

On UPM-Uruguay mega investment and the responsibility of Finland to secure and monitor that it respects economic, social and cultural human rights in compliance with the ICESCR obligations

Summary preface

Uruguay has agreed to invest 4 billion euros - over 7 % of its annual GDP - to such railway, infrastructure, education, etc. which are structured to serve wide scale UPM pulp production and which will not be duly productive or beneficial if another 2,4 billion euros are not invested by the UPM, to build in Uruguay in Paso de los Toros such world's biggest pulp mill, whose productivity Uruguay's 4 billion euros investment is intended to serve.

Uruguay and UPM, a transnational corporation, agreed in this their common investment that Uruguay should first build the railway, the port terminal and infrastructure works, as well as introduce changes in education, laws and working conditions of the country to serve the businesses of UPM and only if UPM considered that they were suitable would decide to make its investment.

UPM will have thus an enormous leverage to demand more and more from Uruguay to serve just UPM's business interests because the 4 billion euros which Uruguay invested in advance to serve such UPM pulp production it, will remain widely wasted if the UPM does not invest its 2,4 billion euros to the pulp production.

Uruguay's Human Rights Institute has determined that the cumulative impacts which this project will have on human rights and environment have not been duly assessed with participation of the affected people and are not duly known for the people of Uruguay.

Human rights are endangered by a project agreement where a nation invests an amount over 7 % of its annual GDP to a project which may not become realised at all if a private corporation may not see Uruguay's efforts as sufficient. The project can not thus verify that it has adequately secured that the impacts of such investment would not weaken the realisation of economic, social and cultural human rights.

It is not possible to verify adequately the impacts of a project, where the fate of huge extent of Uruguay's resources - lands, water, ecosystems, biodiversity, infrastructure, conditions of environment, labor and education, etc. - have been agreed to depend on what the UPM happens to decide to be adequately profitable for its business.

The UPM-Uruguay investment will affect the quality and ecological circulation of water and conditions of access to it, the conditions of land use, biodiversity, ecosystems, work, housing and transports in the area in ways that neglect human rights obligations and threatens to violate human rights to adequate standards of living, regarding the rights to food, water and housing, and human rights to health, safe and clean environment, culture, work and education, depriving people of their locally self-determined means of subsistence.

As the conditions set by the UPM's activities and decisions can endanger the economic, social and cultural human rights in Uruguay in many ways and as the UPM acts widely under the jurisdiction of Finland, thus Finland is also responsible for the impacts as far as it can by its laws, governance and policies influence the conditions of UPM's activities and decisions of how UPM is doing its business.

Finland is responsible under the ICESCR to act to ensure in cooperation with Uruguay that the conditions which the UPM, its investment agreement, activities and decisions create in Uruguay shall not negatively affect the realisation of human rights in the following respects - in which respects Finland currently neglects its extraterritorial obligations as Finland has not acted adequately to ensure that:

1. Land and water to be used primarily to secure human rights by people's self-determined means of subsistence

The conditions which the UPM investment creates or requires to Uruguay shall not be allowed to retrogressively or negatively affect economic, social and cultural rights of those, whose life the project will crucially affect and who have not even been informed about such project's negative impacts on their human rights in advance and have not thus been able to democratically participate to assess and influence those impacts to get their human rights protected.

2. Adequate standards of living in respect to right to food, water and housing have to be secured

Uruguay and Finland must ensure people's human rights to adequate and secured food, water, housing and decent living conditions to be realised with sources of people's access to them remaining in people's hands without retrogradation, not taken away under commercial control for other purposes of UPM or other business interests.

3. Rights to health and to healthy environmental and occupational conditions

UPM project, Uruguay and Finland have to ensure by competent independent monitoring and transparent public verification that actors which they can influence do not agree or act in ways which reduce people's access to clean and safe environment, water, air or work or living conditions and retrograde the realisation of human rights to these by pollution or over-consumption of water or land for such other purposes which do not secure these rights.

4. UPM investment's impacts on biodiversity by which people realise their human rights

UPM project has to be ensured not to affect, degrade or displace local pampas and river biodiversity regeneration by which people have realised their human rights to food, health, livelihood, living conditions and environment as adapted to live by that biodiversity regeneration. The project has to respect those rights and Uruguay and Finland have to protect those rights and promote their sustainable realisation.

5. UPM project's impacts on cultural equality, rights to culture, work, traditional occupations and education

UPM project has to be reviewed to respect people's equal rights to their cultures of economy, work, livelihood and education in the area compliant to how these cultures of life's sustenance and heritage are sustainable as adapted to living by the regeneration of area's biodiverse environment without displacing it. Uruguay and Finland have to ensure this equality to be realised not only within the project but also in project's impacts to life/work outside of it.

Regarding working conditions, it is important to remember that the contract that UPM signed with the Uruguayan government establishes not only the projections in terms of job creation but also guidelines on conflict prevention and resolution which the company requires to be tailored to its needs. Uruguay is a country with a good international reputation for having a rich regulatory framework for the protection of fundamental labor rights, with collective bargaining, freedom of association and broad rights that protect workers. The action of UPM trying to enforce laws for how occupations can be regulated reflects the nature of the enterprise and direct and indirect forms of pressure and capture in favor of its interests undermining human rights and state's competence to regulate as needed.

Likewise, in terms of economic justice, the introduction of dispute resolution mechanisms in the contract signed between the company and the Uruguayan government has to be noted. Although this is not a novelty, the company harnessed the protection of its investment by several mechanisms: those introduced by the contract to the national courts but also the right to bring cases to international arbitration established in the investment promotion and protection treaty between Uruguay and Finland. In a world where public policies and the regulatory power of States is increasingly cornered by the transnational interests of companies, a tailored contract like UPM's constitutes a clear ratification of the supremacy of transnational capital over sustainability of life.

Regarding all these 5 dimensions of how the project can affect economic, social and cultural human rights - which are presented more in detail in the annex also here <http://www.observatoriodelaguaenuruguay.com/report-to-un-cescr-on-upm-investment-in-uruguay/> - Finland is as a home country of the UPM responsible together with Uruguay to ensure the respect for these human rights and their adequate protection so that the UPM business activities in Uruguay can not negatively affect but promote the realisation of these rights.

People of Uruguay who are affected need to get duly informed about the impacts on their rights and environment as assessed and verified by competent independent third party holders of human rights and environmental competence in respect to the Uruguay's, Finland's and UPM's respective human rights and environmental obligations and commitments on responsibilities of business actors under State Parties' jurisdiction or influence.

While UPM has done many assessments, they have not been assessments of the overall human rights impacts and diverse affected communities have not been able to participate. The UN organs and rapporteurs have noted that states can not externalise to private business actors who have themselves business interests in concerned investments or projects their responsibilities as states to assess the impacts on human rights and environment but states are responsible to assess, monitor and verify the impacts and act to secure human rights and environmental integrity.

Finland has also to help to ensure that on project's impacts on economic, social and cultural human rights and related also to water, biodiversity and other environment such independent and impartial review commission or entity must be set up which respective UN organs can nominate or approve as competent to assess the planned UPM project impacts to economic, social and cultural human rights and to the environment, particularly to biodiversity and water.

Finland should contribute to cover together with Uruguay the costs of such UN guided assessment commission and to respect its findings in terms of their obligations as state parties of the UN to provide transparently all information requested by the commission regarding the planned project.

15.1.2021

Friends of the Earth, Finland
New Wind Association, Finland
Emmaus Aurinkotehdas ry. Finland

Supporting Signatures 25.2.2021:

Friends of the Earth International
Global Forest Coalition
World Rainforest Movement
Rivers without Boundaries Coalition
BankTrack
Pulp Finance Working Group, Environmental Paper Network
Movimiento Cultural Internacional Our Voice
Project on Organizing, Development, Education, and Research (PODER), Latin America
Movimiento por un Uruguay Sustentable (Movus), Uruguay
Coordinación Nacional contra UPM, Uruguay
No al tren de UPM Montevideo, Uruguay
No al tren de UPM Canelones, Uruguay
European Water Movement
No al tren de UPM Joanicó, Uruguay
Vecinos de 25 de mayo No al tren de UPM, Uruguay
Censat Agua Viva- Amigos de la Tierra, Colombia
Comisión Nacional en Defensa del Agua y la Vida (CNDAV), Uruguay
REDES, Friends of the Earth, Uruguay
Friends of the Siberian Forests, Russia
Otro Trazado, Florida, Uruguay
Biofuelwatch, UK/US
Colectivo Ecofeminista Dafnias, Uruguay
Abibinsroma Foundation in Ghana
Asociación Civil Ambientalista de Salto (ACAS), Uruguay
Attac Finland
Budakattu Krishina Sangham, Karnataka, India
Ecofeminismo Río Negro, Uruguay
Friends of the Landless, Finland
Witness Radio - Uganda
CORD, Karnataka, India
Colectivo Ñangapiré, San Gregorio de Polanco, Uruguay
Adiwasi Samta Manch, Chhattisgarh, India
A Planeta, Basque Country, Spain
Vivero Atrapasueños de San Gregorio de Polanco, Uruguay
TTIP-verkosto, Finland
Village Reconstruction and Development Project (VRDP), Tamil Nadu, India
El Jardín de los Seres, San Gregorio de Polanco, Uruguay
Our Forests - Meidän metsämme, Finland
Buliisa Initiative for Rural Development Organisation (BIRUDO) Uganda
Movimiento por la Tierra, Uruguay
Parivartan, Chhattisgarh, India
Partidos por el Medio, Uruguay
World Shop Association of Hämeenlinna, Finland
Devote Trust, Orissa, India
Grupo Guayubira, Uruguay
No al tren de UPM La Paz, Uruguay
Oyu Tolgoi Watch and Rivers without Boundaries Coalition, Mongolia
Una Nueva Vía Durazno, Uruguay
No al tren de UPM, Colón, Sayago y Peñarol, Uruguay
CRASH – Coalition for Research and Action for Social Justice and Human Dignity
Frente de Lucha Ambiental Delia Villalba, Uruguay

El taller del arte-insano, San Gregorio de Polanco, Uruguay
Finnish Association of World Shops, Finland
Comisión Rivera por la Vida Sustentable y el Agua, Uruguay
Per il Clima, fuori dal Fossile, Italy
COENDU, Conservación de Especies Nativas del Uruguay
FFOSE, Federación de Funcionarios de Obras Sanitarias del Estado, Uruguay
Un Solo Uruguay (USU), Uruguay
Centar za životnu sredinu/ Friends of the Earth, Bosnia and Herzegovina
Mesa Nacional de Colonos, Uruguay
Asociación de Trabajadores Civiles de los Diques del Estado (ATCDE), Uruguay
Plenario intersindical social María Romana - La Paloma Rocha, Uruguay
Asamblea por el Agua del río Santa Lucía, Uruguay
Movimiento de Defensa del Agua, la Tierra y la Protección del Medioambiente, Chile
Radio Espika FM, Santa Lucía, Uruguay
Maldonado por la Tierra y el Agua, Uruguay
Consejo de la Nación Charrúa (CONACHA), Uruguay
Movimenti per l' Acqua, Italy
Asociación Barrial de Consumo (AsoBaCo), Uruguay.
Slow Food, Uruguay
Ähtärinjärven luonto yhdistys ry, Finland
Partido Verde Animalista, Uruguay
Colectivo La Campana Verde, Rocha, Uruguay
Vecinosde La Paloma- Rocha, Uruguay
Asociación Argentina de Abogados Ambientalistas, Argentina
Red Acuífero Guaraní, Uruguay
Casade Filosofía, Uruguay

Contact and further information: economic.justice.foe.finland@gmail.com

You can find this document with its annex and its updates also from these weblinks:

https://www.maanystavat.fi/sites/default/files/attachments/upm-uruguay_mega_investment_and_responsibility_of_finland.pdf

<http://www.observatoriodelaguaenuruguay.com/report-to-un-cescr-on-upm-investment-in-uruguay/>

ANNEX - More detailed presentation of the human rights impacts of the UPM-Uruguay mega investment

Introduction

As UPM is a transnational corporation where crucial Finnish private and public interests are involved, the human rights impacts of UPM's mega investment in pulp production in Uruguay are an example of conditions in respect to which Finland is responsible to develop a framework to ensure that it will not neglect its ICESCR obligations.

As UPM says "We are committed to respecting and protecting human rights as defined in the United Nations' Universal Declaration for Human Rights" (UDHR) "across our businesses and value chain", that would require all UPM activity to respect and protect everyone's "right to a standard of living adequate for the health and well-being [...] including food, clothing, housing and medical care and necessary social services", to "the cultural life of the community", "right to work, to free choice of employment" securing "an existence worthy of human dignity", "to social security" and to realization of these "economic, social and cultural rights" also "through [...] international co-operation". (1)

In this respect "everyone is entitled to a social and international order in which the rights [...] can be fully realized" as inalienable universal human rights equally for all so that "every organ of society" shall "promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance". (2) Finland, Uruguay and other states "must take the necessary steps in their legislation and policies [...] to promote and help create" thus such conditions which set "business actors whose conduct they are in a position to influence to ensure that they do not undermine the efforts of the States in which they operate to fully realize" economic, social, cultural and political human rights in those countries. (3)

UPM decided on 23.7.2019 to invest 2,4 billion euros in a 2.1 million tonne eucalyptus pulp mill with "further capacity potential" (4) to be built in central Uruguay requiring ca. 4 billion euros investment from Uruguay's public funds to facilitate the UPM pulp industry whose impacts on human rights and environmental commitments have not been transparently assessed and demonstrated. So the Uruguayan State will invest more money than UPM itself, without participation in the profits of the venture, which could be 16 billion dollars in ca. 20 years.

