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THE CENTRE ON TRANSNATIONAL CORPORATIONS: HOW THE U.N. INJURES POOR NATIONS

INTRODUCTION

The United Nations has a long history of attacking the free enterprise system. A key element in this is the campaign against multinational corporations or, as they are called at the U.N., Transnational Corporations (TNCs). A leader in this attack is the New York-based Centre on Transnational Corporations (CTC).

The CTC is the secretariat of the U.N. Commission on Transnational Corporations, which was established in 1974. The Commission has 48 members: 12 from Africa, 11 from Asia, 10 from Latin America, 5 from the Soviet bloc, and 10 from the Western democracies (including the United States). The CTC's annual budget is \$5.4 million, of which the U.S. pays one-fourth, or \$1.4 million.

The creation and activities of the CTC reveal some of the worst of the U.N. It is not so much that the CTC wastes money, although this is not inconsequential. Nor is it even that the CTC mainly has been engaged in harassing American and other Western firms trying to conduct business in the Third World. What is most serious is that the policies and actions of the CTC, as of those of many other U.N. organs, impede economic growth in developing countries. The CTC penalizes those nations and societies that are the globe's poorest.

Ensuring Perpetual Poverty. One of the CTC's main functions, for example, is the drafting of a so-called Code of Conduct dealing with TNCs. The Code has been in the discussion stage for over a decade and is currently stalled, mainly because of Western objections. The West opposes the double standard built into how the code defines a TNC. Under its definition, only Western and Third World firms will be covered by the Code; giant communist bloc enterprises will be exempt.

A much more important objection is that the Code is designed to force Western companies to operate according to the New International Economic Order--or NIEO--the U.N.'s prescription for mandatory resource transfers from the West to the developing world. NIEO, more broadly, is a strategy that will ensure perpetual poverty in the Third World.

The CTC also is involved in recommending ways to deal with Third World debt problems by blaming transnational banks for the problem and in devising "consumer-oriented" information systems on the activities of corporations. Little effort is made to disguise the deliberate anti-West and anti-free enterprise motive of these projects.

Much of the CTC's work duplicates that of other international agencies, such as the U.N. Conference on Trade and Development (UNCTAD), the U.N. Environment Programme, and the International Monetary Fund. As a result of this duplication and CTC's growing politicization, the U.S. has reduced considerably its participation in the CTC's work.

While originally the Commission on Transnational Corporations operated on a consensus procedure, this arrangement ended at its 1977 meeting. Unless the Commission returns to a consensus approach, which is highly unlikely, the U.S. should stop supporting the Centre and the Commission altogether. This would save the U.S. \$1.4 million annually. Much more important, it would signal that the U.S. rejects the CTC's anti-growth philosophy and refuses to give credibility to the CTC and other international agencies that refuse to support policies genuinely designed to help Third World nations develop economically.

THE CTC AND THE NEW INTERNATIONAL ECONOMIC ORDER

The Commission on Transnational Corporations was established in 1974 by the U.N. Economic and Social Council, through resolution 1913 (LVII). The report on which the resolution is based, entitled "The Impact of Multinational Corporations on Development and on International Relations" (E/5500/Rev. 1, ST/ESA/6, 1974), explicitly opposed TNCs, favoring their control by governments. The report states, for example, that TNCs, "although powerful engines of growth, tend to accentuate rather than reduce inequalities in the absence of proper government policies"; TNCs also are said to "often exploit natural resources in developing countries for export to world markets."

The fundamentally anti-TNC purpose of the CTC was confirmed this April 17 by A. V. Trepelkov, the Soviet representative to the Economic and Social Council, when he boasted that "the Centre's main task [was] to identify the negative consequences of the activities of TNCs and submit proposals on ways to eliminate such consequences."

Supporting a "New" Order. The Commission, through the Centre, has produced a number of studies and reports. Among them is "Progress made toward the establishment of the New International Economic Order (NIEO): The role of TNCs" published in 1980 (E/C.10/74). This report outlines the purpose of NIEO--

to "redress the economic imbalance between developed and developing countries"--and proposes specific activities for the CTC.

