts violate the International Labour Organisation conventions and the Organisation for Economic Cooperation and Development (OECD) guidelines. The SNRTE therefore presented a complaint, but never received a response. A complaint was also filed with the OECD Contact Point in Germany and the German Ministry of the Economy, which both ignored the case. This dispute demonstrates the complicity of the Mexican Government, the OECD, the European Commission and the German Government in the violation of the social, human and economic rights of the SNRTE workers.

The conflict was resolved after the strike had continued for more than three years, by negotiating the handover of the factory in lieu of payment for the wages owed. But the policies implemented against the workers of the Compañía Hulera Euzkadi and in other reported cases in Mexico, Ecuador and even France, reflect the rapacious nature of this German transnational, which maintains a systematic policy of violating the labour rights of its workers.



THE VIOLATION OF RIGHTS OF THE INDIGENOUS PEOPLE BY THE MINING MULTINATIONAL GOLDCORP IN GUATEMALA

The transnational mining company Goldcorp is accused of violating the rights of the indigenous people of Guatemala through its oil exploitation in the province of San Marcos. The company's large profits go straight to Swedish, Norwegian and Irish pension funds, which hold shares in it. The paradox of this case is that the social impact of the mining company, combined with its high income, benefit the payment of private pensions in Europe.

The transnational mining company Goldcorp is originally Canadian but has Swedish, Norwegian and Irish pension fund shareholders. It owns the Montana company in Guatemala which is carrying out the Marlin Mine gold and silver extraction project in San Miguel Ixtahuacán and Sipakapa (province of San Marcos). Goldcorp's mining operations have violated the right to consultation of indigenous people protected by Convention No. 169 of the International Labour Organisation (ratified by the Guatemalan Congress). It has also violated the right of self-determination and self-government as well as the right to ownership, possession, use and administration of land and territories, according to the United Nations Declaration on the Rights of Indigenous Peoples.

What is more, there are reports of major environmental impact as mining operations have contaminated the communities' drinking water.

The company has colluded with the Guatemalan government to criminalize social struggle and protest by bringing 18 court cases against the farming community in San Miguel Ixtahuacán. Conflict between the multinational company Goldcorp - Montana and the indigenous communities of San Miguel Ixtahuacán and Sipakapa has been constant from the moment the company started to buy up land containing relevant minerals in 1999, through the Peridot Company. The mine has come to be a symbol of corporate aggression, which has produced a powerful indigenous and peasant movement against mining in Guatemala. Despite several years of protest, the communities continue to be ignored by the company and public institutions.

The mentioned pension funds have financed and profited from the mining operations and therefore have contributed to the violation of human rights in Guatemala. Hence the accusation demands that the governments of the European Union do not ignore the impact of their foreign investments and that they enforce, through legislation, human rights compliance by European economic interests.



RESPONSIBILITY OF THE GERMAN MULTINATIONAL BAYER IN THE CASE OF INTOXICATION OF 44 CHILDREN IN PERU

The German multinational Bayer was involved in the intoxication of 44 children in the Taucamarca community in Peru, 24 of whom died. Despite this fact, the Congress of the Republic of Peru has not given a response to their demand for justice, nor have they obtained any results in the law courts.

The community of Taucamarca is situated 3 hours from the imperial city of Cuzco (Peru). There are a little over 300 inhabitants. They have no electricity, water or drainage systems in their houses. Poverty is prevalent and they survive through agriculture and livestock subsistence farming.

In October 1999 the community was the scene of the poisoning of 44 children who ate breakfast contaminated with a highly toxic pesticide, called Methyl Parathion (Paration) that has been banned since 1998. Of the 44 children, 24 died and the others suffered neurological scarring and other consequences.

Although the judicial process for justice in the Congress of the Republic of Peru was initiated in 2001, there has still been no response. On a legal level, the teacher in charge of the school where the children were having breakfast was punished.

The Department of Environmental Health, the National Agrarian Health Service and the Bayer Company were reported to the Seventh Section of the Specialised Court of Lima and asked for compensation for damages. Although in 2007 it seemed that the judge was going to order a conciliation hearing this has still not happened. In fact, the company is hoping that the case expires as it has done everything in its power to make sure the case is forgotten.



THE INVOLVEMENT OF THE BRITISH MULTINATIONAL OIL COMPANY BP IN THE FORCED DISAPPEARANCE OF MANY PEOPLE IN COLOMBIA

The British transnational company BP is accused of causing major impact on the environmental, labour and social situations and in particular on human rights in the state of Casanare, in Colombia. In the oil exploitation zones, there have been 2,653 cases of forced disappearances and 9,000 cases of assassination.