Numerous groups and communities have expressed a deep concern about what will be the impacts of that investment contract to their human rights and environment as the UPM project will spend billions, mostly of Uruguayan taxpayers' money to create huge change in Uruguay's land and water use. Such 'significant impact on Uruguayan economy' is bound to benefit UPM's private profits - no matter how that will impact people's human rights.

As far as human rights obligations "are expressed without any restriction linked to territory or jurisdiction", Finland shall also by all means of international economic cooperation progressively "prevent human rights violations abroad by corporations domiciled in" Finland - as far as it can legally "influence situations located outside its territory [...] by controlling the activities" of such corporations so that this can "contribute to the effective enjoyment" of ESC rights. (5)

As Finland and other states have some power to control "corporations incorporated under their laws, or which have their statutory seat, central administration or principal place of business on their national territory", Finland has to use that controlling power to secure human rights particularly on public-private mega-investments abroad like this one. (6)

UPM has said that "across our businesses and value chain" "we are committed to respecting and protecting human rights as defined in the United Nations'" UDHR, so that the UPM will "respect people and human rights" "in everything we do" and "everyone shall respect human rights as defined by the UN in UPM's own operations and project to promote their implementation in UPM's sphere of influence". (7)

So, as UPM says it will "openly provide comprehensive, third-party-verified information from the corporate level to details on individual sites" of production, requiring also "a similar commitment from our suppliers" and UPM activities are "guided by internationally recognised environmental management systems" (8), therefore:

People of Uruguay who are affected need also to get duly informed about the impacts on their rights and environment as assessed and verified by competent independent third party holders of human rights and environmental competence in respect to the Uruguay's, Finland's and UPM's respective human rights and environmental obligations and commitments on responsibilities of business under State Parties' jurisdiction or influence.

Finland has also to do its best to ensure that on project's impacts on economic, social and cultural human rights and related also to water, biodiversity and other environment such independent commission must be set up which respective UN organs can nominate or approve as competent to assess the planned UPM project's impacts to economic, social and cultural human rights and to the environment, particularly to biodiversity and water.

Instead of UPM's advertisement type communications the people who will be affected, will need independent human rights assessments because companies like UPM tend to select from indivisible human rights something what they could measure to appear "validating the most salient issues at a local operational level".

If UPM is authorised to select which of its impacts could appear as 'most salient' when "our decisions shall be made with UPM's best interests in mind", protecting "UPM's assets and information", "financial success, stability, future outlook and growth" as "fundamental [...] for most stakeholders", then:

Would not such UPM's 'best interest' be selecting and demonstrating its own business as if it were the fulfillment of human rights - and guide UPM to leave as non-assessed or non-demonstrated such aspects of its activity which are not "most salient" and not in UPM's 'best interest' to be measured or demonstrated ?

UPM has promised "to answer all the questions and challenges of the people's movement who opposes it so that people know what UPM is doing" (9) in respect to their human rights and environment. Now people however do not know what UPM is doing. People can know it only if they get project's impacts on their human rights and environment to become examined and assessed by independent third party evaluating body competent to assess and demonstrate such impacts compliant to the obligations and commitments which the state parties and UPM have on those human rights and environment of the affected people.

Such competent evaluating body has thus to consist of independent evaluators whom the UN organs, which are authorised to monitor the realisation of the obligations and commitments of states and corporations on human rights and environment, can approve to be competent to assess such impacts in respect to those obligations and commitments and to demonstrate the assessed impacts publicly. The assessment has to be thus:

- fully public and transparent, covering the full range of potential impacts on people's opportunities to realize their internationally recognized human rights, explicating differentiated impacts on marginalized and vulnerable groups
- carried out with potentially affected communities, allowed to compare project's impacts to those of its alternatives and to verify the draft assessment report

States have also to "ensure that all proposals to carry out or approve projects that may have significant environmental effects are subject to careful, thorough assessment of their environmental impacts, including in particular the impacts that may interfere with the full enjoyment of human rights". Such "assessment should be undertaken as early as possible in the decision-making process, provide meaningful opportunities for the public to participate, and address all potential environmental impacts". "The assessment should result in a public report that clearly describes the impacts, and the assessment and the final decision should be subject to review by a court or other independent body." (10)

Finland is responsible to "facilitate access to relevant information" regarding the human rights impacts of corporations domiciled under its jurisdiction and "in transnational cases, effective accountability and access to remedy requires international cooperation". "Appropriate monitoring and accountability procedures must be put in place to ensure effective prevention and enforcement" and "a duty on companies to report on their policies and procedures to ensure respect for human rights, and providing effective means of accountability and redress". "States parties and their judicial and enforcement agencies have a duty to cooperate with one another in order to promote information-sharing and transparency". "Conditions under which the protection of trade secrets and other grounds for refusing disclosure may be invoked should be defined restrictively, without jeopardizing the right of all parties to a fair trial." (11)

There is a need for "the adoption of international instruments that could strengthen the duty of States to cooperate in order to improve accountability and access to remedies for victims of violations of Covenant rights in transnational cases." (12) The assessment needs thus to clarify the planned UPM investment project's impacts in following respects:

1. Land and water to be used primarily to secure human rights by people's self-determined means of subsistence

The conditions which the UPM investment creates or requires to Uruguay shall not be allowed to retrogressively or negatively affect economic, social and cultural rights of those, whose life the project will crucially affect and who have not even been informed about such project's negative impacts on their human rights in advance and have not thus been able to democratically participate to assess and influence those impacts to get their human rights protected.

UPM says "our human rights work is based on" the UNGPs under which its "responsibility [...] to respect human rights refers to internationally recognized human rights [...] expressed in the International Bill of Human Rights" (13) including the ICESCR, which requires that - also in Uruguay - people have a human right to keep such sovereignty over

the use of country's land, water and natural wealth, that :

- Peoples can freely "dispose of their natural wealth" also by "international economic co-operation, based upon [...] mutual benefit" as far as its obligations are not "impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources" but secure that "in no case may a people be deprived of its own means of subsistence".(14)

- Thus also people of pampas shall not be deprived of pampas lands and waters by which they live but "free and beneficial exercise of the sovereignty of peoples [...] over their natural resources must be furthered by the mutual respect of States" which "shall strictly and conscientiously respect the sovereignty of peoples [...] over their natural wealth and resources".(15)

- State shall use all legitimate means to the "maximum of its available resources" to secure economic, social and cultural human rights "including particularly the adoption of legislative measures". Such "all appropriate means" (16) states have to take to fulfil what the main human rights treaties require and state "may not invoke the provisions of its internal law as justification for its failure to perform a treaty" (17) but has to make its internal law to comply with its treaty obligations.

These a state has to fulfil also by "directing the efforts of business entities towards the fulfilment of" these rights, making business to "support to implement" these rights increasingly, also by "enforcing progressive taxation schemes". (18) State has thus "to identify, prevent and mitigate the risks of violations of" human rights caused by business and to "regularly review the adequacy of laws and identify and address compliance and information gaps, as well as emerging problems." (19)

Also people of Uruguay have thus such right to self-determination of Uruguay's natural wealth and other resources, that they have a right to know how decisions on such Uruguay's resources will affect people's economic, social and cultural human rights and how people can influence such decisions in a way which secures these their human rights.

Also the UN Charter obliges states to promote "respect for [...] equal rights and self-determination of peoples" and build "international co-operation in solving international problems of an economic, social, cultural" or other character in ways which are "promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction" so that such states' obligations under the UN Charter "shall prevail" in relation to other obligations. (20)

The "inalienable right of the people [...] to self-determination" is to be respected (21) as "accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted" and has thus also priority to be realised as a "peremptory norm of general international law", "hierarchically superior to other rules of international law and [...] universally applicable", having explicit "acceptance and recognition by a very large majority of States". (22)

As far as Uruguay's land and water ecosystems and their biodiversity belong to the natural wealth characteristic to the life of country's people, thus to deprive people of such ecosystems by which they have lived and to change the ecosystem and transfer the use of land and water under transnational corporation's control - in ways on which people have not even duly known how that will affect their human rights - does not belong to the authority of the president or government of Uruguay to negotiate or agree without people even duly knowing the impact.

All the more so if people get a wrong picture about the investment from the government or president - as the President of Uruguay told in July 2016: "The company, with its headquarters in Finland, will invest 4 billion dollars in the installation of the industrial plant and part of the logistics, which will be complemented by some 1 billion dollars in charge of Uruguay".(23)

And although May 2019 ministerial resolution gave the people to understand that environmental baseline monitoring would be carried out a year before the construction, this crucial condition promised to people before the elections was violated. Thus people of Uruguay have been continuously kept ignorant on what Uruguay-UPM agreement means. It also runs over the autonomy of departmental governments when defining projects affecting their jurisdiction.

The realisation of the "right of all peoples [...] to self-determination is a fundamental condition for the effective guarantee and observance of human rights and for the preservation and promotion of such rights" (24), required by the first article of both the main UN human rights covenants "before all of the other rights". (25)

States have thus to keep permanent control which secures the resources of their countries to be primarily available for securing human rights of the people whose life and human rights depend on those resources of land and territory on which they live and which are integral to people's own means of subsistence by which they fulfill their human rights.

As far as other actors invest to exploit such resources, the states are thus responsible to retain such people's control over the resources which secures them to be used transparently according to what people need to realise their human rights and to sustain the integrity of the environment which sustains their life and realisation of human rights.

Under the UPM-Uruguay agreement however on the contrary the 4 billion euros which Uruguay will have already spent as

investment to the UPM project will remain widely useless if the UPM does not invest to the project its own share of 2,4 billion (26) - which the UPM is obliged to invest only as far as Uruguay reforms its laws, policies and conditions on water, environment, labor, culture, education, transport, etc. to serve UPM's profits better and better without limit so that:

"In this Agreement, UPM seeks to define the actions required for infrastructure development and other pre-requisites in Uruguay in order to support possible pulp mill investment. Further actions will be needed for technical definitions and advancement of works, successful completion of administrative processes, and conclusion of negotiations for agreements to meet the project's requirements." (27)

"Achieving significant progress in the implementation of the infrastructure initiatives is critically important for the Final Investment Decision. If these are developed within the agreed timeline and other pending issues can be agreed in due time in accordance with this Agreement, then UPM will initiate the company's regular process of analysing and preparing an investment decision regarding a potential pulp mill, which will also take into account matters such as the financial and other prospects of the proposed Pulp Mill, the prospects and/or results of UPM generally and the prospects of the global pulp markets." (28)

So only Uruguay has agreed to invest 4 billion euros for UPM's purposes while UPM has agreed only to decide what more it will require from Uruguay only after Uruguay has spent 4 billion euros to serve UPM's continuous "growth opportunities for its businesses" (29), has rearranged country's administrative processes, labor laws, technical education and has approved environmental permits for such UPM business with conditions which suit for the UPM to serve the priority of its profit interests, only then UPM will announce what more it would require to be ready to invest. (30)

Thus Uruguay's 4 billion euros investment will remain to a great extent useless waste of money, if Uruguay will not satisfy whatever further additional requirements UPM may set for Uruguay as conditions to invest UPM's own 2,4 billion euros. This gives to the UPM highly privileged opportunity to require Uruguay to prioritize UPM's private profits over people's public benefit by requiring more and more conditions for providing its part of the investment.

Uruguay's National Institution of Human Rights and Defense of People noted that Uruguay implements the project under the agreement "as a prerequisite for the possible investment, although independently from the effective concretion of the works by transnational company". When Uruguay is agreed to spend 4 billion euros for UPMs' interests "as a necessary but not sufficient condition" for the UPM to pay its 2,4 billion euros for its pulp production, from which UPM has counted to profit (31), with such priority the protection of human rights can not be secured in due compliance with the ICESCR.

And Uruguay has already for example transferred US \$ 173 million "from the Energy Stabilization Fund to the "Central Railway Project" which "turned into the railroad for UPM". Similarly funds to revive the functioning of hospital had become empty as state had prioritised the need to satisfy the needs of the UPM. (32)

To respect human rights, Uruguay and the project have to review, correct, amend and improve the current inadequate levels of impact assessment, information, transparency and participation to secure "allocation of sufficient human and financial resources to institutions responsible for the effective implementation of legislation and policies relating to environmental protection [...] not only with respect to granting of anterior environmental self-assessments, but [...] to ensure the monitoring of environmental impacts." (33)

While the required transparency on cumulative impacts of the whole investment would require that all conditions, activities and resources of the investment would have been agreed so that their impacts could be duly assessed, now human rights and environment are endangered also by that how the agreement has left many conditions, activities and resources which the UPM may still require for its investment to become agreed only later - after Uruguay has already paid majority of the project's overall costs and has been left totally dependent from UPM's business interests.

Uruguay's Human Rights Institute noted that the impacts of such investments "must be analyzed considering the obligations assumed by the Uruguayan State of defense, protection and promotion of human rights" including also the "right to live in a healthy and ecologically balanced environment, right to housing, health, access to information and public participation in environmental matters, together with positive obligations of prevention and precaution." (34)

To agree on such investments "preliminary studies need to be carried out on environmental aspects and territorial planning and management also in terms of their possible impacts on human rights based on the principles of prevention and precaution". (35)

Uruguay has "to guarantee the effective enjoyment of the right to a healthy environment" with "the rights of access to environmental information; social participation in the decision making process regarding the environment; and effective

access to judicial and administrative procedures for prevention: compensation of environmental damages" (36) caused.

This how Uruguay's spending of billions of euros of public funds would thus remain to a great extent non-useful if Uruguay does not agree to whatever additional conditions UPM may require, gives to the UPM an enormously privileged opportunity and leverage to require more and more what ever such changes it wants to the already agreed legal conditions or to the laws of Uruguay - to demand them to be changed to prioritize UPM's private profits over people's public benefit by requiring more and more conditions for providing its part of the investment.