Among those activities are: facilitating the transfer of technology from developed to developing nations; regulatory monitoring of TNC activities; an international Code of Conduct; and a technical advisory programme to strengthen the bargaining capacity of developing countries. All of these activities and others have been undertaken by the CTC at a cost of some \$5 million per year.

Dr. Murray L. Weidenbaum, Director of the Center for the Study of American Business at Washington University in St. Louis, charges that the very production of these CTC "studies" is pernicious. In a lecture last November at the New York-based Lehrman Institute, Weidenbaum warned: "Yesterday's studies lead to today's voluntary guidelines which, in turn, become the basis for the treaties and directives of tomorrow....The U.N. and its specialized agencies are trying to redistribute the income and wealth of the member nations by stepping up their regulation of private enterprise."

The regulation of private enterprise, however, is not in the best interest of the developing nations. Far from helping, the CTC's agenda prevents them from following the economic paths that lead to prosperity.

THE CODE OF CONDUCT ON TRANSNATIONAL CORPORATIONS

The drafting of a Code of Conduct for transnational corporations has been one of the CTC's principal undertakings. So far, however, there is no consensus on what the Code should say.

To date, the "agreed" and nearly agreed draft provisions of the Code (E/1983/17 Annex II) deal with respect for national sovereignty and development objectives of states, human rights, and noninterference in internal and international political affairs. Disagreement continues on most of the issues involving the definition of TNCs, including the definition of corrupt practices; transfer of technology; clarity of national laws and regulations; repatriation of capital; nationalization; and compensation. Most important, there has been no agreement on whether the Code should be binding or voluntary. Western nations firmly favor the latter.¹

Champions of Regulation. The real objective of the Code's supporters is to impose state regulation of TNCs. Wolfgang Sproete, an East German representative on the Economic and Social Council, for example, told the Commission on Transnational Corporations this April 10 that the Code is needed because "developing countries had encountered great difficulties in regulating the activities of TNCs." He was echoed by Nigeria's A.L. Olukanni, who said that TNCs "must be well regulated."

1. See U.S. Department of State, Office of Investment Affairs, *Current Status Report: Selected International Organization Activities Relating to Transnational Enterprises*, July 1986.

Western countries consistently have resisted the CTC's anti-TNC attitude. West Germany's Jurgen Kuehn noted in April, for example, that developing countries could not expect both to welcome foreign investments and to keep blaming TNCs for Third World economic ills.

Above all, Western countries resist the Code's definition of TNCs which exempts Soviet bloc enterprises. Kuehn told the Commission that West Germany calculates that there are 141 socialist enterprises engaged in transnational activities. In a modest acknowledgement of this, the Commission in April 1986 passed a resolution that spoke of "the role of enterprises engaged in transnational operations, regardless of form or nature of ownership and country of origin." This year the Commission noted that the CTC has adequate ways and means to include enterprises "regardless of form or nature of ownership and country of origin." These statements, however, are far from sufficient in eliminating the Code's disparities in treating Western and Soviet bloc TNCs.

Double Standard. The double standard on TNCs is the principal reason why for more than a year the U.S. has distanced itself from the CTC. Alan Keyes, Assistant Secretary of State for International Organizations, told the House Foreign Affairs Committee this May that from the beginning the U.S. has supported a Code of Conduct if it applied to all TNCs. In addition, said Keyes, the Code must be voluntary. It also must be balanced, acknowledging that TNCs, as investors in the Third World, have some rights.

Keyes told the House Committee that "key members of the developing countries and the Soviet bloc will have to demonstrate a willingness to make some basic policy changes before there can be a reasonable hope for making progress on the Code." Because recent negotiating sessions on the Code made virtually no progress, Keyes concluded that "we should not schedule further negotiating sessions until there is clear evidence that a solution can be found to the major outstanding issues."