Various reports from national and international human rights organisations have concluded that the oil extraction is connected to the violation of human rights. Within the areas of exploration and exploitation conceded by the Colombian government, all kinds of criminal activities have developed and these affect the population. There are studies that document 2,653 cases of forced disappearance and 9,000 cases of murder. The operations of the oil

company have caused forced displacement and the spreading of the culture of fear. Due to this fear of reprisals, the communities have long abstained from bringing claims against the multinational BP to demand respect for their rights.

What is more, small landowners in Casanare have been forced to sell up and leave their farms by paramilitary groups. These lands have then been used by BP for oil extraction. There are even testimonies to the fact that the British company's real estate lawyer was involved in these activities.

With regard to the impact on the environment, BP has caused earthworks, the drying-up of water-bearing strata and natural wells and there have been reports of river contamination due to waste from the oil operations. There is also major sound and light pollution. This means that the development of other activities such as agricultural or livestock farming by the local populations is impossible.

Concerning the impact on the labour field, the right of association is not guaranteed within the multinational company since workers who join unions are vetoed and the legality and legitimacy of the trade unions are not even recognized. Women are pushed into jobs at the bottom of the salary scale and there are no training centres for young people.

BP have limited themselves to building small scale housing solutions and training and making small contributions to community actions in the implicated areas which do not benefit the wellbeing of the whole community. The company has not acknowledged in the past or present that the social, environmental and work problems affect the whole municipality and not just their zones of operation.

This case was tried in 2007 and 2008 by the Permanent Peoples' Tribunal – Colombia Chapter.



CANAL DE ISABEL II IN THE DOCK FOR ITS ACTIVITIES AS A TRANSNATIONAL IN COLOMBIA

The public Water Utility Canal de Isabel II, owned by the Community of Madrid, and its corporate group INASSA, will be brought before the Permanent Peoples' Tribunal, because "its dealings as a transnational allow its companies to behave in ways that infringe the rights of local communities, service users and workers, and carry out business practices that raise the price of public services, undermine their universality, encourage a lack of transparency in management, increase job insecurity for workers, undermine and harm the trades union movement, contaminate the environment, damage indigenous communities and plunder public wealth which should belong to the citizens".

Thanks to the privatisation process underway in Colombia, promoted by the IMF, Canal de Isabel II was able to buy Triple A in Barranquilla and Metroagua in Santamarta, both departments in which the paramilitaries have not been eradicated. Indeed, their links with local governments have been demonstrated and they are still used as a tool with which to eliminate the trade unionists and community leaders who have opposed the privatisation of water.

Community and trade union leaders have mobilised against the handing over of their water resources and in favour of access to water (for example, in the municipalities of Sabanalarga or Taganga). They have rejected the erosion of workers rights within these companies and the deterioration of drinking water and sewage

services for populations that, if they have water services at all, have seen their bills rise by 1000% between 1991 and 2006.

The transnational activity of Canal de Isabel II and its corporate group INASSA in Latin America, which is harmful to the rights of the affected populations and workers, the environment and public health, takes place through a tangle of companies that get in the way of the audit processes conducted by the Community of Madrid. It is a 100% publicly owned company, which nevertheless has procedures and impacts that are identical to those of the transnational corporations that plunder the resources of Third World populations, with the complicity of their governments and of the international financial institutions.



THE ENDESA PROJECT IN THE CHILEAN PATAGONIA WILL CAUSE A NATURAL DISASTER

The HidroAysén company, subsidiary of Endesa in Chile, plans to build 5 large hydroelectric power stations on the rivers of the Chilean Patagonia. These would cause the flooding of thousands of hectares of land of enormous natural and ecological value, affecting the third largest fresh water reserve in the world, and with it, the global climate.

HidroAysén is a company made up of Colbún and Endesa-Chile, the latter being controlled by Endesa-Spain, now property of the Italian company ENEL. This company plans to build 5 massive hydroelectric power stations in the Baker and

Pascua river basins, in Chilean Patagonia. The electricity produced will be transported more than 2,300 kilometres, towards Santiago de Chile and the mines in the North, through the longest high voltage power lines in the world.

The reservoirs for the hydroelectric power stations will flood a surface area covering 6,000 hectares, including agricultural and pastoral lands with a high tourist value, woodlands and the habitats of endemic species in one of the last almost virgin ecosystems on the planet. The project will mean the irreversible destruction of a territory of high ecological and natural value. The flooding and related works will provoke the extinction of species and will affect the world's third largest reserve of fresh water and the global climate.

The power lines themselves will cross 9 regions of Chile: 64 communities, including the territories of indigenous communities in areas such as Araucanía, as well as 14 protected wilderness areas. This will provoke massive deforestation, the displacing of some peasant farmer and indigenous communities and the division of others, cut off by the power lines. It will also affect a number of national parks.