For example regarding "the quality of the water and sediments of the Río Negro, including the state of the aquatic biota, the characteristics of the groundwater and soil in the project site and its immediate surroundings, the conditions of air quality in the area, including noise, as well as the socioeconomic variables of the communities involved", the ministerial resolution of May 14, 2019 granted the project environmental authorization with the condition that the environmental baseline measurements and monitoring on all these in Rio Nergo project area have to be carried out "no less than 2 years of measurements prior to the start of the project operation and at least 1 year of measurements prior to the beginning of construction activities". (37)

But the construction began without the required baseline measurements and monitoring - in violation of these requirements even though these conditions had been ruled to be fulfilled so that "all these project definitions must be submitted within a maximum period of 6 months" from the May 2019 resolution. (38) The government would have needed these baseline measurements from the time before the constructions to duly fulfil its legal obligations to monitor the pollution impact and "to ensure that the pulp mill operation must not exceed the water quality levels in the Río Negro defined in the Environmental Impact Assessment". (39)

As citizens raised a court case on breach of these requirements and conditions of the project that environmental baseline measurements were not carried out as required, the ministry was not willing to demand the project to follow even these its own baseline requirements of environmental monitoring and protection. As there are no environmental baseline values measured for the project area, project's impacts on environment can not thus be duly measured and that undermines the environmental accountability of the UPM investment and human rights accountability of the project. Affected people are thus deprived of their right to monitor and verify what happens to their environment.

This is only one example showing how the project compromises human rights and environmental integrity to give to the UPM a privilege and leverage to set unknown additional preconditions for its share of investment - no matter how damaging impacts for human rights and environment that may have. If Uruguay will not approve the conditions which UPM wants, Uruguay will lose much of the value of the billions it has already spent for the project. If Uruguay would not accept whatever further conditions UPM sets, the billions of public funds which Uruguay has then already invested, remain to a crucial extent a loss for Uruguay as long as UPM is not yet ready to invest its own share.

Impacts on human rights can not be business secrets and it is crucial to ensure "the rights of the public to have access to environmental information, to participate in decision-making related to the environment and to have access to effective remedies for environmental harm". (40) But the text of the UPM agreement was negotiated and agreed without public transparency on its impacts on human rights and environment and was made known to the Parliament and the people of Uruguay only after being signed.

Uruguay's Human Rights Institute has noted that "the information that the State can provide to the transnational company must [...] be the same which is available for the population In general. State must not deliver to companies information obtained by the its public bodies as confidential information" which is not accessible to public in general. (41) But according to the investment agreement Uruguay " shall grant to UPM [...] access, at any reasonable time, to all records in order to audit and verify [...] all amounts related to the costs financed by UPM." (42)

State has to "ensure that all relevant information about the proposal and the decision-making process is made available to the affected public in an objective, understandable, timely and effective manner" (43) emphasizing the impacts on "those who are in particularly vulnerable situations or [...] susceptible to environmental harm". (44) "Victims of human rights violations by business entities" face also "the difficulty of accessing information and evidence to substantiate claims, much of which is often in the hands of the corporate defendant" and victims of "transnational corporate abuses face specific obstacles in accessing effective remedies." (45)

States need to "facilitate access to [...] information through mandatory disclosure laws and by [...] allowing victims to obtain the disclosure of evidence held by the defendant" and "the protection of trade secrets and other grounds for refusing disclosure [...] should be defined restrictively, without jeopardizing the right of all parties to a fair trial." (46)

Uruguay's National Human Rights Institute found - already in examining complaints focusing on the early phase of the central railway project which is just one of the sub-projects under this investment agreement - that the project endangers human rights and environmental integrity by its inadequacy of transparent information and lack of affected people's participation to assessment and monitoring which need to be reviewed and corrected and concluded that:

- People whose life and rights the project affects "have not been able to exercise duly and fully their territorial or environmental rights" or "to participate nor have they been able to demand the completion of the principles of territorial planning and sustainable development" as "no planning documents were found on Railway project (nor on related subsystems: plant of cellulose. mega forest expansion and terminal port)". (47)

- As for states "it is necessary not to ignore the environmental impacts generated by the overall project as a whole" (48) they "must ensure monitoring of the impact of public policies and large-scale investment projects on the environment [...] to ensure the protection and sustainable use of common possessions" (49) and "guarantee the right to participation [...] to the necessary environmental impact assessments; and to access to the information on its results". (50)

- Thus from the whole of the UPM-Uruguay sub-projects there have to be made more comprehensive and competent assessment on the impacts to the totality of human rights and "environmental impact assessments to address the cumulative impacts resulting from the confluence of distinct activities [...] (pulp mill; chemical industry plant; afforestation development; Port: Rio Negro water intake through water reservoir and dam; electric power plant." (51)

- The parties of the agreement are responsible for the overall impacts of all the agreed investments also in respect to how to secure "the quality of life of the population, social integration in territory; environmentally sustainable and democratic use and exploitation of natural and cultural resources" - as Uruguay's constitution also requires. (52) They need thus to "improve the procedures of public information" which have been inadequate (53) and the project's responsibility to transparently "publish the list of properties to be expropriated for useful public purposes." (54)

While under Uruguay's constitution the government bodies can only act in those matters expressly assigned to them by the Constitution or the Law, the action outside those competences is illegitimate. Government's approval of legally binding agreements with foreign entities belongs to the competence of the Legislative Power - not Executive Power which now approved it. And particularly so as the agreement includes approval of legal norms that will bind the Legislative Power, for example in relation to positive labor law.

Human rights obligations and commitments are violated also by the agreement as it orders land and water use and related conflicts - which affect human rights - to be bindingly solved not on the basis of what respects and realises human rights but on the basis of corporation's rights to private commercial profits. And as in disputes the judge is a supranational ICSID (WB) that affects the ability of legislation to fulfill its legal purposes for which the laws were enacted.

The UPM contract would in all these respects unduly restrict Uruguay's public authority to fulfill its ICESCR obligations to protect, fulfill and promote human rights and would prioritize Uruguay's obligations as a 'management partner' of private entrepreneurship over its obligations on securing people's human rights, even without allowing people to know what the impacts on their rights would be.

ICESCR obligations on people's human rights would be "violated when States parties prioritize the interests of business entities over" people's economic, social and cultural human rights and how their use of land and water ecosystems in their own hands (55) and also the constitution of Uruguay requires people to abstain from "any act that causes grave depredation, destruction or contamination to the environment". (56)

As project's massive use of Uruguay's natural wealth and resources is determined by such commercial priorities how project is required primarily to profit the UPM but to cost more to the Uruguayan people than to the UPM which is widely exempted of paying most taxes, it reduces Uruguay's ability to control the country's resources according to its human rights obligations - to be used primarily to realise progressively its people's human rights, "directing the efforts of business entities" accordingly, also by "enforcing progressive taxation schemes". (57) "Permissive rules on corporate tax may affect the ability of States where economic activities are taking place to meet their obligation to mobilize the maximum available resources for the implementation of economic, social and cultural rights " (58)

Home states of corporations - like Finland in this case - are also responsible "to take steps to prevent and redress infringements of Covenant rights that occur outside their territories due to the activities of business entities over which they can exercise control" and to "facilitate access to relevant information" regarding the human rights impacts.

(59) "States parties must prevent effectively infringements of economic, social and cultural rights in the context of business activities" by "legislative, administrative [...] and other appropriate measures, to ensure effective protection against Covenant rights violations linked to business activities". (60)

UPM's "responsibility to respect human rights [...] exists independently of States' abilities and/or willingness to fulfil their own human rights obligations, and does not diminish those obligations." UPM has been thus responsible to respect Uruguay's ICESCR obligations also where Uruguay's "national laws and regulations" have not yet implemented them (61), "regardless of whether domestic laws exist or are fully enforced in practice". (62) And like CESCR has reminded Uruguay, it has to "take all necessary steps to ensure [...] all the rights enshrined in the Covenant at all levels of the judicial system, including the review and amendment of any procedural regulations that hamper their application." (63)

Uruguay, UPM and Finland are thus responsible to ensure that UPM-Uruguay agreement and its implementation comply with ICESCR and allow on agreed activity independent public human rights impacts assessments, covering transparently and verifiably also all negative impacts which the agreed business activities may have on human rights.

Agreement and its implementation have to be made only in such transparent, publicly verifiable way which ensures that agreed activity respects and complies with internationally recognised human rights in ways which authorised independent human rights organs and the affected people, can publicly monitor and verify. This has not been secured.

UPM and other companies who claim being committed to follow UN Guiding Principles on Business and Human Rights are responsible to "identify and assess any actual or potential adverse human rights impacts with which they may be involved [...] as a result of their business relationships" - such as UPM investment's above referred impacts - also with all "potentially affected groups and other relevant stakeholders" who defend the rights of those groups. (64)

As this UPM's "responsibility to respect human right [...] exists independently of States' abilities and/or willingness to fulfil their own human rights obligations" through their own activity (65), therefore:

- UPM is responsible to call a new comprehensive independent assessment of the agreed project's human rights impacts to "all internationally recognized human rights [...] since enterprises may potentially impact virtually any of these rights" and to the environment, trying "to understand the concerns of potentially affected stakeholders by consulting them directly" in ways they can understand and by consultations to which all interested can participate. (66)

- UPM has to assess the impacts by addressing duly the raised concerns so that it has also to "draw on feedback from [...] external sources, including affected stakeholders" the national human rights institute and civil society movements, giving due transparent "responses to impacts on [...] groups or populations that may be at heightened risk of vulnerability or marginalization" (67)

- The ways how human rights impacts are assessed, the UPM must be compliant to the UNGP "prepared to communicate this externally, particularly when concerns are raised by or on behalf of affected stakeholders", ensuring that it shall "not pose risks to affected stakeholders" (68)

- As Uruguay's National Institute of Human Rights and diverse civil society organisations and actors in Uruguay and internationally have expressed their concerns on UPM investment, UPM has to demonstrate publicly, how it has secured that human rights are not endangered and can not be violated by its investment. It has to strengthen the participatory processes of affected people's project monitoring and "the way in which their observations were taken into account". (69) "State must adopt the relevant measures to protect the human rights of the entire population", "to ensure access to repair" and "consult the interested groups" with "social participation as guiding principle". (70)

- In respect to each of the publicly expressed concerns, UPM has to be able to "provide information that is sufficient to evaluate the adequacy of an enterprise's response to the particular human rights impact involved", transparent and accountable towards the affected and concerned people so that from its own and its business partners' activities the UPM shall publicly "show that they respect human rights in practice". (71)

2. Adequate standards of living in respect to right to food, water and housing have to be secured

Uruguay and Finland must ensure people's human rights to adequate and secured food, water, housing and decent living conditions to be realised with sources of people's access to them remaining in people's hands without retrogradation, not taken away under commercial control for other purposes of UPM or other business interests.

States have to ensure the realisation of "the right of everyone to an adequate standard of living", "adequate food [...] and housing, and to the continuous improvement of living conditions". (72)

As right to adequate food is to be realised also by "reforming agrarian systems [...] to achieve the most efficient [...] utilization of natural resources" for securing "everyone to be free from hunger" (73) and as "small-scale producers and family farmers feed most of the world's people using less than 25 per cent of all global inputs on land, water and fossil energy to grow food" (74), thus most efficient use of natural resources for food are the small scale and family farming as globally "70% of people depend on the Peasant Food Web" while only "30% [...] on the Industrial Food Chain" (75)

Thus the ways to hold, use and manage the land have to secure people's **right to "feeding oneself directly from productive land or other natural resources"** as part of their own means of subsistence for which they have to be secured "guarantees of full and equal access to economic resources" also for rural women's and marginalised communities' own ways of using land, water, forest through public "measures to respect and protect self-employment" by which they have sustained their life. (76)

CESCR has noted Uruguay is responsible "to protect the country's water resources and water quality" and "to ensure that the most disadvantaged and marginalized groups have access to sanitation services, especially in rural areas" as required by the "general comment No. 15 (2002) on the right to water" (77) according to which:

States have to secure for them equal **"sustainable access to water resources for agriculture to realize the right to adequate food" so "that a people may not "be deprived of its means of subsistence"** but will have "adequate access to water for subsistence farming" also for all "disadvantaged and marginalized farmers, including women farmers".(78)

Thus "peasants and other people working in rural areas have [...] the right to produce food and the right to adequate nutrition" and "states shall prioritize water for human needs before other uses, promoting its conservation, restoration and sustainable use", "prevent third parties from impairing the enjoyment of the right to water of [...] people working in rural areas" and "carry out agrarian reforms in order to facilitate broad and equitable access to land and other natural resources" "to limit excessive concentration and control of land." (79)

States have to secure "the human rights to safe and clean drinking water and to sanitation", "right to water for [...] farming, fishing and livestock keeping and to securing [...] water-related livelihoods, ensuring the conservation, restoration and sustainable use of water" with "the right to equitable access to water and water management systems, and to be free from arbitrary disconnections or the contamination of water supplies". (80)

While water is a public good "subordinate to the general interest" under the Constitution of Uruguay (81) still the UPM-Uruguay agreement and vast plantations give to the UPM private privileges over water. UPM pulp production controls the local water and in last two decades, more than 1.200.000 hectares have been planted with eucalyptus and pine.

Expanding eucalyptus plantations in wide pampas areas take both land and water away from the needs of local small scale cultivation and rural livelihoods affecting local communities' food sovereignty and livelihood sovereignty. Eucalyptus plantations suck effectively enormous amounts of water and make groundwater level to go down.

As "a large proportion of the total amount of water used in the country was devoted to monocultures" that has affected the water availability." In some cases, "a few years after eucalyptus plantations were established, all farmers' water wells dried up and the level of the river substantially decreased" like UN Special Rapporteur on the human right to safe drinking water and sanitation noted. (82) Also close to Rio Negro basin UPM's plantations - for which UPM has bought now still more land there - affect also the groundwater level of the area which will additionally face a vast unprecedented and further growing pressure on water use by the pulp mill.