Censoring a Report. The Soviet Union seems determined to preserve the Code's double standard. Four years ago, a Soviet national, Ralph Tsvilev, Assistant Director of the Information Analysis Division of the CTC, demanded the suppression of the Annex to a Center report. The 27-page Annex, entitled "Recent Trends in International Business Arrangements with Organizations and Enterprises in Socialist Countries," included a detailed description of those communist bloc enterprises. The Annex notes that several Soviet bloc countries have accepted direct foreign investment by Western TNCs; that, by the end of 1978, some 359 joint ventures had been established by seven Soviet bloc enterprises in Western countries; and that over 200 Soviet bloc enterprises concentrated in foreign marketing activities.

In effect, the Annex supported the U.S. contention that communist commercial enterprises are TNCs and thus must be covered by the Code. Tsvilev's successful censoring of the Annex violated the Secretariat's rule of impartiality. Ambassador Jose Sorzano, then U.S. Representative to the Economic and Social Council, told the Council in July 1983 that "we are outraged both by Tsvilev's behavior and by his success in suppressing the Annex to the Center's survey."

Other disagreements regarding the Code involve principles of investment. The U.S. believes that TNCs are entitled to fair treatment; prompt and effective compensation in the event of expropriation; and the right to transfer profits and capital freely. Several developing nations have accepted these principles in bilateral investment treaties. Yet, Keyes told the House committee, "in the bloc politics of the U.N. system, these moderate developing countries have been unwilling to break ranks with the more extreme developing countries and the communist states."

ACTIVITIES OF TRANSNATIONAL BANKS

CTC's efforts concerning the activities of transnational banks have been resisted by the U.S. primarily on the grounds that they duplicate the work of the International Monetary Fund (IMF) and the World Bank. According to U.S. representative to the Commission Walter B. Lockwood, Jr., developing countries have been pressing the Centre to be involved in interest rate setting, debt relief, and financial flows. The CTC would appear to desire additional international financial regulation: at one time CTC even suggested the creation of a new international financial agency.²

The CTC debated transnational banks at its April meeting but it failed even to attempt to define a transnational bank. And the CTC 1987 report on the role of transnational banks (E/C.10/1987/13) completely ignored the transnational activities of the banking institutions of the Soviet bloc. It seems that only Western banks are transnational banks.

British Refutation. This position is applauded by Soviet representative G.S. Markossov who insisted that "the activities of bank agencies in the socialist countries were not 'transnational' in nature, nor in volume." A main reason, he noted, is that the purpose of Soviet bloc transnational banks "is not to collect profits but to promote bilateral cooperation." Refuting this was Britain's representative Peter Gent. He pointed to the Moscow-Norodny Bank in Britain, which "now had a network in countries around the world including Singapore, where it had made some unfortunate real estate speculations." This bank surely should come under the definition of a transnational bank.

Transnational banks are blamed for a number of Third World problems, including their mounting foreign indebtedness. This prompted the objection of West Germany's Jurgen Kuehn at this April's Commission meeting: "Blame [for the debt] was put exclusively on the banking sector and the crediting countries." East Germany's Horst Heiningger disagreed and called for "Measures [to] be taken...to induce banks to share the burden" of developing countries' foreign debt. Ukrainian representative Vladimir Kolibanov accused transnational banks of "disorganizing the

2. A 1981 CTC report entitled *Transnational Banks: Operations, Strategies and Their Effects in Developing Countries*, for example, recommends the establishment of "an appropriate international agency, knowledgeable about the problems of transnational banks, developing countries and home nations." That agency would then examine the report's suggestion for "expanding current co-financing mechanisms" and the establishment of "new mechanisms for 'capital pools' for the developing countries." The thrust of the report is to press for greater financial flows from the developed countries to the Third World.

world financial situation." And the Cuban representative, Even Fontaine-Ortiz, emphasized that "the question of external debt only pointed to the need for the new international economic order."