The HydroAysén project will generate complete interregional iniquity given that, for technical reasons, 100% of the electricity will be transported to Santiago and the North, where the copper mines for export are located. That is to say, the Chilean Patagonia and another 9 regions will assume all the costs without receiving any of the electricity in return.

If the project goes ahead, Endesa and Colbún would go on to control 90% of the Central Interconnected System. This implies a total monopoly concentration of waters, electricity and capital. Endesa already exercises monopoly control in the country over rights to water and the electricity system, and is capable of using all the machinery of power to push their projects through using a combination of pressure and political lobbying, the buying of favours, marketing and publicity. In order meet their objectives or improve the private profits of the few, they dress up their projects in a halo and talk about

“public progress”. Just as they did when they built the Ralco hydroelectric power station in the Chilean Bío Bío.



NESTLÉ USED A PRIVATE SECURITY COMPANY TO SPY ON THE ATTAC SWITZERLAND GROUP THAT WAS PREPARING A BOOK ON NESTLÉ'S OPERATIONS

In Spring 2003 Nestlé informed the Swiss cantonal police that they had infiltrated social organisations, a few weeks before the G8 summit in Evian.

Securitas, the largest security firm in the country, sent one of their agents undercover to the Attac working group on “Globalization and Multinationals” in the Vaud canton, which was preparing a book exposing Nestlé's operations. This agent attended all the group's meetings between Spring 2003 and June 2004. In January 2005 another Securitas spy was sent in, who did not leave the Attac group until September 2008, when he was discovered, after the infiltration was uncovered on a Swiss TV programme.

The espionage took place at the height of the fight against the privatisation and over-exploitation of water and Nestlé's violation of union and workers rights. In 2000 and 2001, Attac Neuchâtel together with a citizens mobilisation managed to prevent Nestlé from winning the concession for Bottled Water in the town of Bevaix. From 2002 on, Attac supported the struggle of the citizens movement against the production of Pure Life for the over-exploitation of the Parque das Aguas in the city of São Lourenço, Brazil.

By hiring Securitas to infiltrate and gather information about persons active within the Attac organisation and about the content of their meetings, Nestlé illegally violated the privacy of the people present at the meetings. However, they also had access to information about people both inside and outside the country who collaborated with the Attac Vaud working group. In the case of information being leaked about, for example, activists working against Nestlé in Colombia, this information would mean a death sentence, given the impunity with which the paramilitaries have been assassinating union leaders and elements that “annoy” the transnationals.

The police of the Canton of Vaud are accused of being accessories, as they were informed of the infiltrations and took no action. The judicial system of Vaud, which closed the criminal case following a court investigation that left many questions unanswered and accepted a number of contradictions without comment, is also accused of providing impunity.



IMPACTS OF THE ARGENTINIAN MULTINATIONAL PLUSPETROL ON THE PERUVIAN AMAZON REGION AND THE QUECHUA PEOPLES

The Company Pluspetrol Resource Corporation, with headquarters in Holland and subsidiary of Repsol (Spain), is accused of polluting the basin of the Pastanza river in the Peruvian Amazon and therefore impinging the rights of the Quechua population inhabiting the area. This company has been dumping

toxic substances from oil production into the water of the Pastanza river for decades, with the connivance of the Peruvian state which has never demanded compensation for the damages.

The Dutch government is also accused, since in the year 2000 it allowed Pluspetrol to transfer the company headquarters from Buenos Aires to Amsterdam. Thanks to that change, the directors of the Pluspetrol Group have been able to benefit from the flexibility of the Dutch tax system. For these reasons, one can say that the Dutch government and the European framework are accomplices of the abuses carried out by Pluspetrol.

The company is violating the legally recognized rights of the Quechua people of Pastanza by contaminating their river, which is not only a source of food, water and livelihoods but also a place of worship and recreation. Pluspetrol ignores international legislation such as the ILO Convention 169 and the United Nations Declaration on the Rights of Indigenous Peoples, legislation that recognizes the rights to territory and to free determination of original peoples. At the same time, it doesn't respect the environment law passed in Peru in 1994, or the recommendations made by Peruvian and international organisations on health and the right to water.

The Peruvian government supports the activities of the oil company through fierce police control of the indigenous communities who live in and around Pluspetrol's area of operations and by acting against the freedom of the region's population.

Due to the fact that so many rights were violated, an organized social protest emerged but it was heavily repressed and persecuted by the authorities. As a result of that, some of the indigenous leaders were put in prison for up to eighteen months. However, they have now been released all charges against them have been dropped.