Human rights to food and water require that "as part of their obligations to protect people's resource base for food, States parties should take appropriate steps to ensure that activities of the private business sector and civil society are in conformity with the right to food" (83) "ensuring sustainable access to water resources for agriculture to realize the right to adequate food". As far as availability of or access to water is affected or "controlled by third parties, States parties must prevent them from compromising equal, affordable, and physical access to sufficient, safe and acceptable water" by such parties' "inequitable extraction of water". (84) Violations "can occur through the [...] entities insufficiently regulated by States" if states do not "prevent them from violating the right to food of others" (85) or "safeguard persons within their jurisdiction from infringements of the right to water by third parties". (86)

As also actors of "private business sector have responsibilities in the realization of the right to adequate food", State has to secure "an environment that facilitates implementation of these responsibilities" so that "the private business sector – national and transnational" acts "conducive to respect of the right to adequate food, agreed upon jointly with the Government and civil society." (87) States are obliged in agreements "to take into account [...] international legal

obligations regarding the right to water" (88) and to "ensure that the right to adequate food is given due attention". (89)

These obligations are neglected by the UPM-Uruguay contract, particularly regarding how "states shall respect, protect and **ensure access to water** [...] in customary and community-based water management systems, on a non-discriminatory basis" to secure water equally to "disadvantaged or marginalized groups", farmers and plantation workers. (90)

CESCR has **urged Uruguay to secure "legislation that will establish an express prohibition of discrimination and provide sufficient protection against discrimination"** (91) including that:

Human rights "such as access to water" as available or security of land used for self-subsistent food production "should not be made conditional on a person's land tenure status" or other national or transnational property status because **"property status, as a prohibited ground of discrimination" cannot justify violation of equal human rights.** (92) The right to adequate housing covers "legal security of tenure" in "variety of forms" of use, "occupation of land or property" also in terms how "adequacy is determined in part by social, economic, cultural, climatic, ecological and other factors". (93)

States have to "ensure that the allocation of water resources, and investments in water, facilitate access to water for all members of society" and "prevent any discrimination on internationally prohibited grounds in the provision of water." (94) "Sufficient, safe and acceptable water must be accessible within, or in the immediate vicinity, of each household [...] and workplace" so that "the realization of the right to water must also be sustainable, ensuring that the right can be realized for present and future generations". (95) Human rights are risked being "violated when [...] marginalized peoples are not allowed to dispose freely of their natural resources, including land, particularly when such resources are their means of subsistence" (96) on which states have to secure also adequate housing, living place/ conditions with "sustainable access to natural and common resources, safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage" and "access to employment options".(97)

UPM project has not secured these requirements in the affected areas even though Uruguay's Territorial Planning and Sustainable Development Law has "established territorial rights of the persons (Art. 6), specifically the right for public authorities to establish a territorial planning appropriate to the general interest" with "rights to participation, to justice and to information about the territory" to secure "environmentally sustainable and democratic use and exploitation of natural and cultural resources" (Art. 3) "through the sustainable planning. with societal equity and territorial cohesion; the coordination between public entities: the equitable distribution". (98)

The impacts of UPM investments have affected not only availability of water for drinking, cultivation, and other needs of living and rural livelihoods in the area but also safety and other needs of housing for example along the railway built for huge volume of the UPM transports of pulp and chemicals through wide areas and many towns.

"Based on the principles of human rights and environmental law of prevention and precaution" "the existing territorial planning and management instruments do not consider the particular impacts of the railway project on each location. Thus the railway project has to integrate new territorial planning and management instruments, to comply with" such requirements of the law "including social participation mechanisms". (99) "Railway project [...] cannot exempt compliance with the Territorial planning and management or replace the functions of all the competent bodies." (100)

Particularly the safety and other adequacy of housing and living conditions of many poor and marginalised people along the railway are affected by the continuous heavy transports including those of dangerous chemicals like the Uruguay's Human Rights Institute has observed. The project threatens to lead also for example rent prices increase which impairs poor people's right to adequate housing by retrograde steps in its fulfillment.

UPM's project also impacts the quality of life of people residing in these neighborhoods by affecting mobility and access to social services like health clinics, schools and food providers as reported in the study of the impact of the train project on Montevideo's neighborhoods by the Facultad de Ciencias Sociales (2020). (101) There has also been an increase in sexual exploitation and human trafficking in the areas where the project is being built (documented by the NGO El Paso and for previous pulp mills in Uruguay in the report by Pena & Recoba, 2020). (102)

So far Uruguay has acted as if it were obliged "to guarantee for this company unresolved and prioritized access to use the railroad as the Rail Operator and in relation to other aspects of its use, including also the access to information" (103) But it is obliged to ensure that "the information that the State can provide for the transnational company [...] must not be other than covered under the Law [...] on Access to public Information, requiring the same information to be available for the population in general. The State must not deliver to companies information obtained by public bodies when it is confidential in respect to people". (104)

Uruguay's Human Rights Institute notes that the UPM project violates these requirements and demands that "the State must make a survey on most vulnerable populations affected by the railway project" to assess also the impacts of the "planned housing solutions for non-owner occupants in the surroundings of the railway and of the possible evictions and / or relocations."

Rights to adequate housing and living conditions are violated by daily flow of freight trains 800 meters long, at a speed of up to 100 kilometers per hour, passing through densely populated urban areas loaded with cellulose and dangerous chemical products as many "homes may not have adequate infrastructure conditions to keep them resistant against the impacts (particularly the vibrations) caused by the train transit and railway works. This is especially important in case of the most vulnerable groups for whom State's actions should from a human right perspective provide greater protection and could have implications on rights to health, housing, to conditions of dignified life and work among others. " (105)

More than 700 tons of fuel and dangerous chemicals would pass daily through densely populated areas. And already in building the passage some houses have been damaged and surroundings endangered, and bushes cut and left in mountains near the houses may spread fires, water pipelines in a small city creating ravines in the neighborhood. Some local governments had said to people that complaint of the neighbors can be made but nothing will happen.

People have requested to take the UPM train out of the urban areas like densely populated neighborhoods of cities, whose inhabitants must daily coexist with it. Even according to UPM's own risk analysis, damage to existing structures is considered significant and damage from construction of 'trenches' is critical. Costs of passages through urban areas are higher than that of bypasses outside of populated centers. The crossings and bridges required by the decision to pass UPM trains through densely populated areas increase costs. 200 million USD could have been saved by taking the UPM train track through the alternative rural routes like the people have proposed. The proposed route would improve circulation and make the operation of the railways safer and more efficient. (106)

The right to adequate housing has "fundamental importance for the enjoyment of all human rights" and includes that everyone has "the right to live in security, peace and dignity" with adequate "legal security of tenure; availability of services, materials, facilities & infrastructure; support costs; habitability; affordability; place; and cultural adequacy". "States must give due priority to social groups living in unfavorable conditions". Uruguay is responsible under the article 7 of the Constitution to protect the rights to "work and property. No one can be deprived of these rights " except according to the laws determining the public interest" with due compensation and compliant to other conditions which the laws set for that how "expropriations must be carried out due to public necessity or utility." (107)

As far as the activity of the UPM in Uruguay could negatively affect human rights there, and Finland as UPM's home country can influence the UPM, Finland "would be in breach of its obligations [...] where the violation reveals a failure by the State to take reasonable measures that could have prevented" the violation compliant to its extraterritorial obligations - "even if other causes have also contributed to the occurrence of the violation, and even if the State had not foreseen that a violation would occur, provided such a violation was reasonably foreseeable". (108)

"States would violate their duty to protect [...] by failing to prevent or to counter conduct by businesses that leads to [...] or that has the foreseeable effect of leading to such rights being abused". States have to monitor also the "exploration and exploitation permits for natural resources" with "due consideration to the potential adverse impacts of such activities on the individual and on communities' enjoyment of" rights to adequate housing, food or water. (109)

As CESCR recalls, Uruguay shall "review the housing-related measures [...] with a view to the adoption of a comprehensive social housing strategy that sets quality and habitability standards and is based on the right to adequate, affordable housing [...] in such a way that priority is given to disadvantaged and marginalized persons and groups" (110), the impacts of the UPM project agreed railway to housing and the way how the affected communities along the railway could not influence the decisions which severely affect their lives, neglect human rights obligations, including that:

"Adequate housing must be habitable [...] providing the inhabitants with adequate space and protecting them from [...] threats to health, structural hazards, and disease vectors. The physical safety of occupants must be guaranteed" also for "disadvantaged groups" and living place and conditions must "enable the expression of cultural identity and diversity of housing" giving "due priority to those social groups living in unfavourable conditions". (111)

Uruguay and the project have to secure human rights by the "allocation of sufficient human and financial resources to institutions responsible for the effective implementation of legislation and policies relating to environmental protection" "to ensure the monitoring of environmental impacts [...] of the Railway Project" and related activities. (112)

States have to "defend, protect and promote human rights" so that "in no case can the State transfer to third parties the fulfillment of those obligations or the responsibility for third parties' actions or omissions that generate violations of any human right of the people" (113) as the state "cannot transfer to third parties the compliance with these obligations" but has to carry "the responsibility for actions or omissions that generate violations of any human right" (114) and ensure "an active transparency of agreement" under the Law on Access to Public Information," also by "publishing the list of land properties expropriate for reasons of public utility". (115)

"While this Information is public and thus no one should need to justify or substantiate one's right to access it, it is notable that in this case people are asking it because it directly affects their rights to housing and habitat, quality of life, free movement, work and environment." (116) In respect to hazardous materials, highly polluting chemicals etc. transport or treatment in an area, it is a legal responsibility of the Ministry of Environment to determine "the applicable conditions for the protection of environment, production, import, export, transport, packaging, labeling. storage, distribution commercialization, use and final disposition". (117)

The National Institution of Human Rights and Defense of People, specifically in respect to the Railway project recommends the Ministry of Transport "with the collaboration of State's other competent bodies" to:

- "ensure planning of Railway Project as a matter of territorial planning, of way to guarantee territorial rights of people" as established in Law of Territorial Ordinance and Sustainable Development including also "the creation of a Regional Strategy of Territorial Organization and special plans for each of the locations where the public work under the Railway project will be developed" (118)
- "improve the procedures of public information on the Railway Project in terms of opportunity and understandability" "Especially, It is necessary that the population directly affected by the railway project can have an open, detailed, synthetic and accessible consultation regarding their living and immediate surroundings". (119)
- "ensure the monitoring of the work and of the possible damage to homes and human health based on the principles of prevention, reparation of rights and due diligence" particularly where the project causes "changes in the quality of life of the population that can include the need to abandon their residences and/or possible relocations, impacts on existing buildings, a situation that requires monitoring specific in order to avoid adverse impacts on human rights." (120)
- "extensively develop and apply effective mechanisms, not only judicial, of due diligence and dispute resolution for people who may be affected by the 'Central railway' project" and "to report publicly regarding such measures of full reparation integral to the rights against possible damages caused in the development of this project [...], ensuring, at its most wide meaning. the right of access to justice in environmental matters." (121)
- "expand the information" and "risks evaluation" about "the possible risks of the transport of chemicals which are highly contaminating and toxic for human health" (122), "develop and distribute widely information about [...] the procedures environmental assessment that provide effective response mechanisms for emergency situations" (123)

"According to the human rights standards, the dissemination of public information, especially environmental information, must be systematic, proactive, timely, regular, accessible and understandable. This right must be assessed from the perspective of those who receive the information considering whether it is appropriate or not" under the criteria.

"It is necessary that the population directly affected by the railway project can count on an open, detailed consultation [...] related to their homes and their immediate surroundings" and can access "the list of properties" expropriated for which "useful public purposes". "information must be publicly available, including the[...] plan of the railway project disaggregated by zones " (124)

3. Rights to health and to healthy environmental and occupational conditions

UPM project, Uruguay and Finland have to ensure by competent independent monitoring and transparent public verification that actors which they can influence do not agree or act in ways which reduce people's access to clean and safe environment, water, air or work or living conditions and retrograde the realisation of human rights to these by pollution or over-consumption of water or land for such other purposes which do not secure these rights.

"States shall protect and restore water-related ecosystems, including [...] forests, wetlands, rivers, aquifers and lakes, from overuse and contamination by harmful substances, in particular by industrial effluent and concentrated minerals and chemicals that result in slow and fast poisoning". (125)

States have to ensure "the right of everyone to the enjoyment of the highest attainable standard" of health by securing "healthy occupational and environmental conditions", "the improvement of all aspects of environmental and industrial hygiene" and "the prevention, treatment and control of epidemic, endemic, occupational and other diseases". (126) State has thus to ensure "the prevention and reduction of the population's exposure to [...] harmful chemicals or other detrimental environmental conditions that directly or indirectly impact upon human health". (127)

To "ensure that natural water resources are protected from contamination by harmful substances and [...] microbes" states must "monitor and combat situations where aquatic eco-systems serve as a habitat for vectors of diseases wherever they pose a risk to human living environments" and thus to human rights. (128) States need to sanction and prevent processes "where a failure to act with due diligence to mitigate risks allows such infringements to occur". (129) As "over 90 per cent of the rivers in Uruguay suffered from excessive levels of nutrients such as phosphorous and nitrogen" due to monoculture agribusiness and pulp mills (130) and only few freshwater reserves are still unpolluted., "the public should be able to readily find information about water quality". (131)

The new UPM pulp plant may increase the level of phosphorus in the Negro River, which is already above what is allowed, between 4% and 8%. In turn, at a time when the river's waters are at their lowest level, it would increase between 20% and 30%. (132) Why is the UPM accepted to produce to the Rio Negro river ca. 7 times higher level of phosphorus than the level which Finland's Supreme Administrative Court (SAC) judged to be a dangerous excess of phosphorus in its decision in December 2019 rejecting the installation in Finland of a cellulose production complex, pine oils and electrical energy, with the latest technology, presented as the world's largest coniferous biorefinery ?