The U.S. opposes all CTC involvement in the transnational bank issue. U.S. representative to the Commission Walter B. Lockwood, Jr. urged the CTC to "stay away from the issue of international finance, including the whole debt question, because that issue was so fully handled in other forums," such as the IMF and the World Bank.

INTERNATIONAL STANDARDS OF ACCOUNTING AND REPORTING

The gathering and dissemination of information on all aspects of the activities of TNCs has been a major concern of the Centre on Transnational Corporations since its inception. In its publication *International Accounting and Reporting Issues: 1986 Review*, the Centre recommends that:

◆◆ TNCs should disclose the amount invested during the year; the income derived from the investment; changes in the value of the investment.

◆◆ TNCs should describe their relationships and types of transactions with other TNCs.

◆◆ Auditors should express their opinion on whether or not the statements submitted by TNCs complied with "established standards" and were "true and fair."

The U.S. does not in principle oppose an information system on TNCs. Washington warns, however, against collecting too much information and "being swamped." U.S. representative Seymour Rubin, whose 12-year tenure with the Commission ended in 1986, has pointed out a particular U.S. concern: the violation of business information confidentiality.

The U.N. representative of a major business organization told The Heritage Foundation that at times corporations also find it annoying to have to respond to questionnaires from the CTC concerning their activities. Not only is it a drain on their resources, it sometimes appears to be politically motivated. A recent circular distributed to companies listed as having subsidiaries in South Africa, for example, was ignored by some, notably Mobil Oil Corporation, because it was obviously a political exercise.

Low Quality Data. Western nations emphasize the superfluous nature of the CTC's "information" work. British representative Peter Gent has suggested that "it would be more sensible for the CTC to have information on information"--in other words to serve as a guide for the requesting party to the best source of facts on a particular company. U.S. representative Lockwood told The Heritage Foundation that most of the CTC's information is not of high quality. The representative of a major pharmaceutical company agrees: "It is make-work for the CTC."

The principal political supporter of the information network predictably is the Soviet Union. Industrial espionage is high on the Kremlin's priority list. Western representatives note that the majority of requests for CTC data on corporations come either from the Soviet bloc or from nongovernmental organizations rather than from the developing nations for which the data presumably are intended.

During the period April 1 to December 31, 1983, according to the CTC, no requests for so-called "company profiles" were received from developing countries; 16 requests were received from nongovernmental organizations in developed countries. The majority of requests--19--came from the Soviet bloc. Denmark's Peter Hansen, current CTC Executive Director told The Heritage Foundation that the CTC has since "discontinued" the company profiles. But U.S. representative to the Commission Lockwood states that the CTC still engages in compiling information about companies, whatever the label of the program.

Exempting Moscow's Weapons Trade. The Soviet Union, moreover, repeatedly calls for the establishment of special files on TNCs that produce or trade in weapons, which the U.S. and other Western nations strongly resist. Among other things, these files would fail to account for government-to-government weapons transfers such as those from Soviet state-owned weapons factories to dozens of Third World recipients.

Though it had no authority to work on such a report, the CTC produced a study in 1985 on TNCs in the armaments industry, to which the U.S. strongly objected. Then in 1986, the CTC report on "Ongoing and Future Research" included an annex on "preliminary findings of a study on TNCs in the production of armaments and transfer of military technology" (E/C.10/1986/12).

CTC AND ENVIRONMENTAL ISSUES

The CTC became involved in environmental issues after the December 1984 gas leak accident in Bhopal, India. Indian representative P. Mankad told the Commission this April 8 that TNCs "must assume effective safety responsibilities and be held accountable for injurious consequences arising out of their operations in a host country." Nothing was mentioned, however, about the responsibilities of the host country.