THE SOCIAL AND ENVIRONMENTAL IMPACT OF THE SPANISH MULTINATIONAL HYDROCARBON COMPANY REPSOL IN ARGENTINA

The Spanish transnational Repsol YPF is accused of failing to respect the rights of local communities and damaging the environment in its oil and gas operations, denying Argentinean citizens their right to energy sovereignty and violating both its own concession contracts and national and international laws. The company has caused major and continuous impact on the environment, the lives and culture of the local populations, in particular that of the indigenous communities in whose territories it operates.

Backed by the International Credit Organizations, Repsol has reached a position of complete control of Argentine energy which it has taken advantage of in order to implement an infrastructure that favours irrational use of resources. This situation has led to the reduction of hydrocarbon reserves to unsustainable levels, victims of abandon and speculation.

The company raises the tariffs of the Argentinean market to international prices, forgetting the costs and leaving a large section of the Argentinean population without the possibility of access to energy. Whilst the multinational company's oil income increases, so does poverty.

In its oilfield in Cerro Bandera, Repsol YPF systematically violates the rights of the Lonko Pura Mapuche community, in the Province of Neuquén, even though the rights of the indigenous peoples are protected by the National and Provincial Constitutions, the International Agreements of

the UN and the International Labour Organisation. Repsol YPF does not respect the "ethnic and cultural pre-existence" of the indigenous peoples, the right to state recognition of their communities, to ownership and possession of the "lands which they traditionally inhabit" or the "participation in the management of their natural resources and other interests which affect them". The multinational company has acted in its own interest in the Community's territory, directly affecting community life and provoking the persecution of community leaders and their loss of prestige, without acknowledging the community and their requests.



THE GRAVE IMPACTS ON HUMAN RIGHTS CAUSED BY THE TRANSNATIONAL COMPANY MONTEERRICO METALS IN PERU

The transnational company Monterrico Metals, through their old subsidiary company Majaz, now called Río Blanco, developed a mining project in Peru that caused the violation of fundamental rights of the local population. The most serious case was the kidnapping and torture of 29 citizens by the company's security service. Although the multinational is currently under Chinese ownership, when the facts occurred, in 2005, it was under British ownership.

The mining company Monterrico Metals, through their subsidiary Empresa Majaz, which is now called Río Blanco, exploits copper in the Río Blanco mine located in the region of Piura, in the highlands of northern Peru. Amongst the impacts of the mining company on the communities it

is worth highlighting the illegal occupation by the company Río Blanco of the peasant communities of Yanta, Segunda and Cajas, who never authorized the mining company to start operating in their territory. The arrival of the company has put at risk the civil, political, economical, social and cultural rights of these communities. When they tried to reclaim their rights, the police force, under the instruction of the government and the mining company, responded with violence, resulting in four confrontations and deaths.

The barbarity of their actions became particularly evident in August 2005 when 29 people from local communities were kidnapped and tortured in the camp of Minera Majaz S.A. The victims of this deplorable action pressed charges against the English parent company and claimed compensation for damages and injuries. The lawsuit is pending, to be dealt with by the High Court in London.

The communities' rejection of the Río Blanco mining project provoked the criminalization of the protests in order to make them illegal. Around 300 community members, local authorities, teachers, activists, lawyers and members of social organizations have been accused of criminal acts such as terrorism, kidnap, instigation to crime and causing criminal damage. With the complicity of the public prosecutors these reports of nonexistent crimes were accepted without any evidence.

Serious environmental damages have occurred due to the exploration works, such as the pollution and widening of the area of exploitation without an environmental licence. Currently, the subsidiary companies of Monterrico Metals control 35 mining concessions. All of them have been granted even though they present a threat to the local highlands and cloud forests, which are sources of water and areas of great endemic biodiversity.

Until May 2007 Monterrico Metals was an English company that carried out its exploration work through its subsidiary Empresa Majaz S.A. In May 2007 the multinational was bought and sold on to several Asian companies before being acquired by its current owners, the Chinese consortium Zijin.



THE GERMAN MULTINATIONAL THYSSEN KRUPP VIOLATES HUMAN RIGHTS AND CONTAMINATES THE SEPETIBA BAY IN RIO DE JANEIRO, BRAZIL

The Atlantic Steel Company, a Brazilian subsidiary of the German multinational Thyssen Krupp, is accused of impacting on public health through its unmonitored storage of mud contaminated with cadmium, arsenic and lead. It is also alleged that the actions of paramilitary groups against those who objected to the project have benefited the multinational.

The Atlantic Steel Company (TKCSA) is the joint operation of the mining company Vale with headquarters in Brazil, and Thyssen Krupp, one of the biggest German steel and iron companies. The TKCSA is an industrial steel-making conglomerate with port facilities. In fact it is the largest steel company in Latin America and owns a huge thermoelectric plant, a port with two compound terminals and a runway of 700 m that passes through a forest and the ocean. It has the support of the municipal, state and federal governments of Brazil through the National Bank of Economic and Social Development and tax exemptions. All production is exported to Europe and the US.