"Access to information about water quality is of particular concern in Uruguay" also in respect to "monitoring water quality in [...] the Río Negro basin" - which the UPM project can further worsen. As "economic activity in the water basins continues to increase, the rapid dissemination of reliable information to the public is critical to ensuring that they have confidence in the quality of their water". (133)

"Taking into account that large-scale investment projects may impinge upon water availability, the State must take steps to prevent negative impacts, starting with the analysis of the impacts of such economic activities." (134) While under the agreement "granting of environmental authorizations for each of the aspects of the potential ROU investment, the project is committed to strengthening the internal organization of DINAMA" (the National Environment Directorate) and its monitoring capacity. (135) Such authorities who are employed to monitor certain commercial activities, may also see such business as basis of their own employment.

New UPM pulp mill needs for the pulp production to consume 136 million litres of fresh water per day and discharge back into the river daily 107 million liters of effluents, with a phosphorus load of 2 mg per liter (comparable to untreated sewage from a population of 235,000 people) which need a dilution of more than 52.5 times in order not to aggravate the pollution of the Río Negro river. To avoid further polluting the river which has already a phosphorous load five times above the norm, UPM will need every day 6,912 billion liters of water to dilute the effluents.

Thus in addition of taking 29 million liters daily away from the river, the overall water without which the pulp mill could not operate is more than 7 billion liters per day ($6,912 + 0,136 = 7,048$) - equal amount as the daily consumption of more than 54 million people.

As home state of the UPM, Finland is also responsible under the ICESCR to act to prevent such "companies from violating the right to water of individuals and communities in other countries" and "to respect the enjoyment of the right in other countries" and to "facilitate realization of the right to water in other countries". (136) "Violations of the right to water can occur through [...] entities insufficiently regulated by States" or by policies or agreements which "curtail or inhibit a country's capacity to ensure the full realization of the right to water." (137)

And as the waterways surrounding the planned UPM plant are already highly contaminated, how would UPM prevent that the contribution of effluents like phosphorus from the new UPM plant will not further worsen the water quality, which has already problems also with cyanobacteria ?

One has to "ensure that large-scale investment projects do not cause negative impacts on the quantity and quality of water for personal and domestic uses". This need to be ensured by "monitoring the impact of large-scale investment projects on water for personal and domestic uses" and by "promoting the preservation and sustainable use of water resources" (138) and their long term availability also "for people living in [...] informal or rural settlements". (139)

"Retrospective measures taken in relation to the right to health are not permissible" or "if [...] taken, the State party has

the burden of proving that they [...] are duly justified by reference to the totality of" economic, social and cultural human rights "in the context of the full use of the State party's maximum available resources". (140)

As there is no clarity how could severe impacts on Uruguay's vital access to fresh water be avoided in the project, an independent assessment on these impacts on sources and circulation of water, on access and rights to water and its availability needs thus to be carried out by such independent human rights and environmental evaluators, which respective UN organs can approve to be competent to assess such impacts.

As "people working in rural areas have the right not [...] to be exposed to hazardous substances or toxic chemicals", "states shall take all measures necessary" for "the prevention of risks to health and safety derived from" the concerned chemicals, "including through their prohibition and restriction". (141) Right to health is violated by "misallocation of public resources which results in the non-enjoyment of the right to health by [...] the vulnerable or marginalized". (142)

Right to health is violated also by "the failure of the State to take into account its legal obligations regarding the right to health when entering into bilateral [...] agreements with [...] multinational corporations" and by "the deliberate withholding or misrepresentation of information vital to health protection" or by "policies that interfere with" the right. (143)

Uruguay has to "ensure that a rights-based approach is used" and "that due attention is devoted to the poorest groups [...] and to addressing the gaps existing between urban and rural areas." (144)

Uruguay, Finland and UPM are all responsible to ensure that the pulp project and related plantation investments can not violate human rights to health and safe, clean and healthy environment taking into account that:

As "violations of the right to health can occur through [...] entities insufficiently regulated by States", "the adoption of any retrogressive measures [...] constitutes a violation of the right to health" when measures "polluting air, water and soil" are adopted without human rights-securing legal basis which ensures also "access to the minimum essential food which is nutritionally adequate and safe", "to basic shelter, housing and sanitation, and [...] safe and potable water". (145)

States shall be also "enforcing environmental laws that contribute [...] to the protection of the rights of [...] people working in rural areas" against abuses by non-State actors and "ensure that no hazardous material, substance or waste is stored or disposed of on the land" where these people live. (146)

The Uruguay-UPM contract established shorter deadlines for all government environmental assessments. The project did not carry out the baseline measurements and authorizations were done without the definition of crucial aspects, such as the effluent treatment system of the pulp mill that will aggravate the contamination of the Negro River.

States violate their "obligation to protect" the right to health if they also in these ways fail "to regulate the activities of [...] corporations so as to prevent them from violating the right to health of others". (147)

While Uruguay is responsible "to carry out environmental impact studies to verify that specific economic activities do not affect people's human rights to safe drinking water and sanitation" or to clean environment, still **"currently, environmental impact studies are carried out by private companies and not by an independent actor"**. (148)

Human rights and environmental impacts assessments need thus to be carried out by such independent evaluators whom the authorised UN human rights and environmental organs can approve to be competent to assess such impacts in respect to those obligations and commitments and to demonstrate the assessed impacts publicly.

Finland is responsible to help ensuring that the affected groups and communities will get on project's impacts such an assessment in which they can equally participate to oversee and to secure to become independent, third-party-verified assessment, not directed or controlled by business interests of the contact parties. And assessments have to "result in public reports that clearly describe the proposals, the alternatives and the possible environmental impacts" also "on the enjoyment of [...] the rights to life, health, food, water, housing and culture." (149)

"States shall take all necessary measures to ensure that non-State actors that they are in a position to regulate, such as [...] transnational corporations and other business enterprises, respect and strengthen the rights of [...] people working in rural areas" (150) **"to have access to and to use in a sustainable manner the natural resources** present in their communities" as their living conditions and their "right to participate in the management of these resources." (151)

So "people working in rural areas have the **right to be protected against**" such displacement from "natural resources used in their activities and necessary for the enjoyment of adequate living conditions" where rights of its victims against

such displacement are not enacted by law. (152)

While "fundamental aspect of protecting human rights in the environmental context is the implementation of the right to information about environmental problems and policies" (153) now there prevails in Uruguay however a lack of "sufficient research on the links between environmental problems and health problems". (154)

"Information relating to large-scale development projects should be made publicly available and accessible". Such projects have to "be assessed in accordance with applicable laws and human rights obligations". Obligations are neglected and human rights endangered if "decisions to approve large infrastructure projects, often involving foreign investment, occur outside the framework of social and environmental assessment." (155)

As UPM says "our commitment to safety applies to [...] all people impacted by our operations" (156) how can huge changes in whole ecosystems and water conditions of the local communities be ensured to be safe for them and to not impair the realisation of their rights to health, clean environment, social security and their own life-heritage and livelihood ? UPM who has commercial profit interest to exploit the area does not have an authority to say on behalf of the local people what is safe for them and their environment.

In respect to communities who "have close relationships to the territory that they have traditionally occupied and depend directly" on it, states "have heightened obligations to protect" these people "from the adverse effects of exploitation of natural resources" and "to ensure that they are able to enjoy the rights to information, participation, freedom of expression [...] and effective remedies in relation to actions that may adversely affect their relationship with the ecosystems on which they depend" as well as their "substantive rights to protection" of their ecosystems. (157)

Local people who may be affected have the right to participate to the assessment. (158) Due "consideration of the environmental impacts of proposed projects [...] must include adequate opportunities for" all and "particularly those who may be directly affected, to participate" so that their views "must be taken into account in final decisions" (159) as they have been adapted to the life of the local environment and to assess what sustains its life and what endangers it.

"People working in rural areas have the right to the conservation and protection of the environment and the productive capacity of their lands, and of the resources that they use and manage", to "enjoy, without discrimination, a safe, clean and healthy environment" and "to contribute to the design and implementation of national and local climate change adaptation and mitigation policies, including through the use of practices and traditional knowledge." (160)

4. UPM investment's impacts on human rights related to biodiversity

UPM project has to be ensured not to affect, degrade or displace local pampas and river biodiversity regeneration by which people have realised their human rights to food, health, livelihood, living conditions and environment as adapted to live by that biodiversity regeneration. The project has to respect those rights and Uruguay and Finland have to protect those rights and promote their sustainable realisation.

As "environmental degradation, climate change and unsustainable development constitute [...] serious threats" to "the right to life", "the obligations of States parties under international environmental law should thus inform the content of" "the obligation [...] to respect and ensure the right to life" which "should also inform [...] international environmental law" implementation. "The right to [...] life with dignity, depends" thus also on "measures [...] to preserve the environment and protect it against harm, pollution and climate change caused by [...] private actors. States parties should therefore ensure sustainable use of natural resources" (161) as sources of life on Earth in its diversity.

Thus the UPM project and its conditions have a huge long term impacts not only on access to and availability of pure water but also on diversity of life characteristic to the Wet Pampas, its biotope and its exceptionally fertile land and through that further on many human rights, because the plantation of eucalyptus and pine extract soil minerals and nutrients, suck the water and result to the desertification and in these respects:

- States are obliged to ensure "the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources [...] taking into account all rights over those resources" under the UN Convention on Biological Diversity. (162)

- "Biodiversity is necessary for the enjoyment of a wide range of human rights" and "many of the benefits of

biodiversity also have international dimensions. Food and medicine derived from natural resources in one part of the world can benefit people everywhere". "The full enjoyment of human rights thus depends on biodiversity, and the degradation and loss of biodiversity undermine the ability of human beings to enjoy their human rights". (163)

- States have "the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction" (164) and "processes and activities, regardless of where their effects occur" (165), to "regulate or manage the relevant processes and [...] activities" "where a significant adverse effect" on biodiversity is identified, (166) and to "regulate or manage biological resources" also "outside protected areas, with a view to ensuring their conservation and sustainable use". (167)

- "States have obligations [...] to protect the ecosystems on which the human rights of so many people directly depend" and "to protect against environmental harm from private actors, and businesses have a responsibility to respect the rights relating to biodiversity as well" (168) As states have to universally "protect individuals against deprivation of life" by "corporations operating within their territory" also but degrading other countries' living environment, states have "to ensure that all activities taking place in whole or in part within their territory [...] having a [...] foreseeable impact on the right to life of individuals outside their territory, including activities undertaken by corporate entities based in their territory or subject to their jurisdiction". (169)

- States shall obey these "international obligations, to prevent the depletion [...] of biodiversity" also "to promote and protect the traditional knowledge, innovation and practices of [...] people working in rural areas, including traditional agrarian, pastoral, forestry, fisheries, livestock and agroecological systems relevant to the conservation and sustainable use" of biodiversity, "land and other natural resources used in their production [...] and ensure the conditions for the regeneration of biological and other natural capacities and cycles." (170)

- As biodiversity loss "is already having catastrophic consequences for those local communities" "who depend directly on ecosystems for their food, water, fuel and culture", states have to duly "assess impacts and make environmental information public" to ensure that "private actors, do not prevent the enjoyment of their human rights, including their rights to life, health, food, water, housing and culture." (171)

States need to respect and protect particularly such local "communities that have separate cultural traditions and close material and cultural ties to their ancestral territories" and their "local efforts to protect biodiversity [...] recognizing that the traditional knowledge and commitment of [...] local communities often make them uniquely qualified" to protect the ecosystem and its contribution to human rights. (172)

"Protecting the human rights of [...] local communities has been shown to result in improved protection for ecosystems and biodiversity" as "the knowledge and practices of the people who live in biodiversity-rich ecosystems are vital to the conservation and sustainable use of those ecosystems." (173)

Biodiversity has survived with human lives best where local communities have adapted to live by its regeneration with their customary life-practices, characterised as their 'traditional knowledge' based 'customary sustainable use of biodiversity' and 'ecosystem approach' which belong to internationally recognised environmental management systems.

But during the last over 30 years the area of monoculture-type exotic tree plantations has become by subsidies and tax exemptions 10 times bigger than it used to be and the area of industrial forest has grown more than 20 times higher and then the pulp mills and concessions of free zones have been further driving this expansion. Of the forested lands already almost 80% belongs to foreign capital and will be now further expanded particularly through the UPM investment, making the exotic monoculture plantations to displace wet pampas ecosystems, their biotopes, traditional agricultural and livestock production, bee-keeping and other the small and medium rural producers' livelihoods.

As UPM has declared it would respect the "internationally recognised environmental management systems" (174), these include however thus also the following management principles recognised under the CBD and its commitments - also on pampas ecosystems and biodiversity, on which the UPM has however neglected its commitment to respect that:

- One has to "regulate or manage the relevant processes and categories of activities" "where a significant adverse effect on biological diversity has been determined" and also "biological resources [...] outside protected areas, with a view to ensuring their conservation and sustainable use" (175) and management has to "Rehabilitate and restore degraded ecosystems and promote their recovery of threatened species" (176)

- "Management should be decentralized to the lowest appropriate level" to "lead to greater efficiency, effectiveness and equity" as "the closer management is to the ecosystem, the greater the responsibility, ownership, accountability,

participation, and use of local knowledge." (177)

- In "management of land, water and living resources [...] local communities living on the land are important stakeholders and their rights and interests should be recognized" taking into account "both cultural and biological diversity" (178) as local communities "depend directly on biodiversity and its customary sustainable use and management for their livelihoods, resilience and cultures and are therefore well placed [...] to efficiently and economically manage ecosystems". (179)

- "Cultural, social, economic and ecological elements associated with the traditional management systems of lands, waters and territories of indigenous and local communities and their involvement in the management of these areas should be recognized, secured and protected, as they contribute to customary sustainable use of biological diversity". (180)

These requirements of the 'internationally recognised environmental management systems' and the competence they authorise for local communities' management are not respected by the ways how UPM eucalyptus plantations and pulp production affect and displace biodiverse pampas ecosystems, their characteristic diversity of life and local communities living there.