The CTC's approach to environmental issues is as unbalanced as it is on other matters. This was noted by the Netherlands' representative Heleen de Brabander-Ypes this spring. She criticized the CTC for giving only the plaintiff's side in a CTC report (E/C.10/1987/12), which had been alluded to in an environmental case before U.S. courts. She also noted that in many countries it is the government that is responsible for environmental problems

Duplicating Efforts. The principal U.S. objection to CTC interest in the environment stems from the duplication of efforts. Lockwood has pointed out that the U.N. Environment Programme (UNEP) deals with all aspects of TNC impact on the environment. In particular, the issue of chemical accidents and their transboundary effects will be examined by UNEP in the near future.

A key issue on the CTC environment agenda is the preparation of a "List of Products Harmful to Health and Environment," in cooperation with other U.N. agencies. Here, too, a double standard is in operation. The U.S. consistently has complained about this. Chester Norris, Special Adviser to the U.S. for the 41st General Assembly, objected "particularly [to] the discriminatory commercial data produced by the CTC." For example, the agricultural chemical known as 2,4-D is shown in the commercial section of the working draft of the Second Issue of the Consolidated List of Products Whose Consumption And/Or Sale Have Been Banned, Withdrawn, Severely Restricted or Not Approved by Governments (ST/ESA/192, on p. 434ff.) as being manufactured by 47 companies. Yet some of those companies, notably E.I. DuPont de Nemours & Co., Ciba-Geigy AG, and Eli Lilly and Co. do not in fact make that product. The Dow Chemical Company no longer makes any of the nine trade names shown in its listing. Yet the impression is left that these companies still manufacture these harmful products. Meanwhile, these December 1986 documents omit altogether companies known to manufacture the product in East Germany, Czechoslovakia, Poland, Hungary, the Soviet Union, Romania, the People's Republic of China, Mexico, and others.

TRANSFER OF TECHNOLOGY

The CTC commissioned a study on the transfer of technology in 1984. This has just been published, under the title *Transnational Corporations and Technology Transfer: Effects and Policy Issues* (ST/CTC/86). The report advises developing countries to devise "an active strategy for technology transfer and development." While acknowledging the importance for development of "dynamic public and private entrepreneurial sectors," the report continues to exaggerate the power of TNCs and fails to explain the problems encountered by TNCs when host countries show insufficient regard for international patents.

The principal objection of Western nations to CTC involvement with technology transfer again is redundancy. The U.N. Conference on Trade and Development, for example, has been working on a Code on Technology Transfer for several years. In the area of transborder data flow, considerable work has been done by the International Telecommunications Union. And general trade issues are the purview of the General Agreement on Tariffs and Trade (GATT).

TNCs IN SOUTH AFRICA AND NAMIBIA

The campaign against South Africa has claimed a vast amount of the CTC's resources. Studies, conferences, resolutions, and reports consistently stress that Western businesses must take responsibility for ending apartheid. Yet largely ignored by the CTC is the positive impact of the TNCs on economic and social development in South Africa (E/C.10/1986/L.4/Add.11).

The CTC has held numerous Public Hearings on the Activities of TNCs in South Africa and Namibia, where TNCs have been singled out by name for criticism. Gora Ebrahim, representative of the Pan-Africanist Congress of Azania, a pro-Marxist terrorist organization, speaking at the Public Hearings on the Activities

of TNCs in South Africa and Namibia held in New York in September 1985, accused Citibank and Chase Manhattan Bank, N.A. of "rescuing the Pretoria government in time of crisis."

The General Motors Corporation is one of several Western companies singled out in a report by the U.N. Secretary-General on the responsibility of the countries of ownership for alleged TNC violations of U.N. resolutions in South Africa (document E/C.10/1987/8). General Motors countered by producing a document on the subject, which the U.S. presented to the CTC. It solidly refuted the suggestion in the report that the management of the General Motors' facility had been aided by the South African police.

THE CTC'S ANTI-GROWTH BIAS

The CTC regularly discusses and produces studies about TNCs and international economic relations. The premise of this work was clear as early as 1974 in the report on "The Impact of Multinational Corporations on Development and on International Relations." This report, which defined the CTC's purpose, states that "it is necessary for host developing countries to formulate their development strategies clearly in order to direct the investments of multinational corporations in a way that is consistent with their national goals and policies, including income distribution, labor conditions, industrialization or balance of payments."