The company is accused of not respecting environmental legislation and of seriously threatening public health through the irresponsible storage of mud contaminated with cadmium, arsenic and lead. Accord-

ing to a recent study by the provincial government of Rio, TKCSA's operations will increase the municipality's CO2 emissions by 76%. It is also alleged that the actions of paramilitary groups against those who objected to the project have benefited the multinational. The local population lives in fear and under constant threat of attack by militias whose members work as security guards at the steel plant.

The company's activity has destroyed small-scale fishing and hence the livelihood of local people. In short, the subsidiary of Thyssen Krupp repeatedly violates the Universal Declaration of Human Rights, the Declaration on the Right to Development, the International Labour Standards (ILO) and the Brazilian Constitution, amongst other rights. What is more it does not adhere to the guidelines of the Organisation for Economic Cooperation and Development (OECD).

The company promised to compensate the fishermen, but they have received nothing despite having persistently tried to reach an agreement through various channels. TKCSA also tries to reinforce its image of social responsibility by carrying out a number of social investments which do not even come close to the environmental and social costs. In exchange for these supposed investments, the steel company is enjoying more than 5 years of tax exemption.

The company declared in the German Parliament that the objections should be directed at the Brazilian Government, which approved the project and each stage of the work. As there are no Brazil-European Union treaties, the latter shows its complicity through its silence in response to the charges, letting the company get away unpunished.



THE VIOLATION OF THE RIGHT TO HEALTH AND SAFETY OF THE WORKERS IN THE HANES BRANDS INC IN HONDURAS

The US transnational textile company Hanes Brands Inc (HBI) is responsible for the violation of labour rights to health, occupational safety and social security of its workers. The European Investment Bank and the State of Honduras are also denounced as accomplices to the crimes committed by HBI.

In the textile factories of Hanes Brands Inc (HBI), employees work between 9 and 11 hours per day. Some factories work under the system called 4 X 3, which consists of compressing the weekly 44 working hours into 4 days of work, instead of the normal 6 days per week. It must be noted that their work consists of assembling clothes pieces and that workers therefore have to carry out over 6,000 repetitive movements on a daily basis. The forced positions and repetitive movements of neck, back, waist, shoulders, arms and hands result in multiple damages to their health.

What is more, the company's medical system prevents workers from having their injuries treated at the specialized clinics of the Honduran Institute of Social Security, so the damages are not treated in time and in most of the cases become irreversible. For these reasons the HBI is accused of the violation of the labour rights to health, occupational safety and social security of the workers.

Honduras is also accused of being an accomplice to the violations of labour rights because of promoting special laws for the

creation of tax free areas for garment factories. In these zones multinationals are exonerated of all type of taxes and there is an absence of monitoring policies to control the health and safety conditions of the workers.

The European Investment Bank (BEI) is also an accomplice, having given a credit of 20 million Euros to the Central American Bank for Economic Integration (BCIE) with the purpose of supporting the infrastructure for the export of these factories' products.

Finally, the public offices for the protection of workers do not have the necessary resources, and influence peddling between representatives of the employer's association and inspectors, directors, mediators, and solicitors is frequent. The workers are in a defenceless position and most of those affected are reluctant to approach these offices because of their lack of trust in the authorities, the high costs of a lawyer and procedural expenses, and the time required for these actions.



THE SPANISH MULTINATIONAL PROACTIVA MEDIOAMBIENTE HAS VIOLATED THE HUMAN RIGHT TO WATER IN ECUADOR

The private management of water by Spanish multinational Proactiva Medioambiente has generated serious impacts in Guayaquil, Ecuador. The transnational company is accused of violating the human right to water, health and a healthy environment. The Inter-American Development Bank and the EU are also accused of complicity through the granting of credits that facilitate the activity of Proactiva and the impunity of its impacts.

The main shareholders of the Spanish multinational Proactiva Medioambiente are the construction multinational FCC and Veolia. Proactiva has caused serious impacts through its subsidiary International Water Services Guayaquil (Interagua), which manages the water supply and sewage system in the city of Guayaquil (Ecuador).

The transnational company is accused at the Permanent Peoples' Tribunal of having acquired this subsidiary in an illegal and illegitimate manner, and of violating the right to water as its private management of the resource makes water inaccessible for poor communities. It also prevents the right to live in a healthy and ecologically balanced environment, the right to health and to a decent life, all of which are recognized by the Ecuadorian Constitution. In short, the activity of this company violates the International Covenant on Economic, Social and Cultural Rights.