As **"measures that adversely affect ecosystems may well have disproportionately severe effects on the enjoyment of human rights of [...] marginalized"** communities **"who rely directly on the ecosystems"**, states need to **"protect the special relationship of people with the territory that they have traditionally occupied when their subsistence and culture is closely linked to that territory."** (181)

As UPM project requires vast areas for eucalyptus or other plantations, for the new railway, for highways, new high voltage line to connect to the national electricity grid, for changes to Uruguay's main port, for several processing plants within a duty-free zone, etc. and as these will displace, degrade and pollute biodiverse pampas and deplete its water sources, take away biodiverse areas from communities who have saved them, so:

How does the UPM in all this secure and respect the affected communities human rights and 'internationally recognised environmental management systems', "ensuring sustainable land use" keeping the areas "full of life" - as the UPM has assumed "we know our direct and indirect environmental impacts", "measure and report extensively" (182) ?

UPM has informed the public that its plantations would be supported by strengthened biodiversity and "serve as pastures for cattle, as beekeeping farms during the flowering season" providing shade for cattle to "graze and eat themselves to a bonny, good flesh" (183) - even though in reality:

- Plantations displace cattle and bees from the vast areas where they could have lived without plantations and drastically reduce food availability for the cattle. Eucalyptus leaves are inedible and fall from the tree all year long, covering the soil not allowing grass to grow under the tree canopy

- As density of tree plantation in the intensive scheme favored by UPM with almost 1400 trees per hectare it makes cattle raising impossible inside the plantation and the species of eucalyptus have been selected to favor the wood growth needed for cellulose - by the cost of such flowering and seed production which otherwise could benefit bees

- As beehives are also not allowed in the planted areas, the only areas left for cattle and bees are only the firewall areas between plantations

Many communities whose area the UPM project captures see the quality and characteristic diversity of life of their lands, waters and forests to disappear by being captured and exploited for the UPM industries which displace communities and their livelihoods' customary sustainable use of biodiversity and their dignified employments in family farming, agriculture, beekeeping, artisanal fishing (etc) which have managed local ecosystems in sustainable ways.

As UPM activity affects various local traditional occupations and such communities' human rights to work, culture and environment, who live by customary sustainable use of regenerating biodiverse pampas ecosystem, these human rights impacts have to be impartially assessed.

States are responsible to "provide public information about biodiversity, including environmental and social assessments of proposals, and ensure that the relevant information is provided to those affected in a language that they understand" and "respect and protect the rights of those who are particularly vulnerable to the loss of biodiversity". "Safeguards should ensure that biodiversity-related projects do not violate human rights." (184)

"States shall take measures aimed at the conservation and sustainable use of land and other natural resources used in

their production, including, among others, through agroecology, and ensure the conditions for the regeneration of biological and other natural capacities and cycles" ensuring also "that their rights are not otherwise extinguished or infringed." (185)

UPM has said it would welcome such independent assessments based on "third-party-verified information" from the affected communities (186) - but has not in practice allowed any due independent third party to assess and verify the impacts on biodiversity and 'internationally recognised environmental management systems' like ecosystem approach.

Also Finland as a home state of the UPM, has to act "to prevent human rights violations abroad by corporations domiciled in their territory and/ or jurisdiction". (187) UPM is under the UNGPs also committed to allow such transparent and participatory impact assessment that will "Involve meaningful consultation with potentially affected groups" and "draw on feedback from [...] affected stakeholders". (188)

On threatened biodiversity

While "Uruguay reports that 29 per cent of the species in the country are under some level of threat" it "has one of the lowest percentages of protected areas in the Latin American and Caribbean region" having "only 0.8 per cent of its territory" protected. "In Uruguay, the grasslands ecosystem includes approximately 2,000 species of herbaceous plants, of which 400 are grasses." Uruguay has biodiverse ecosystems and species" adapted to "the southernmost extent of the range of many species" of "temperate grasslands in the world." (189)

Uruguay's grassland biodiversity is thus severely threatened and "the intensification of land use poses serious environmental challenges to the health of the grasslands and to water quality". (190) When eucalyptus plantations make many species characteristic to prairie widely disappear from many areas where eucalyptus are planted, some other species which are adapted to live with eucalyptus come to those areas instead.

Thus, even where the biodiversity of pampas is richer than biodiversity of eucalyptus plantation, still UPM can say that there is more diversity when the whole area is not only pampas but some parts of pampas are planted to grow eucalyptus. But when those species which live with the eucalyptus have earlier also lived elsewhere in some other areas, their transfer to such eucalyptus plantation areas which were earlier pampas, does not add to the global biodiversity. The main impact to world's biodiversity is thus that the species which live only in pampas - like various birds and grasses specific to pampas - become endangered when pampas is transformed into eucalyptus plantations.

(UPM gives a picture that plantations are in symbiosis with biodiversity which promote plantations - even though the plantations certainly displace the indigenous biodiversity of vast areas by eucalyptus and other species which can live with it. UPM tries to characterize this invading biodiversity by saying that biodiversity is good for monoculture type eucalyptus plantations. Thus also UPM chair of board, Björn Wahlroos has said that Uruguayans are happy with eucalyptus because they can hunt wild boars in the tree plantations. Wild boars as well as foxes live and reproduce in the eucalyptus plantations that cover wide areas and are seldomly visited by humans since no human presence is needed but wild boars are not indigenous animals and they go out of the trees in their search for food destroying crops and causing damages to sheep breeding of which they kill more than 100.000 yearly.

According to UPM President and CEO Jussi Pesonen "biodiversity in Uruguay is not diminishing as a result of the cultivation of eucalyptus, but by the afforestation of the Uruguayan prairie, its diversity increases" but "does not have any significant impacts for the country's diversity." UPM assesses that its eucalyptus plantation "does not have any significant impacts" on biodiversity, but that still in life of Pampas "as a result of the cultivation of eucalyptus [...] its diversity increases". (191) How and why would UPM not call it 'a significant impact', if diversity of life in pampas would thus decrease? increase because of eucalyptus plantation ?)

The conversion of grassy biomes to exotic tree plantations comes at a high cost to biodiversity, ecosystems and what they provide for securing and realising human rights. (192) Eucalyptus plantation based "afforestation reduces diversity" of the area where the trees are planted, reducing "in particular the richness of grassland specialist birds is reduced". (193)

And while pampas have been self-sustaining ecosystems, monocultural eucalyptus plantations are not ecosystems in the genuine sense of the word as the area will not regenerate by itself as monoculture eucalyptus plantation but will change into something else if not artificially maintained by huge investments of plantation industry - which again get their money from pulp production and other polluting industries which further affect biodiversity negatively.

Taking this into account if "UPM's environmental management is based on continuous identification of our environmental impacts" with the aim "to have positive impact on biodiversity" and "committed to transparency regarding the environmental impacts [...] and to minimise these" when they threaten biodiversity as "measured and

assessed continuously" like it says (194), then UPM would be ready and able to clarify also:

- How has UPM assessed and measured how biodiversity in the world would increase when Pampas which have ca. 2000 different vegetal species, 155 bird species and many other species (195) unique or specifically characteristic for pampas, would become displaced and transferred into monocultural eucalyptus plantations ?

- How would UPM prevent this rich biodiversity of species of 370 pastures (grasses) (196), diverse herbs species and woody bushes (197) 155 species of birds (half of them found only in prairie) and deer, ferret, wild cat, puma and other 21 other mammals (198) from being severely affected by the monoculture plantations ?

Many species are found only in pampas whose biodiverse vegetation also functions as self-regenerating carbon stocks - while representing some 80 % of the species available in Uruguay. Such grasslands can capture 60 kg of carbon per hectare per year (199) as self-regenerating carbon stock.

Also in respect to their albedo the grasslands reduce warming of climate compared to darker vegetation cover like eucalyptus which absorbs more heat. (200) And as monoculture tree plantations that are calculated to bind carbon, are however maintained only through vast amounts of money from pulp and other industries, their global transports, etc. which all create emissions, all those emissions would have to be reduced from the carbon bound by plantations.

And biodiversity will be negatively affected by the UPM activities also in respect to the cultivated and domesticated biodiversity in ways that violate the FAO Plant Treaty based internationally recognised environmental management systems.

"International cooperation shall, in particular, be directed to [...] conservation and sustainable use of plant genetic resources for food and agriculture" (201) (FAO, International Treaty on Plant Genetic Resources for Food and Agriculture) for which also each state under the FAO Plant Treaty "shall ensure the conformity of its laws, regulations and procedures with its obligations" (202) to promote:

- "local communities' efforts to manage and conserve on-farm their plant genetic resources for food and agriculture" and their "in situ conservation of wild crop relatives and wild plants for food production" and "to minimize or, if possible, eliminate threats to plant genetic resources for food and agriculture". (203)

- "sustainable use of plant genetic resources for food and agriculture" (204), practices of farmers "who generate and use their own varieties and apply ecological principles in maintaining soil fertility and in combating diseases, weeds and pests" and "diverse farming systems that enhance the sustainable use" and conservation of biodiverse natural resources.(205)

- "expanded use of local and locally adapted crops, varieties and underutilized species" "adapted to social, economic and ecological conditions" as "genetic diversity available to farmers" "in on-farm management, conservation and sustainable use of crops" "to reduce crop vulnerability and genetic erosion, and promote" sustainable food production (206)

- farmers rights to "protection of traditional knowledge relevant to plant genetic resources for food" and their "right to participate in making decisions [...] on matters related to the conservation and sustainable use of plant genetic resources for food and agriculture." (207)

5. UPM project's impacts on cultural equality, rights to culture, work, traditional occupations and education

UPM project has to be reviewed to respect people's equal rights to their cultures of economy, work, livelihood and education in the area compliant to how these cultures of life's sustenance and heritage are sustainable as adapted to living by the regeneration of area's biodiverse environment without displacing it. Uruguay and Finland have to ensure this equality to be realised not only within the project but also in project's impacts to life/work outside of it.

On rights to cultural ly equal treatment of different cultures of work and econ omy

UPM-Uruguay project has neglected duly and impartial human rights impact assessments on above considered rights but also on human rights to culture, work, traditional occupations and education of the various affected communities - many of whom have lived by customary sustainable use of regenerating biodiverse pampas and riverecosystems.

"States shall [...] ensure that their rural development, agricultural, environmental, trade and investment policies and programmes contribute effectively [...] to the transition to sustainable modes of agricultural production" (208) respecting rural working people's "right to have access to, sustainably use and manage land and the water bodies, coastal seas, fisheries, pastures and forests therein [...] and to develop their cultures." (209)

Cultural life to which people have rights covers also "ways of life, [...] natural and man-made environments, food",

"customs and traditions" expressing "the meaning they give to their existence, and [...] their encounter with the external forces affecting their lives." (210) To secure human rights, states have to ensure also in these respects that "everyone has the right freely to participate in the cultural life of the community" (211) compliant to how "the right of everyone [...] to take part in cultural life" "is also interdependent on [...] the right of all peoples to self-determination (art. 1) and the right to an adequate standard of living ." (212)

To secure equal treatment of all, CESCR "is also concerned about the disparities that exist between rural and urban areas and between different socioeconomic groups in terms of access to and participation in cultural life". It asks Uruguay to act "to provide greater protection for cultural rights and [...] greater respect for cultural diversity" by which different "populations can preserve, develop, give expression to and disseminate their identity" and "to foster knowledge about indigenous peoples' historical and cultural legacy" of land use and "to eliminate disparities between rural and urban areas and between different socioeconomic groups in terms of access to and participation in cultural life". (213)

"Full realization of the right of everyone to take part in cultural life" can require access to and use of areas, "rivers, [...] forests and nature reserves, including the flora and fauna found there, which give nations their character and biodiversity [...] as values, which make up identity and contribute to the cultural diversity of individuals and communities" (214) whose life-heritages and subsistence are culturally adapted to live life of specific environments/ecosystems with specific biodiversity.