Nowhere is it suggested that host countries should shift their national policies away from income redistribution toward private sector development. According to Seymour Rubin, former U.S. representative to the Commission on Transnationals and currently Professor of Law at American University, the CTC is not interested in promoting free enterprise.

Erroneous Conclusion. Since the arrival of Peter Hansen of Denmark as CTC Director in 1985, notes Rubin, the CTC has become particularly careful not to antagonize the U.S. The CTC's latest report on TNCs and international economic relations (E/C.10/1087/2) recognizes the importance of host country policies in encouraging or discouraging investment. The report even notes that creating "an improved investment climate" might attract TNCs. But instead of endorsing this, let alone actively promoting the virtue of free enterprise, the report erroneously concludes that "the evidence to date gives no indication of an overall positive response to the improved investment climate that developing countries have been trying to foster."

The fact is that almost all the evidence confirms that Third World policy changes can improve their economies dramatically. Instead of admitting this, the report blames TNCs for "heightened oligopoly" and for a trend toward the "domination of markets for certain certain products by some handful of corporations." By contrast, the latest *World Development Report* of the World Bank

documents the fact that free trade policies boost economic growth in the Third World.³

Impeding Economic Development. One of the most vivid examples of the CTC's flawed approach to development is the Code of Conduct for Transnationals. This Code does nothing for development. Rather, it reinforces the myth that regulation will help Third World nations--and if possible, mandatory regulation. Unfortunately, the U.N. system plays into the hands of the more radical developing nations. As Ambassador Keyes told Congress in May: "in the bloc politics of the U.N. system...moderate developing countries have been unwilling to break ranks with the more extreme [developing countries] and the communist states." He therefore sees little prospect for early agreement on the Code.

Murray Weidenbaum has attacked the CTC's attempt to regulate business. "Unlike the existing body of domestic regulation," says Weidenbaum, "this new burst of international regulation is not primarily motivated by a desire to improve business performance. Rather, the current style of rule-making is aimed at more political objectives, notably the redistribution of economic power." Weidenbaum considers the CTC's Code of Conduct for Transnationals, in particular, to be the most dangerous of the proposals or actions by international agencies in connection with regulating the day-to-day operations of private companies.

CONCLUSION

A basic premise of the Centre on Transnational Corporations is that an antagonistic relationship exists between transnational corporations and the Third World. Implicit in this premise is the proposition that TNCs must be regulated. Rather than providing strong pro-growth advice to developing countries, the CTC spends much of its time blaming TNCs for South Africa's system of apartheid, for poverty in the Third World, for environmental problems, and for not investing enough in developing countries.

The CTC has been trying for more than a decade to draft a Code of Conduct for TNCs, but no consensus has been reached, even on the definition of TNCs. There is also no agreement on whether the Code should be voluntary or mandatory. Consequently, the U.S. has drastically reduced its participation in the Centre's activities.

The CTC also is involved in an openly anti-Western "Harmful Products List," which singles out companies presumably producing such products. The list is inaccurate, and one-sided: it completely ignores products from the Eastern bloc or the Third World.

Ending U.S. Participation. The "information" system the CTC is attempting to gather on TNCs, moreover, is not only in most cases out of date and incomplete but often a burden, even a political nuisance, to Western companies. The U.N. is wasting its money on such a system.

3. Michael Prowse, "Neutral Trade Regimes Boost Economic Growth," *Financial Times*, July 1, 1987.

Most important, however, the CTC fails to encourage developing countries to pursue the policies that will lead to greater economic success. Instead, it is biased in favor of regulating the activities of Western companies, in line with the CTC's original mandate.

The U.S. already has reduced its role in the CTC. The time now has come for the U.S. to cease participation in the CTC altogether. It is time to focus attention on the U.N.'s anti-growth economic agenda and to repudiate its anti-Western bias as well as its regulatory zeal.

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