The Inter-American Development Bank (IADB) and the European Union and its member states are also accused as direct accomplices to violations of the human right to water. These institutions have encouraged the privatization of water and the use of this resource as merchandise through their institutional policies and the use of credit contract 1016OC-EC. One of the conditions that this credit demanded was the reduction of personnel, which also worked against the labour rights of workers. As an indirect accomplice, the Spanish State is accused of using the FAD credit mechanism (illegitimate debt) to finance the construction of infrastructure that was later transferred to the hands of a private operator partly owned by Spanish capital. Both the IADB and the Spanish government are accused of benefiting from the transfer of resources from the global South through the payments made to service the external debt.



THE MULTINATIONAL CARBONES DE CERREJÓN ESTABLISHED ITSELF BY FORCE IN COLOMBIA, WITH THE COMPLICITY OF THE EU

Swiss and British-owned multinational Carbones de Cerrejón Ltd. has established itself in Colombia in indigenous and Afro Colombian lands surrounded by the violence perpetrated by the Colombian state and paramilitary groups. Opposition leaders have been murdered and the actions of the police forces and the security services have caused displacement of the peoples.

Carbones del Cerrejón, a multinational owned by Swiss and British capital, in association with investors from Australia and Luxembourg, has established itself in Colombia, mainly in the Departments of La Guajira, Cesar and Antioquia, through the companies Anglo-American, BHP Billiton and Xstrata (a subsidiary of the Swiss company Glencore). Coal is the country's second most exported product after oil and is exported to Europe (mainly to Germany, Great Britain and France) to supply heating and electricity.

The installation and exploitation by this multinational in Colombia has been backed by the Colombian government through its use of extreme and violent measures, creating displacement of the indigenous and Afro Colombian peoples. The actions of the State police and the paramilitary groups in the territory where the mining company operates have provoked harassment, threats and assassination of the people who oppose it.

The coal is obtained at a very low cost due to favourable operating conditions granted by the Colombian government, conditions which are not however favourable to its 3,500 workers, 800 of whom suffer from illnesses related to their work in the mine. By not supplying information on the exploitation conditions of the coal supplier this multinational makes the end user an accomplice to crimes against humanity.

The French Group Louis Dreyfus intends to install a coal power station dedicated in particular to the importation of Colombian coal to the city of Cherbourg, which has the only privately owned port in France. As well as taking advantage of the low costs in economic terms of Colombian coal and to increase its use in Europe, the project will on the one hand create a serious environmental impact on the population of Cherbourg, and on the other hand will perpetuate the violations of human rights of the indigenous peoples of Colombia.



SOCIAL AND ENVIRONMENTAL DESTRUCTION CAUSED BY THE SPANISH MULTINATIONAL PESCANOVA IN NICARAGUA

The fishing exploitation by the Spanish multinational Pescanova is seriously damaging the Nicaraguan mangrove swamps. These ecosystems are the source of food security and family subsistence of thousands of families in the area of Estero, Nicaragua. Its activities are provoking irreparable environmental damage as well as affecting the economic and social development of local communities.

The Spanish multinational Pescanova has been freely exploiting the mangrove swamp region in Nicaragua for years. Its fishing operations take place in an area of crucial biological, environmental and socio-cultural importance for its inhabitants, who are small-scale fishermen. Pescanova's fishing system is killing off young fish that have not yet reached the reproductive stage, causing many species to be threatened with extinction. Consequently, the local fishermen are forced to fish further away from the area, which means they are exposed to strong winds, a factor which has already caused several deaths. The local population depends directly on the ecosystem of the mangrove swamp to feed themselves and their families and are being deeply affected by its unstoppable deterioration.

The expansion practices of Pescanova have been worryingly increasing the levels of water contamination affecting the mangrove species. This tree plays an ecologically palliative role against possible climate changes as it is a CO2 fixative, as well as immobilizing large quantities of sediments rich in organic matter. Pescanova currently has the concession to exploit 5,000 hectares in the region of El Estero, 30% of the total mangrove swamp area.

There are significant violations by the multinational of the labour rights of the people it employs. It subjects its workers to days of over 12 hours, deducting taxes from their overtime pay and limiting or prohibiting the workers' right to unionise.

The Nicaraguan government breaches the duty imposed on it by the Constitution and national law, as well as the International Human Rights Law and the labour agreements Nicaragua entered into in the framework of the International Labour Organisation. It also fails to comply with its duty to guarantee appropriate information to the population about the signing of contracts and agreements with international financial organisations and transnational companies, thereby creating a free trade zone regime, tax free, to benefit them at the cost of the deterioration of the living conditions of the local communities who are dependent on the mangrove swamps.