Rights of cultural minorities to their cultures of work and economy

Thus project's overall impact on culture of pampas have to be assessed and communities' ways to culturally adapt to the life of an ecosystem constitute them also as cultural minorities, with corresponding human rights of minorities. States have to take this into account also in that how they shall respect and secure "the rights to food, health, water, housing and education" in ways which are "culturally appropriate" for the concerned community's human rights as a minority. (215)

"This right entails the obligation of States parties to recognize, respect and protect minority cultures as an essential component of the identity of the States themselves. Consequently, minorities have the right to their cultural diversity, traditions, customs [...] and other manifestations of their cultural identity and membership." (216) "Persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture" (217) which "may consist in a way of life which is closely associated with territory and use of its resources". (218)

Minority's "particular way of life associated with the use of land resources [...] may include such traditional activities" that constitute people's characteristic "form of subsistence and an ancestral tradition handed down from parent to child" - in this case pampas adapted life's sustenance - crucial for community's life-heritage. All have right "to engage in economic and social activities which are part of the culture of the community to which they belong" (219) and which States have to respect and may need to secure also by "positive legal measures of protection". (220)

States have to ensure that "economic development may not undermine the rights protected" for cultural minorities such as "the right of a community to enjoy its own culture" of area's life - in this case the life of pampas - and shall not ruin such "way of life and the economy of the community, forcing its members to abandon their land and their traditional economic activity", as can happen for example when "the lack of water has seriously affected their only means of subsistence".(221)

State shall not take "measures which substantially compromise or interfere with the culturally significant economic activities of a minority" without "the free, prior and informed consent of the members of the community" who would be affected. (222) If "the State did not require studies to be undertaken by a competent independent body in order to determine the impact [...] on traditional economic activity" and verifiable effective "measures to minimize the negative consequences and repair the harm done", then minority's rights on its own "way of life and culture" were violated as far as it became "unable to continue benefiting from [...] traditional economic activity owing to the drying out of the land and loss" of livelihood. (223)

States need "to allow and encourage the participation of [...] communities in the design and implementation of laws and policies that affect them" to "obtain their free and informed prior consent when the preservation of their cultural resources, especially those associated with their way of life and cultural expression, are at risk." (224)

As UPM publicly informs that eucalyptus plantations would be beneficial to the local communities and small farmers why does not it ask their free, prior informed consent which their rights to their own ways of life, their culture and subsistence would require? And does the UPM - even without communities' consent - own the communities or their collective identity as it says "we participate in the development of our local communities through different projects" ? (225)

Under its Law on Evaluation of the Environmental Impact (No. 16,466), Uruguay has to prevent environmental impacts which "harm or damage [...] health, security or quality of life", people's "cultural conditions" or "configuration, quality

and diversity of natural resources". "Companies should: a) avoid infringements on human rights of other people; and b) address the negative impacts to human rights" - and "identify the adverse impacts of their activities on people and communities so that these are approached in a timely manner before their negative impact intensifies." (226)

Rights to livelihood and work of any culture of economy shall be equally respected and secured however also where people live by cultures of such occupations on land which are not based on job provided to production arranged by separate employer via remuneration but are rather based on diverse ways how people have adapted to use the local land, water and/or forest, their ecosystems and biodiversity directly to sustain such life of the area which these people live - so that:

Right s to freely chosen work

Everyone has to be secured equally "the right to work, which includes the right of everyone to the opportunity to gain [...] living by work which" one "freely chooses or accepts, and will take appropriate steps to safeguard this right" "the right of everyone to the enjoyment of just and favourable conditions of work which ensure" with "a decent living" "safe and healthy working conditions" and "equal opportunity for everyone" (227) including also "workers from [...] minorities, domestic workers, self-employed workers, agricultural workers [...] and unpaid workers." (228)

Thus also all people working in rural areas have "the right to choose freely the way they earn their living", "to establish and promote sustainable food systems that are sufficiently labour-intensive" (229) with food "produced and consumed sustainably and equitably, respecting their cultures, preserving access to food for future generations" and with "the right to determine their own food and agriculture systems" as their "right to healthy and adequate food produced through ecologically sound and sustainable methods that respect their cultures" (230) and "to engage freely [...] in traditional ways of farming, fishing, livestock rearing and forestry". (231)

As industrial forestry is not an efficient source of jobs or livelihoods but has in recent years employed only about 1 % of Uruguay's workers (ca. 17.000 workers) while taking ca. 10 % of the productive land, thus when land is taken away from other rural livelihoods and is set under plantations, it tends to employ or provide livelihood to less people than the traditional rural use of the same land would have given. A great portion of the lands acquired for forestry have been investments by UPM connected Finnish actors, including also the Finnish government and trade unions but has contributed to displace both the wet pampas ecosystems and biodiversity as well as customary livelihoods adapted to live by the regenerating pampas ecosystems.

All have thus such "right to freely chosen or accepted work, including the right not to be deprived of work unfairly" (232) which requires that in respect to people who live and work on land, its diverse growth and needed water, also in case of "conflict between those who depend on land for subsistence and other stakeholders who may want to use natural resources for other purposes, including for profit", "in no case" may "a people be deprived of its own means of subsistence, including those deriving from land" as UN High Commissioner for Human Rights has noted .(233)

Peoples' diverse, often unique ways to sustain their life as distinctive for them and for the life of the land where they live, make their culture of economy collectively characteristic to their life and crucial to sustain their own life as people who they are. Thus also in case of rural people engaged in small-scale "production for subsistence" who rely significantly on self-subsistent or relatively non-monetized work or "occupation in a rural area"- including also bee-keeping -, "states shall provide" people "with effective mechanisms for the prevention of and redress for any action that has" the "effect of" arbitrarily "dispossessing them of their [...] natural resources or of depriving them of their means of subsistence and integrity." (234)

Thus all types of people's own means of subsistence have to be secured as distinct for them and as integral to the "economic content of the right of self-determination" which is crucial "for the effective guarantee and observance of individual human rights" (235) for ensuring all those rights can "be exercised without discrimination of any kind as to race, [...] national or social origin, property, birth or other status." (236)

As "people around the world depend on access to land and natural resources for survival and their livelihood" (237), States have to prevent "degradation of the environment" to secure access to "food, water, shelter, health care", etc. to those whose life depends on these (238) so that "no one should be deprived of his or her own means of subsistence, including those deriving from land". (239) And insofar as people's life depends on land, water and other sources of subsistence, in respect to any "foreseeable impact on the right to life of individuals outside their territory", states are obliged to protect everyone's rights to be not deprived of such sources of life by "foreign corporations operating within their territory", "based in their territory or subject to their jurisdiction". (240)

Also "private sector organizations - have responsibilities regarding the realization of the right to work" and states - in order "to comply with their international obligations" on human rights -, need also "to promote the right to work in other countries" as states are obliged to regulate the transnational corporate activities "to prevent them from impeding the right of others to work". (241)

While the project calculates how much work and production it will bring to the area, it does not duly address how much that will displace or undermine life of the pampas and work by which people have been able to sustain their life and to live such life of pampas which allow its biodiverse ecosystem to regenerate in ways which have contributed to fulfil rural communities' human rights related to water and food sovereignty, health and other living conditions. As the UPM project and plantations further displace pampas ecosystem and local rural communities' human rights related to living sustainably by regeneration of the ecosystem, it undermines equality of human rights related to work.

"States should protect the special relationship of people with the territory that they have traditionally occupied when their subsistence and culture is closely linked to that territory." "Whether measures that substantially interfere with the culturally significant economic activities of a minority community are acceptable depends on whether the members of the community were able to participate in the decision-making process [...] and whether they will continue to benefit from their traditional economy." Measures which affect such communities traditional economy require "the free, prior and informed consent of the members of the community", ensuring also that the measures can "not to endanger the very survival of the community and its members". (242)

"Violations of the obligation to protect follow from the failure of States parties to take all necessary measures to safeguard persons within their jurisdiction from infringements" "such as the failure to regulate the activities of [...] corporations so as to prevent them from violating the right to work of others". Also "the failure of States parties to take into account their legal obligations regarding the right to work when entering into bilateral [...] agreements with [...] multinational entities constitutes a violation of their obligation to respect the right to work." (243)

As "the right of every human being to decide freely to accept or choose work" covers "all forms of work, whether independent work or dependent wage-paid work" thus for "ensuring equal access to work", states have "to avoid [...] discrimination and unequal treatment [...] of disadvantaged and marginalized individuals and groups or [...] weakening mechanisms for the protection of such individuals and groups". (244)

"Any discrimination in access [...] to means and entitlements for obtaining employment on the grounds of [...] social origin, property, birth or any other situation [...] constitutes a violation of the Covenant." "Private enterprises - national and multinational" shall not impair "non-discriminatory access to work". (245)

Also regarding that how business activity may affect land and livelihoods of an area "the requirement to eliminate" discrimination includes states' "duty to prohibit discrimination by non-State entities in the exercise of economic, social and cultural rights." "Among the groups that are often disproportionately affected by the adverse impact of business activities are women, [...] peasants, fisherfolk and other people working in rural areas, and ethnic or religious minorities where these minorities are politically disempowered. (246) Equally also the "people working in rural areas have the right to determine and develop priorities and strategies to exercise their right to development." (247)

Thus states shall act "to ensure that any exploitation affecting the natural resources that [...] people working in rural areas traditionally hold or use is permitted" only based on "a duly conducted social and environmental impact assessment" and on "fair and equitable sharing of the benefits [...] on mutually agreed terms between those exploiting the natural resources and the peasants and other people working in rural areas". (248)

Equal treatment of traditional occupations in respect to land use

As "retrogressive measures should [...] not be taken in relation to the right to work" states have to be "promoting respect for the right to work, agreed between the government and civil society" equally for all in compliance with "the labour standards elaborated by the ILO". (249) Under ILO Convention 111 against discrimination on employment and occupation, States are thus obliged:

- to respect and advance "equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof" also regarding "access [...] to particular occupations, and terms and conditions of" such access - including access to communities traditional occupations. (250)

- "to enact such legislation" which can secure such elimination of any "preference made on the basis of [...] social origin" of occupational access and elimination of any "other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment" in respect to "access [...] to particular occupations" including traditional occupations. (251)

"Unsecure land tenure and biased approaches towards the traditional occupations engaged in by certain ethnic groups" violate their rights "to engage in the occupation of their choice [...] which are often perceived as outdated, unproductive or environmentally harmful" due to discrimination, continuing "to pose serious challenges to the enjoyment of equality of opportunity and treatment in respect of occupation". "Promoting and ensuring access to material goods and services required to carry out an occupation, such as secure access to land [...] and resources, without discrimination, should be part of the objectives of a national policy on equality. Any discriminatory law and practice affecting access to and performance of an occupation, contrary to the equality policy, must be repealed". (252)

States shall thus not discriminate against communities' or minorities' cultures by depriving them of distinct life-heritages by which they hold, inherit and use the lands, waters and forests as adapted to living by their customary practices and forms of traditional occupation on their lands to sustain life as characteristic for them as their own means of subsistence.

Land's customary subsistence use by traditional occupation by which people sustain their life in accordance with their own life-heritage confers for them a right to such subsistence use of land for sustenance of their life. And "trends in the practice of traditional occupations" and related customary land use and tenure indicate customary sustainable use of biodiversity under the CBD (253) as ways by which communities have been adapted to live by the regeneration cycles of the local environment with the "right to practise a traditional occupation as part of the culture". (254)

Project's impacts shall not retrograde equal rights to just and favourable conditions of work in or outside the project

States have to secure "the right of everyone to the enjoyment of just and favourable conditions of work which ensure" "a decent living" "safe and healthy working conditions" and "equal opportunity for everyone" (255) including also "workers from [...] minorities, domestic workers, self-employed workers, agricultural workers [...] and unpaid workers." (256) "States parties must effectively regulate and enforce that right, and sanction non-compliance by public and private employers" while employers also have "a responsibility to secure just and favourable conditions of work". (257)

"Business enterprises, irrespective of size, sector, ownership and structure [...] have a responsibility to respect the right to just and favourable conditions of work, avoiding any infringements and addressing any abuse of the right as a result of their actions. In situations in which a business enterprise has caused or contributed to adverse impacts, the enterprise should remedy the damage or cooperate in its remediation." "Business enterprises, trade unions and all members of society have responsibilities to realize the right to just and favourable conditions of work." (258)

But under the UPM agreement Uruguay is required to make workers' human rights on the contrary subordinated under the UPM business interests so that "to address the project's need for clear regulation in the area of labour relations and [...] and to address problematic situations that may be generated by picketing or sit-ins", Uruguay has "the firm commitment to" collective negotiations with the UPM and labor union to agree on such "procedures of preventing and resolving conflicts" which are necessary "bearing in mind the Pulp Mill Framework Construction Agreement" so that:

Uruguay has to incorporate into "the positive law of Uruguay [...] the norms resulting from the agreements that are reached as a result of said negotiation as well as the applicable mechanisms to ensure their enforcement" so that **"if the result of the negotiations in this aspect were not fully satisfactory to the needs of the UPM Project, it could prevent UPM from issuing a positive FID", Final Investment Decision.** (259)

So the 4 billion euros which Uruguay will have already spent as investment to the UPM project will remain widely useless if the UPM does not invest to the project its own share of 2,4 billion which the UPM is obliged to invest only if Uruguay reforms its labor laws into form which satisfies what ever UPM sees its business interests to require.

Regarding working conditions, it is important to remember that the contract that UPM signed with the Uruguayan government establishes not only the projections in terms of job creation but also guidelines on conflict prevention and resolution which the company requires to be tailored to its needs. Uruguay is a country with a good international reputation for having a rich regulatory framework for the protection of fundamental labor rights, with collective bargaining, freedom of association and broad rights that protect workers. The action of UPM trying to enforce laws for how occupations can be regulated reflects the nature of the enterprise and direct and indirect forms of pressure and capture in favor of its interests undermining human rights and state's competence to regulate as needed.

Likewise, in terms of economic justice, the introduction of dispute resolution mechanisms in the contract signed between the company and the Uruguayan government has to be noted. Although this is not a novelty, the company harnessed the protection of its investment by several mechanisms: those introduced by the contract to the national courts but also the right to bring cases to international arbitration established in the investment promotion and protection treaty between Uruguay and Finland. In a world where public policies and the regulatory power of States is increasingly cornered by the

transnational interests of companies, a tailored contract like UPM's constitutes a clear ratification of the supremacy of transnational capital over sustainability of life.

This all will retrograde the realisation of affected human rights including also aspects of the right to just and favourable conditions of work - also of people working in rural areas when the land lacks water and does not anymore grow so well.

"A State party may never justify retrogressive measures in relation to aspects of the right to just and favourable conditions of work" and even states who face "considerable difficulties in achieving progressive realization of that right due to a lack of national resources have an obligation to seek international cooperation and assistance" (260) for "minimizing hazards in the working environment and ensuring broad participation in the formulation, implementation and review of such a policy" in "all branches of economic activity, including the formal and informal sectors, and all categories of workers" and conditions of work (261) including those of customary rural pampas occupations and self-employed work.

"Economically developed States parties have a special responsibility for, and interest in, assisting developing countries in this regard" and "should respond to such requests by providing economic and technical assistance [...] in a manner consistent with human rights standards" and "by promoting transnational dialogue between employer and worker organizations". (262) Finland has thus also aim to support the just conditions of work.