THE COMPLICITY OF MULTILATERAL BANKS AND THE SPANISH GOVERNMENT IN THE IMPACTS OF UNIÓN FENOSA IN LATIN AMERICA

The Spanish multinational Unión Fenosa-Gas Natural has had a strong negative impact in Colombia, Guatemala, Nicaragua and Mexico. This impact is a consequence of the company's operations to obtain high profits for supplying a public service, such as electricity. But it has also been the consequence of a set of policies dictated by the multilateral banks, the privileged relationship between the company and the governments of the mentioned countries, and also the aid given by the Spanish Government's Funds for Development.

The privatization of the energy sector was imposed as a condition of debt relief policies by the multilateral banks (World Bank, International Monetary Fund, Inter-American Development Bank, Central American Bank of Economic Integration, and the European Investment Bank). Thanks to this process Unión Fenosa/Gas Natural is today one of the leading transnational energy supply and generation companies in Colombia, Guatemala, Nicaragua and Mexico.

There is also a privileged relationship between the company and the governments of the countries where its subsidiaries are located. Thus, in 2006, Unión Fenosa was not sanctioned for contributing to the power disaster in Nicaragua and in 2009, after strong protests in Guatemala,

the Government of this country decreed a State of Prevention, similar to a State of Siege. It has also been documented that the Spanish government granted credit from the Funds for Development Aid (FAD) to Unión Fenosa in Nicaragua just before this multinational entered the country, which can be interpreted as providing assistance to the operations of Unión Fenosa.

One of the most serious impacts of the provision of electricity by Unión Fenosa-Natural Gas in Colombia is the identification of 150 cases of people electrocuted on the country's Atlantic Coast as a result of the poor condition and absence of maintenance of the electrical infrastructure. In addition to this, the company can be held criminally liable as a result of its connections with paramilitary groups. In Guatemala, this company has been rejected by much of the population due to unsatisfactory service and high charges. During protests eight popular leaders were assassinated.

In Mexico, Unión Fenosa- Gas Natural is developing a large wind power project in the Isthmus of Tehuantepec that infringes ILO Convention 169. Finally, in Nicaragua, the Spanish multinational is violating human rights due to the inefficiency of the service. The country undergoes daily power cuts that have affected most of the population for over a year, with the consequent economic and social disruption caused by this situation.



PERENCO AND REPSOL VIOLATE THE RIGHTS OF INDIGENOUS PEOPLES IN PERU

The French-English company Perenco and Spanish-owned Repsol YPF are implicated in threatening the survival of isolated indigenous groups in Peru.

In this attack on indigenous groups, both multinationals have benefited from the complicity of the Peruvian Government and the EU through their policies.

The operations of Perenco in Block 67 and of Repsol in Block 39 are affecting one of the areas with the highest level of biodiversity in the Amazon region and causing serious environmental and social impacts. These are natural areas protected by the Peruvian State and the land is officially recognised as belonging to indigenous peoples. Block 67 in particular is situated in a protected nature reserve and in the area covered by the proposed Napo Tigre Territorial Reserve.

These operations, carried out with the support of the Peruvian government and without the free and informed consent of the indigenous peoples, imply serious violations of the fundamental rights of indigenous peoples and, specifically, place at risk the very existence of one of the last uncontacted groups left in the world. Furthermore, the operations of these transnationals in plots 39 and 67 will cause the infringement of fundamental rights such as the right to life, health, the environment, self-determination and the right to prior consultation, as well as impinging upon the natural resources and territory of the indigenous peoples in voluntary isolation (Waorani, Tagaeri, Taromenane, Pananujuri, Arabela and Aushiris) who live in the Amazon region of Loreto.

The EU is also accused of complicity because its policies facilitate the free trade agreements and other mechanisms that allow multinationals to operate in contexts where they are able to commit human rights violations with impunity.

In response to the attack on the rights of these peoples, the Peruvian indigenous organisation AIDSESEP requested legal protection for them from the Supreme Court in Iquitos, but its request was rejected. AIDSESEP is currently awaiting a decision from the Constitutional Court on the protection requested.

ANNEX III

PERMANENT PEOPLES' TRIBUNAL

(MADRID, 14-15 May 2010)