States have to act "to ensure that third parties, such as private sector employers and enterprises, do not interfere with the enjoyment of the right to just and favourable conditions of work and comply with their obligations".(263) "Any person who has experienced a violation of the right to just and favourable conditions of work should have access to effective judicial or other appropriate remedies, including adequate reparation, restitution, compensation." (264)

UPM's project also reproduces already existing social inequalities that discriminate against women such as sexual division of labor (e.g. jobs created tend to reproduce economic differences between men and women because higher paying jobs such as those in construction hire men while low paying jobs such as service and care work are fulfilled by women.

"States parties must refrain from acts or omissions that interfere, either directly or indirectly, with the realization of the right to just and favourable conditions of work in other countries. This is particularly relevant when a State party [...] controls an enterprise or provides substantial support and services to an enterprise operating in another State party." (265)

"States parties should take measures, including legislative measures, to clarify that [...] enterprises domiciled in their territory and/or jurisdiction, are required to respect the right to just and favourable conditions of work throughout their operations extraterritorially". "States parties should introduce appropriate measures to ensure that non-State actors domiciled in the State party are accountable for violations of the right to just and favourable conditions of work extraterritorially and that victims have access to remedy. States parties should also provide guidance to employers and enterprises on how to respect the right extraterritorially". (266)

Global retrogressive impact on work conditions affects also work in Finland which has to address and correct this

Through its Uruguay investment agreement the UPM has reached heightened transnational power to profit from commercial activities and conditions which either violate human rights and the integrity of the environment or impair and retrograde the realisation of human rights and environmental protection in Uruguay.

Being thus able to profit by measures and conditions which impair or weaken the realisation of human rights and protection of environment in Uruguay and provide railway and infrastructure for free primarily for UPM transports and production with tax exemption, the UPM gets leverage to start to threaten also other states that it will close down its factories and production in other states if they do not provide equally profitable and favorable conditions for the UPM.

"Lowering the rates of corporate tax solely with a view to attracting investors encourages a race to the bottom that ultimately undermines the ability of all States to mobilize resources domestically to realize" human rights as required and "this practice is inconsistent with the duties of the States parties". States have however "to contribute to creating an international environment that enables the fulfilment of" economic, social and cultural human rights also regarding just and favourable conditions of work. (267)

As Uruguay as the host country and Finland as the home country of the UPM have however allowed it through its Uruguay investment agreement to gain an ability of making so much higher profits in Uruguay by neglecting requirements of human rights and environment, it became more profitable for the UPM to close down its profitable Kaipola and its other factories near Jämsä area in Finland and threaten that it may close down soon more factories in Finland if it does not get more profitable conditions on transport infrastructure, taxation and labor also in Finland.

UPM have reached through its Uruguay investment agreement this possibility to transfer even its profitable production away from Finland under such Uruguay type conditions which are even more profitable for UPM - by lowering the standards on human rights, environment, labor, taxation, infrastructure, etc. - if Finland does not also provide equally lowered the standards on human rights and environment.

While in Finland the trade unions have for decades negotiated with employers' organisations wide centralised collective agreements on labor conditions for years ahead and the government of Finland has facilitated these negotiations and thus workers' rights to collective bargain have been respected, now through its Uruguay investment agreement the UPM however announced publicly, that it does not anymore need to negotiate or respect wide centralised collective labor agreements - as it can make better profits through the conditions of its Uruguay investment.

Both Finland and Uruguay are responsible to **"take all measures necessary to prevent rights violations" (268) including also "the use of administrative sanctions to discourage conduct by business entities that leads, or may lead, to violations of the rights under the Covenant" (269)**

They have to defend and "strengthen the duty of States to cooperate in order to improve accountability [...] in transnational cases. Inspiration can be found in instruments such as the International Labour Organization (ILO)". (270)

States have to ensure the respect for "the right of trade unions to function freely" (271) and they must "both create appropriate regulatory and policy frameworks and enforce such frameworks" to protect the rights with "effective monitoring, investigation and accountability mechanisms" and to ensure "remedies, for those whose Covenant rights have been violated in the context of business activities." (272)

"States parties must demonstrate that they have taken all steps necessary towards the realization of the right within their maximum available resources, that the right is enjoyed without discrimination". "A failure to take such steps amounts to a violation of the Covenant." (273)

Providing "permissive rules on corporate tax may affect the ability of States where economic activities are taking place to meet their obligation to mobilize the maximum available resources for the implementation of economic, social and cultural rights." (274)

"Violations can also occur through [...] the failure by a State party [...] to take into account its Covenant obligations when entering into bilateral or multilateral agreements with [...] multinational corporations" and by failing "to regulate the activities [...] to prevent them from violating the right". (275)

Different forms of knowledge and education needed in different forms of work have to be treated equally

"States shall take appropriate measures to promote and protect the traditional knowledge, innovation and practices of peasants and other people working in rural areas, including traditional agrarian, pastoral, forestry, fisheries, livestock and agroecological systems relevant to the conservation and sustainable use of biological diversity" (276)

As "people working in rural areas have the right to enjoy their own culture" also in respect to work, occupations and economy of their rural life of pampas they have a right "to maintain, express, control, protect and develop their [...] ways of life, methods of production or technology, or customs and tradition" as their rights which have to be treated in culturally equal ways in respect to their traditional knowledge. (277)

"People working in rural areas have the right to adequate training suited to the specific agroecological, sociocultural and economic environments in which they find themselves" and "the right to education in accordance with their culture, and with all the rights contained in human rights instruments" (278), states "must ensure equal access to economic resources and to technical and vocational training, particularly for women, disadvantaged and marginalized individuals and groups, and should respect and protect self-employment". (279)

CESCR has required Uruguay "to accord priority to quality technical and vocational training programmes that are tailored" also "to the needs of the most disadvantaged and marginalized persons and groups" **and is** "concerned about the sharp, persistent inequalities that exist in terms of access to education and educational attainment which have the greatest impact on [...] children belonging to the most socially and economically disadvantaged groups in Uruguay". CESCR urges Uruguay "to reduce the differences that exist in terms of access to education and educational attainment, especially with regard to [...] children belonging to low-income households". (280)

But under the Uruguay-UPM contract, Uruguay "shall organise and finance the improvement of the technical schools" so that in such public education Uruguay "shall in good faith take into consideration and apply the views of UPM regarding [...] its value chain needs for the UPM Project" and "how it believes that cooperation can be best facilitated between such schools and technical schools in Finland." (281) In "training and professional advice plan" to be issued through the National Institute for Employment and Vocational Training (INEFOP) [...] "UPM must determine the needs and appropriate training profiles". (282)

These purposes contradict with the purposes of education as people's human right and one may wonder are the Uruguayan people like raw material to become reprogrammed to be more like robots to serve better the UPM ? (283) Under the UPM contract "The Parties shall [...] develop in good faith a professional training and labour counselling plan" on "work culture and safety" and "utilisation of manpower" through such "non-government legal entity" which is "independent of ROU's definitions and commitments ". (284)

So the UPM investment requires Uruguay to pay public education to be arranged and directed by such institution, which is independent from the commitments which the Republic of Uruguay has under the Human Rights Covenants? Education is however a human right, which Uruguay is under the ICESCR obliged to secure in all educational institutions that must be bound to serve and fulfill the education as human right so that:

"Education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms" and "enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship". It needs "to have respect for the liberty of parents[...] to ensure the[...] moral education of their children in conformity with their own convictions." (285)

"States parties are required to ensure that curricula, for all levels of the educational system, are directed to" these objectives" and "obliged to establish and maintain a transparent and effective system which monitors whether or not education is, in fact, directed to the educational objectives" quoted above. (286) And "the form and substance of education, including curricula and teaching methods, have to be acceptable (e.g. relevant, culturally appropriate and of good quality) to students" "respond to the needs of students within their diverse social and cultural settings." (287)

Movements of people in Uruguay are concerned that UPM defines the aims of how Uruguay should educate its people for the needs of the UPM - thus undermining people's human right to education, democracy, culture and their autonomy which people currently enjoy under the Education Law and the Constitution. Uruguay has had democratic education that integrates student, professors, and alumni as part of the decision making process. This allows for oversight and public discussion of decisions involving what the university invests in and also how it decides its educational and research focus.

As Uruguay has agreed to pay research for the needs of UPM under private law, will this affect the overall public university budget ? The State is required to provide public funding to support the company's research and development efforts instead of devoting the limited amounts devoted to education to improving the overall quality of education and independent research goals that serve the country's population.

Resources from the university and from the national research agency (ANII) are devoted to this project, over other needed areas such as research on agroecology and environmentally sustainable food production practices. There is concern also about the patents developed in the joint research institutions that the contract describes. Who will have copy right and will there be public access to innovations of knowledge produced?

UPM contract violates "the duty to respect the academic freedom [...] to ensure the fair discussion of contrary views, and to treat all without discrimination" (288) and transforms education away from its autonomy into merchandise violating the Education Law which prohibits the commercialization of education.

Further adding to the the ways how UPM sets commercial priorities over the non-commercial human rights equality , also UPM's 'Educational Leadership and Innovation Program' in Uruguay is told by the UPM Foundation, to provide school directors and teachers with new tools and greater leadership skills by being set to be directed by the private Varkey Foundation, which has created Global Education Management Systems, the world's largest manager of private schools which adapt to different markets and income levels, the more expensive schools have more extensive land and services, including golf and tennis courses, and smaller classrooms.

On "services that are necessary for the enjoyment of basic economic, social and cultural rights" such as education,

their "quality may be sacrificed for the sake of increasing profits". Such risk is actual "where such institutions are insufficiently regulated, providing a form of education that does not meet minimum educational standards while giving a convenient excuse for States parties not to discharge their own duties towards the fulfilment of the right to education." State has "to ensure the right of individuals to participate in assessing the adequacy of the provision of such goods and services." (289)

"If any deliberately retrogressive measures are taken, the State party has the burden of proving that they have been introduced after the most careful consideration of all alternatives and that they are fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the State party's maximum available resources." (290) "The obligation to protect requires States parties to take measures that prevent third parties from interfering with the enjoyment of the right to education." (291) "violations of article 13 include [...] the use of curricula inconsistent with the educational objectives set out in article 13 (1)" and "the denial of academic freedom of staff and students". (292)

"The increased role and impact of private actors in traditionally public [...] education sector, pose new challenges for States parties in complying with their obligations" on human rights. "Private providers should [...] be subject to strict regulations" on "public service obligations" also to remove the risk of education becoming "insufficiently regulated" so that it "does not meet minimum educational standards while giving a convenient excuse for States parties not to discharge their own duties towards the fulfilment of the right to education." "Measures should be adopted to ensure the right of individuals to participate in assessing the adequacy of the provision of such goods and services." (293)

CESCR notes Uruguay is responsible "to seek **the participation of civil society organizations in the discussions to be held at the national level** concerning the action to be taken in follow up" the human rights requirements. (294)

6. Concluding remarks on Finland's responsibilities regarding the UPM investment in Uruguay

In respect to the UPM-Uruguay contract and its implementation, Finland is responsible to avoid what may "create a foreseeable risk of impairing the enjoyment of human rights by persons living in poverty beyond their borders, and conducting assessments of the extraterritorial impacts of laws, policies and practices". (295)

Finland is in these respects responsible to take action compliant to its obligations "to prevent and redress infringements of Covenant rights that occur outside" Finland "due to the activities of business entities over which they can exercise control". (296)

As far as the activities of the companies like the UPM could negatively affect human rights in Uruguay, Finland as a ICESCR state party "would be in breach of its obligations [...] where the violation reveals a failure by the State to take reasonable measures that could have prevented" the violation - "even if other causes have also contributed to the occurrence of the violation, and even if the State had not foreseen that a violation would occur, provided such a violation was reasonably foreseeable". (297)

Finland has thus to ensure that corporations domiciled in its jurisdiction will be able and ready in advance duly "identify, prevent and address abuses to Covenant rights" in their planned investments and "deploy their best efforts to ensure that entities whose conduct those corporations may influence, such as subsidiaries" "or business partners [...] respect Covenant rights." Finland has thus a responsibility to ensure that business will "avoid such rights being abused, and to account for the negative impacts caused or contributed to by their decisions and operations and those of entities they control on the enjoyment of Covenant rights." (298)

To ensure human rights to be respected, "effective monitoring, investigation and accountability mechanisms must be put in place to ensure accountability". Finland needs thus also to build "capacity to receive and resolve complaints of alleged corporate abuse" of ESC rights, to "investigate allegations, to impose sanctions and [...] enforce reparations for the victims." (299)

Finland's "national human rights institutions [...] could be empowered to receive claims from victims of corporate conduct" ensuring that "non-judicial remedies should also be available in transnational settings" including "access by victims located outside the State's territory to that State's human rights institutions or ombudspersons as well as to complaints mechanisms established under international organizations, such as the national contact points operating under the OECD Guidelines for Multinational Enterprises". (300)

Their "decisions should be enforceable, and such mechanisms should be accessible to all", "providing effective remedy to victims whose Covenant rights have been violated by business actors" ensuring such remedies to "contribute effectively to the prevention of and reparation for violations". (301)

Finland and other ICESCR States Parties are responsible also in respect to the "business actors whose conduct they are in a position to influence to ensure that they do not undermine the efforts of the States in which they operate to fully realize the Covenant rights — for instance by resorting to [...] tax avoidance strategies in the countries concerned" or encourage the other state to "lowering the rates of corporate tax solely with a view to attracting investors". (302)

Finland's obligations require it "to refrain from interfering [...] indirectly with the enjoyment of the Covenant rights by persons outside" Finland as states have also in respect to their commercial and economic relations to corporations to "ensure that they do not obstruct another State from complying with its obligations under the Covenant". (303)

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