PARTICIPANT ORGANISATIONS

- Alianza Mexicana por la Autodeterminación de los Pueblos (AMAP), Mexico
- Alianza Social Continental (ASC) Latin America wide
- Asociación de Usuarios del Agua de Saltillo (AUAS), Mexico
- Associação de Pescadores e Aqüicultores da Pedra de Guaratiba (AAPP Guaratiba), Brazil
- Associació d'Amistat amb el Poble de Guatemala, Spain
- Attac Madrid, Spain
- Attac Vaud / Multiwatch, Switzerland
- Ayuda de la Iglesia de Noruega (AIN)
- Consejo de Defensa de la Patagonia, Chile
- CEIBA, Spain
- CEIBA – Friends of the Earth Guatemala
- CENSAT - Agua Viva, Friends of the Earth, Colombia
- Centre for Research on Multinational Corporations (SOMO), The Netherlands
- Centre legale pro Afro Discendenti e Indigeni, Italy
- Centro Agroecológico Terra Viva, Brazil
- Centro de Derechos Humanos Tepeyac del Istmo de Tehuantepec, Mexico
- Centro de Estudios para la Justicia Social - Tierra Digna, Colombia
- Centro de Estudos Ambientais (CEA), Brazil
- Centro de Estudos e Pesquisas e para o Desenvolvimento do Extremo Sul da Bahia (CEPEDES), Brazil
- Coalición Ecuatoriana de personas viviendo con VIH/SIDA, Ecuador
- CODESA, Chile
- Colectiva de Mujeres Hondureñas (Codemuh), Honduras
- Colectivo de Abogados José Alvear Restrepo, Colombia
- Colombia Solidarity Campaign, UK
- Collectif Guatemala, France
- Coordinadora Nacional de Comunidades Afectadas por la Minería del Perú (CONACAMI)
- Comitê a Baía de Sepetiba pede Socorro, Brazil
- Confederacion Mapuche de Neuquén (CMN), Argentina
- Conselho Indigenista Missionário (CIMI), Brazil
- Corporación Social Para la Asesoría y Capacitación Comunitaria (COSPACC), Colombia
- Corporate Europe Observatory, Belgium
- Campagna per la Riforma della Banca Mondiale / ManiTese, Italy
- Ecologistas en Acción / Ekologistak Martxan, Spain
- Ecosistemas, Chile
- Entrepueblos, Spain
- Federación de Indígenas Quechuas del Pastaza (FEDIQUEP), Peru
- Fundación de Investigaciones Sociales y políticas (FISyP), Argentina
- Fundación Rosa Luxemburgo, Brazil
- Foro Boliviano de Medio Ambiente y Desarrollo (Fobomade), Bolivia
- France Amérique Latine, France
- Frente de Defensa Miguelense (FREDEMI), Guatemala
- Frente Nacional de Lucha, Guatemala
- Fundación Misión Salud, Colombia
- Greenpeace, Chile
- Greenpeace Spain
- Grupo de Trabajo sobre Propiedad Intelectual / REBRIP, Brazil
- Grupo Nacional Contra la Deuda, Ecuador
- Health Action International – Latin America and the Caribbean

Instituto de Estudios sobre Desarrollo y Cooperación Internacional HEGOA, Spain
IFARMA, Colombia
Instituto Biofilia, Brazil
Instituto de Ciencias Alejandro Lipschutz (ICAL), Chile
Jubileo Sur
Movimento dos Atingidos por Barragens (MAB), Brazil
Mesa de ONGs que trabajan con VIH/Sida, Colombia
Movimiento Fuerza de mujeres WAYLUU, Colombia
Movimiento Social Nicaragüense "Otro Mundo es Posible", Nicaragua
Núcleo Amigos de la Tierra, Brazil
Observatorio de las Multinacionales en América Latina /Paz con Dignidad, Spain
Observatorio de la Deuda en la Globalización, Spain
Organización Nacional Indígena, Colombia
Otros Mundos Chiapas – Friends of the Earth, Mexico
PACS – Instituto de Políticas Alternativas para o Cono Sul, Brazil
Red Colombiana de Personas viviendo con VIH/Sida, Colombia
Red de Acción en Agricultura Alternativa (RAAA), Peru
Red de Usuarios de Servicios Públicos de la Costa Caribe, Colombia
Rede Social de Justiça e Direitos Humanos e Comissão Pastoral da Terra (CPT), Brazil
REDES – Friends of the Earth, Uruguay
Sembrar, Colombia
Setem, Spain
Sindicato de Continental Tire, Mexico
Sindicato de Trabalhadores Rurais de Anchieta, Estado do Paraná, Brazil
Sindicato dos Bancários e Trabalhadores no Sistema, Brazil
Financeiro do Extremo Sul da Bahia (SINDBANCÁRIOS), Brazil
Sindicato dos Empregados em Empresas de Assessoramento, Perícias, Informações e Pesquisas e de Fundações Estaduais do RS (SEMAPI), Brazil
Sindicato Mexicano de Electricistas (SME), Mexico
Sindicato Nacional Revolucionario de Trabajadores de la Compañía Hulera Euzkadi (SNRTC), Mexico
AHORA Cooperativa TRADOC, Mexico
Solidaridad Suecia-América Latina (SAL), Sweden
Terra de Direitos, Brazil
Transnational Institute, The Netherlands
Unión de Comunidades Indígenas de la Zona Norte del Istmo (UCIZONI), Mexico
Veterinarios sin Fronteras, Spain
Via Campesina, Brazil
War on Want, UK
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